

*2011 Amendments to Ordinance No. 11-003  
Chapter 7, Zoning Regulations Canyon County Code of Ordinances 11- ----*

**NUMERICAL ORDER OF ARTICLES**

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**CANYON COUNTY ZONING ORDINANCE NO. 11-003**

**BE IT ORDAINED** by the Board of County Commissioners of Canyon County, Idaho:

ARTICLE 1

**GENERAL REGULATIONS**

SECTION:

- 07-01-01: Title
- 07-01-03: Authority
- 07-01-05: Applicability
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- 07-01-11: Combining Applications
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- 07-01-19: Provisions for Official Zoning Maps
- 07-01-21: Disincorporation
- 07-01-23: Errors in Legal Descriptions
- 07-01-25: References
- 07-01-27: Savings Clause

07-01-01: **TITLE:**

This chapter shall be known as the **CANYON COUNTY ZONING ORDINANCE**.

07-01-03: **AUTHORITY:**

This Zoning Ordinance is adopted pursuant to Idaho Code, title 67, chapter 65, Idaho Code; title 50, chapter 13; Idaho Code § 31-801 and § 31-828; and Article 12, Section 2 of the Idaho Constitution.

07-01-05: **APPLICABILITY:**

This chapter applies to the development and use of all land within the unincorporated area of Canyon County, Idaho.

- (1) No person shall construct, alter, move, or change the use of a structure or commence any development or use, unless otherwise pre-empted by federal, state, or local law, unless:
  - A. The proposed use, structure, or division of property complies with this chapter.
  - B. Any approval required by this chapter is first obtained and any applicable conditions of approval are met.
- (2) Nothing in this chapter shall eliminate the need for obtaining any other required permits, including, but not limited to, permits required by the Canyon County Building Code or any permit, approval, or entitlement required by other ordinances of the Canyon County Code of Ordinances, other political subdivisions of the state of Idaho, the state of Idaho, or the federal government.
- (3) The prosecution of violations that occurred under previous land use/subdivision flood hazard areas regulations, and that remain a violation under this chapter, shall continue until resolved. This includes any pending enforcement action whether it be administrative, civil or criminal.
- (4) All applications shall be processed according to the regulations and requirements in effect on the date the director accepted the application.

07-01-07: **AMENDING EFFECT:**

The enactment of this chapter amends Canyon County Zoning Ordinance No. 11-003 ~~10-006~~.

07-01-09: **INTERPRETATION:**

(1) **Language:**

A. **Terminology:** When used in this chapter, all words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural the singular, unless the natural construction of the sentence indicates otherwise. The word "shall" is mandatory, and the word "may" is permissive. The masculine includes the feminine. All words shall be given their plain and ordinary meaning, unless the natural construction of the sentence dictates otherwise.

B. **Number of days:** Computation of time shall be as provided by Idaho Rule of Civil Procedure 6(a).

C. **Minimum requirements:** When interpreting and applying the regulations of this chapter, all regulations shall be considered to be minimum requirements, unless stated otherwise. Proposed uses shall comply with all applicable regulations and standards unless specifically exempted elsewhere in this chapter.

D. **Section headings:** Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

E. **References:** All references to state or federal laws, rules and/or regulations, or county laws and/or regulations and/or maps shall refer to such laws and/or regulations as they may be amended over time.

(2) **Measurements:** Linear distance shall be measured in a horizontal line; it shall not be measured along an inclined surface or line. For uses that have a separation standard, the distance shall be measured from the nearest point of the proposed use to the nearest property line of the specified use. The measurement is to be conducted in a radial fashion by the specified number of feet (e.g., 300 feet, 1,000 feet).

(3) **Zoning District Boundaries:** The following rules shall be used to resolve the uncertainty:

A. Where a zoning district boundary approximately follows a property line, such property line shall be construed as the zoning district boundary except when the property line is changed subsequent to zoning approval.

B. Where a zoning district boundary approximately follows a road or railroad line, such road, railroad line, or the extension of such line, shall be construed as the district boundary. Where a road is officially vacated and that road has not been given a zoning designation, the land that was formerly in the vacated road shall have the same designation as the abutting property on either side of the centerline of the vacated road.

C. Where a zoning district boundary approximately follows a watercourse, the centerline of the watercourse shall be construed to be such boundary. In the event of a change in the watercourse, the centerline shall be construed as moving with the actual watercourse.

(4) **Conflicting Regulations:** If conflicts occur between different regulations of this chapter, or between this chapter and other regulations of the Canyon County Code of Ordinances, the most restrictive provision shall apply.

A. In case of conflict between the zoning ordinance text and the official zoning district-boundary maps of this ordinance, the maps shall prevail.

B. Where this chapter imposes a greater restriction upon the use of structures or premises or upon the height of structures, or requires larger space than is imposed or required by ordinances, rules or regulations, or by easements, covenants, or agreements, the regulations of this chapter shall also govern.

07-01-11: **COMBINING APPLICATIONS:**

Pursuant to Idaho Code § 67-6522, the board or commission may combine related applications for the convenience of applicants. If combined applications are authorized, DSD shall establish forms and procedures to combine related applications for the convenience of applicants. Fees for combined permits shall be established through a board resolution as provided in Article 4 of this chapter.

07-01-13: **BUSINESS LICENSES:**

Notwithstanding an applicant's fulfillment of all requirements established in this chapter, all existing and future businesses, located within the unincorporated areas of Canyon County, including home occupations, shall obtain and maintain all business licenses required by any federal, state or local laws.

07-01-15: **NEIGHBORHOOD MEETINGS:**

- (1) Applicants shall conduct a neighborhood meeting for any proposed variance, conditional use, zoning ordinance map amendment, expansion, or extension of nonconforming uses requiring a public hearing.
- (2) It shall be the sole duty of the applicant to provide written notice to all property owners or purchasers of record owning property within six hundred (600) feet of the exterior boundary of the property subject to the application. Notice of a neighborhood meeting shall be in addition to, and not combined with, notices already required by this chapter, and shall include the date, time, location and purpose of the meeting.
- (3) The purpose of the neighborhood meeting shall be to review the proposed project and discuss neighborhood concerns, if any.
  - A. The meeting shall not be on a holiday, a holiday weekend, or the day before a holiday or holiday weekend.
  - B. The meeting shall be held at one of the following locations:
    1. On the property subject to the application;
    2. At a nearby available public meeting place including, but not limited to, a fire station, library, school, or community center; or
    3. At a location with suitable meeting facilities if such facilities are within a one (1) mile radius of the nearest public meeting place.
- (4) The neighborhood meeting shall be conducted prior to acceptance of the application. The neighborhood meeting shall not be conducted earlier than six (6) months prior to the acceptance of the application, and shall be held no sooner than ten (10) calendar days from the mailing of the notice of the neighborhood meeting.
- (5) Each application for a public hearing shall include a form acceptable to the director, which requires the applicant to provide the starting and ending times of the neighborhood meeting and an attendance list, with names and addresses of those who attended the neighborhood meeting.

07-01-17: **ADMINISTRATION OF CHAPTER:**

- (1) **Purpose:** The purpose of this chapter is to establish specific zones within Canyon County and define the allowed, permitted and similar/accessory uses within each of the established zones.
- (2) **Authority:** This chapter is also authorized by Article 12, Section 2, of the Idaho Constitution; Idaho Code title 50, chapter 13; Idaho Code title 67, chapter 65; and Idaho Code §§ 31-801 and 31-828.

07-01-19: **PROVISIONS FOR OFFICIAL ZONING MAPS:**

- (1) The boundaries of zones shall be established and clearly indicated upon the zoning map or maps adopted as part of this chapter.
- (2) All amendments of the official zoning map or maps shall follow the procedures set forth in Article 6 of this chapter.
- (3) Areas are to be classified according to the established zoning requirements and such zoning shall give due consideration to the adopted comprehensive plan and its stated goals and objectives.

07-01-21: **DISINCORPORATION:**

Where property becomes a part of the unincorporated area of Canyon County by the disincorporation of any city, or portion thereof, such property shall be zoned by the board following the notice and hearing regulations of Article 5 of this chapter.

07-01-23: **ERRORS IN LEGAL DESCRIPTIONS:**

Where a property has been zoned incorrectly due to an error in a legal description, the following shall apply:

- A. If the error is directly caused by the county, the error shall be corrected and duly processed by the county as soon as the error is discovered.
- B. If the error is caused by the applicant and/or landowner, the applicant and/or landowner shall apply for a zoning ordinance map amendment.

07-01-25: **REFERENCES:**

References in this chapter to other ordinances of Canyon County and statutes of the state of Idaho are provided solely for the coordination of this chapter with such other ordinances and statutes.

07-01-27: **SAVINGS CLAUSE:**

Should any section, clause or provision of this chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this chapter as a whole, or any part thereof, other than the part so declared to be invalid; each section, clause, or provision hereof being declared severable.

ARTICLE 2

**DEFINITIONS**

SECTION:

07-02-01: Purpose

07-02-03: Definitions

07-02-01: **PURPOSE:**

For the purpose of this chapter, certain terms are defined as set forth below.

07-02-03: **DEFINITIONS:**

**ABANDON/ABANDONMENT:** An intent to leave, quit, renounce, resign, surrender, relinquish, vacate or discard.

**ACCESS:** Ingress/egress to a parcel or lot.

**ACCESSORY BUILDING:** A building which is subordinate, and incidental, to the principal building pertinent to the same lot.

**ACCESSORY USE:** A use not separately listed in the regulations pertaining to the zone, which is incidental and subordinate to the principal use of the property or premises.

**ADMINISTRATIVE RECORD:** All documents and records timely filed with DSD; for example applications, exhibits, petitions, requests, and other matters in support or opposition; all documents or records admitted into evidence or administratively noticed, and all orders or decisions issued by the commission, hearing examiner, board or administrative hearing officer; all official recordings or written transcripts of hearings conducted. The administrative record does not include any privileged or legally protected communications.

**AFFECTED PERSON:** One having an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing the development.

**AGRICULTURALLY RELATED ACTIVITIES:** Uses that include incidental farm equipment sales and service, incidental farm supply sales, roadside stands, sod and/or turf farms, u-pick fruit or vegetables, corn mazes, and similar uses that do not involve processing (except those incidental operations necessary to prepare for market or to convert into marketable form).

**AGRICULTURE:** Tilling of soil, pasturage, sod/turf farms, horticulture, aquaculture, viticulture, floriculture, raising crops directly from the soil, raising livestock, poultry, poultry products, dairy animals and dairy products, bee keeping or bee keeping products, fur animals, trees grown in row crop fashion, fruits of all kinds and their products, floral and ornamental and greenhouse products, including all uses and facilities customarily accessory and incidental thereto, including, but not limited to the storage and warehousing of fertilizers or agricultural produce or raw products.

**AIRPORT:** Any area of land or water where aircraft can take off and land, including, but not limited to, the necessary appurtenant structures or facilities located thereon. For example, control tower, hangars, passenger terminals, and accommodations for cargo.

**AIRSTRIP:** An area serving as a take off or landing strip for any type of craft, vessel, or apparatus used for aviation, flight, flying, aerial navigation, aeronautics, air transportation, ballooning, skydiving, soaring, or gliding.

**ALLOWED USE:** Any use set forth as a use not requiring a conditional use permit.

**ANIMAL CARE PROJECT:** The keeping of animals in conjunction with 4-H, FFA, or a similar recognized organization that provides participants with direction and guidance in the raising of animals and an opportunity to exhibit the animals at the end of the project.

**ANIMAL CREMATION SERVICE:** A service dedicated to the disposition of dead animal remains by means of cremation that may also provide necessary goods and services for the memorialization of the animal if requested.

**ANIMAL FACILITIES (LARGE):** a facility that exceeds more than four (4) animal units per acre of land devoted to the animals care. Large animal facilities include:

1. **BIRD FARM:** A facility or confined area for the keeping of birds.
2. **CALF RAISING OPERATION:** The raising of young animals, predominantly without the parent, in preparation to return them to a dairy or feedlot.
3. **DAIRY FARM:** A facility for bovine, sheep, goats or other animals that are milked; the operation is licensed by the state of Idaho Department of Agriculture to sell milk.
4. **FEEDLOT:** A facility or confined area for cattle, horses, sheep, goats, and/or swine.

**ANIMAL FACILITIES (SMALL):** a facility of more than one (1) up to four (4) animal units per acre of land devoted to the animals care.

**ANIMAL HOSPITAL:** Any building or portion thereof designed or used for the medical care or treatment of cats, dogs or other animals.

**ANIMAL /BIRD UNIT:** The following numbers of animals are a unit of measurement to determine the number of animals allowed per acre of land devoted to the animals care: 2 cows, 2 horses, 10 sheep, 5 swine, 10 goats, 6 llamas, 12 alpacas, 75 chickens, 75 game birds, 15 turkeys, 15 geese, 15 peacocks/guinea hens, 4 ostrich, 8 emu, and 12 rhea.

For animals not listed individually, the Director shall use the most similar animal in regards to size and amount of waste produced to determine the animal unit ratio.

In determining the number of animals permitted, only the parent animal will be counted until a horse is six (6) months in age, sheep, goats, and swine are one (1) year in age, and cattle shall be considered calves from birth weight to approximately four hundred (400) pounds.

In determining the number of domestic birds permitted, only birds one (1) month or older in age shall be counted.

In determining the number of animal units for calf raising or other operation where young animals are raised predominantly with out the parent. Each animal will be counted as one half (½) its animal unit equation specified herein, until the animal reaches the age herein. Combinations of animals are allowed, provided that the ratio of animal units per acre is maintained.

**APPEAL:** A request for a review of a decision to a superior authority.

**APPLICANT:** Any person initiating a proposal for development of land.

**APPLICATION:** An application shall include, but not be limited to, zoning amendments, conditional use permits, variances, preliminary development plans or plats, final development plans or plats, appeals, and certificate of zoning compliance.

**APPROACH:** Any portion of the public right of way that is used for ingress/egress from or to a public road.

**AQUACULTURE:** The cultivation of the natural produce of water such as plants or fish.

**AREA OF CITY IMPACT:** As defined by Idaho Code § 67-6526 and requires that cities and counties adopt a map identifying an area of city impact within the unincorporated area of the county. The area of city impact shall be defined considering the trade area of the city, geographic factors and areas that can be reasonably expected to be annexed to the city in the future. The enabling legislation provides three (3) options of planning and regulating development within the area of city impact including exclusive use of the city plan and ordinances, exclusive uses of the county plan and ordinances, or application of any mutually agreed upon plan and ordinances.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

**ARENA (COMMERCIAL):** A facility, whether private or public, indoor or outdoor, the primary purpose of which is to exhibit animals or hold events such as rodeos, horse events or cattle auctions or exhibits, and for which a fee is charged to participants and an admission charge is paid by the public.

**ASSISTED CARE FACILITY:** A commercial operation where adults help the aged and/or infirm care for themselves; a building housing any facility, however named, whether operated for profit or not, the purpose of which is to provide skilled nursing care and related medical services for two (2) or more individuals suffering from illness, disease, injury, deformity or requiring care because of old age.

**AUCTION ESTABLISHMENT:** An established regular place of business involving the use of land, buildings or structures where a public sale is conducted to sell goods or property to the highest bidder, whether or not an auctioneer is employed.

**BARRIER:** Includes, but is not limited to, berms, fences, landscaping, trees, shrubs and hedges and the separation of land uses by a road, open space, watercourse or other boundary whether naturally occurring or built.

**BASE FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**BATCH PLANT:** A central proportioning and mixing plant for the production of an aggregate product such as asphalt or concrete

**BIRD FARM:** A facility for the keeping of birds, primarily held for commercial agricultural purposes, including but not limited to, exotic species such as ostrich and emu.

**BED AND BREAKFAST:** A private home, or portion thereof, where rooms and meals are provided to guests for compensation and where each guest's stay is of limited and sporadic duration. The operator of the establishment may dwell in the home.

**BLOCK:** A piece of land or group of lots within a platted subdivision.

**BOARD:** The Board of County Commissioners.

**BREWERY:** A facility where alcoholic malt beverages are produced.

**BUFFER:** See "BARRIER."

**BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy as defined in Canyon County Building Code.

**BURDEN OF PERSUASION:** This refers to the requirement that the party seeking relief from the presiding party must provide evidence to that party showing that the party has met the chapter's requirements.

**BUSINESS:** The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, or the ownership or management of office buildings, offices,

recreation or amusement enterprises or the maintenance and use of offices or professions and trades rendering service.

CAFO: See “CONFINED ANIMAL FEEDING OPERATION (CAFO).”

CALF RAISING OPERATION: The raising of calves from birth weight to approximately four hundred (400) pounds in preparation to return them to a dairy, feedlot, or other facility for the purpose of raising replacement heifers or for fattening cattle in preparation for slaughter.

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT: The office designated to administer this chapter; sometimes called the Development Services Department office, but also known as DSD.

CARETAKER: A person properly designated to watch over property for security or maintenance.

CERTIFICATE OF ZONING COMPLIANCE: A document certifying that a proposed use, building or structure complies with this chapter.

CHURCH: An establishment by design and construction which is primarily intended for the conducting of organized religious services, meetings, and associated activities.

CLERK: The Clerk of the Board, or that official’s designee.

CLINIC: A place where patients are studied and treated by a medical care provider or animal veterinarian.

CLUB OR LODGE: An auxiliary, fraternal, or veterans’ organization as defined by Idaho Code Section 23-902.

CLUSTER DEVELOPMENT: See “LOT CLUSTERING.”

COMMENCE: The date of commencement shall be the date in accordance with the following:

1. Specific use(s): an approved zoning compliance is issued.
2. Use(s) that require a facility/structure: the date when the first placement or permanent construction of a structure on a site begins, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the excavation as approved by an issued building permit and zoning compliance. Permanent construction does not include:
  - a. Land preparation such as clearing, grading and filling;
  - b. Erection of signs;
  - c. Excavation for a basement, footings, piers or foundation or the erection of temporary forms;
  - d. The installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
3. Land divisions that require a subdivision plat: the acceptance by DSD of a complete application, together with the application fee, for a preliminary plat or a short plat.
4. Land divisions that don’t require a subdivision plat in accordance with this chapter: a recorded record of survey that reflects the approved land divisions and easements submitted to DSD.

COMMERCIAL RACE TRACK: A facility, whether private or public, indoor or outdoor, the primary purpose of which is to hold race events run with animals, humans or human operated machines or equipment, and for which a fee is charged to participants and/or an admission charge is paid by the public.

COMMISSION: The Canyon County Planning and Zoning Commission.

COMPATIBILITY: Land uses are compatible if: (1) they do not directly or indirectly interfere or conflict with or negatively impact one another and (2) they do not exclude or diminish one another’s use of public and private services. A compatibility determination requires a site specific analysis of potential interactions between uses and potential impacts of existing and proposed uses on one another. Ensuring compatibility may require mitigation from or conditions upon a proposed use to minimize interference and conflicts with existing uses.

COMPOST: The aerobically decomposed remnants of organic materials with plant and/or animal origins.

COMPREHENSIVE PLAN: The comprehensive plan for the county officially adopted by the county as such.

**CONDITIONAL APPROVAL:** An affirmative action by the director, or the presiding party indicating that approval is given subject to compliance with certain specified conditions.

**CONDITIONAL REZONE:** The rezoning of land with conditions imposed so that if the conditions are not complied with, the rezone may be withdrawn and the land revert back to its former zoning classification.

**CONDITIONAL USE:** A use or occupancy of a structure, or use of land, permitted only upon issuance of a conditional use permit and subject to the limitations and conditions specified therein. See Idaho Code § 67-6512.

**CONDOMINIUM:** Housing in which the living units are owned individually and the common areas are jointly owned by all the unit owners.

**CONFINED ANIMAL FEEDING OPERATION (CAFO):**

- A. Confined Animal Feeding Operation, also referred to as "concentrated animal feeding operation", means a lot or facility where the following conditions are met:
  - 1. Animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve (12) month period;
  - 2. Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility; and
  - 3. A facility designed to confine or actually does confine the minimum animal numbers as contained in Chapter 8, Confined Animal Feeding Operations, Canyon County Code of Ordinances.
- B. Two (2) or more concentrated animal feeding operations under common ownership are considered, for the purposes of this definition, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

**CONTRACTOR SHOP:** May include, but not be limited to, a building where a contractor conducts his business, including offices and parking of equipment and employee parking, all contained within a building or site obscuring barrier.

**CORN MAZE:** An intricate network of passages in a corn field.

**COUNTY:** Canyon County, Idaho.

**COUNTY ENGINEER:** The engineer or contract engineer of the county.

**CREMATORIUM:** As applied to funeral homes or mortuaries: A dedicated area within a licensed funeral home or mortuary building, or an accessory building of a licensed funeral home or mortuary, wherein human remains are cremated in a cremation retort.

**DAIRY/DAIRY FARM:** A use of land where one or more bovine, sheep, or goats are milked and the operation is licensed by the state of Idaho Department of Agriculture to sell milk for human consumption.

**DAY CARE:** Care and supervision of children not related by blood or marriage to the care giver, for compensation during part of a twenty-four (24) hour day in a place other than the home of the children being cared for. Day care can be provided in the following facilities:

- A. **DAY CARE CENTER:** A home, place, or facility for day care of thirteen (13) or more children.
- B. **FAMILY DAY CARE HOME:** A home, place, or facility for day care of one (1) to six (6) children.
- C. **GROUP DAY CARE FACILITY:** A home, place, or facility providing day care for seven (7) to twelve (12) children.

**DEDICATED OR DEDICATION:** Land that is devoted to a public use, by the acknowledgment and recording of a plat or deed, and the acceptance by action of a public body accepting and confirming the dedication.

**DESIGNED PURPOSE:** The use for which the improvements were originally intended, designed and approved pursuant to any applicable ordinances.

DEVELOPER: Any person or entity improving land for the purpose of subdivision, development, sale, or trade.

~~DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations.~~

DEVELOPMENT AGREEMENT: A commitment reduced to writing as a means of evidence, and as a means of giving formal expression to some act or contract, by which an owner or developer makes a written commitment concerning the use or development of property. This "development agreement" is also known as a "written commitment."

DIRECTOR: The director of DSD or his/her designee.

DISTILLERY: A place where alcoholic liquors are made

DRIVEWAY: Vehicular access to one (1) or two (2) inhabited buildings.

DSD: The Canyon County Development Services Department.

DWELLING: A building, or portion thereof, used for human habitation. A dwelling does not include a tent, recreational trailer, RV (self-propelled), motel, hotel, lodging or boarding house, club, sorority, or fraternity.

DWELLING UNIT: A dwelling designed for or used as a residence for not more than one (1) family with a kitchen and a bathroom permanently installed.

EASEMENT: The right of a person, entity, government agency, or public utility company, by grant or other legal conveyance, to possess and use another's real property on a limited basis and for a specific purpose.

ENGINEER: Any person who is licensed in the state of Idaho to engage in the practice of professional engineering.

ENGINEERING PLANS: Plans, profiles, cross-sections and other required details for the construction of improvements, prepared by an engineer in accordance with the final plat and in compliance with existing standards of design and construction.

ENVIRONMENTAL ASSESSMENT STATEMENT: A statement prepared by a qualified professional duly licensed by the state of Idaho in that area of expertise the professional is answering the questions noted in Section 07-1723-33 of this chapter. This is not a federal impact statement.

ETHANOL PLANT: A facility where ethanol fuel is manufactured.

EXCEPTED PARCEL: Any parcel of land which is within the boundaries of a subdivision which is not part of the approved and recorded subdivision plat.

EXOTIC ANIMALS: Animals that are not native to the state of Idaho according to the Idaho Department of Fish and Game.

FAMILY: A person living alone or two (2) or more persons related by blood, adoption, or marriage.

FARM ANIMALS: Animals kept or raised for recreation or compensation. These animals may include, but shall not be limited to equine, bovine, sheep, goat, swine, and fowl.

FCOs: Findings of Fact, Conclusions of Law, and Order or Recommendation.

FEE: The fees as established by the fee schedule adopted by the board.

FEEDLOT: A facility or confined area that is used for finishing or fattening animals where less than fifty percent (50%) of the feed for such fowl or animals is produced by the owner on his immediate owned or leased property. A feedlot may also be a Confined Animal Feeding Operation.

FENCE: A barrier built for either confinement of an area or to keep others out of a confined area. A fence may be either affixed to the ground or be placed thereon and may include but not be limited to rock, stone wall, retaining wall, shrubs, panels, netted wire, or barbed wire.

FENCE (sight obscuring): The construction of a solid barrier that blocks the ~~transmission of light and~~ visibility through the fence, and is erected to screen areas from public streets and abutting properties.

- a. Allowed Materials: Fences and walls shall be made of high quality, durable materials that require low maintenance. Acceptable materials for a fence include chain link with slats, wood, brick, masonry block,

stone, vinyl, composite/recycled materials (hardy board) or other manufactured material or combination of materials commonly used for fencing.

b. Prohibited Materials: Fences and walls shall not be made of or contain:

- (1) Scrap materials such as scrap lumber and scrap metal.
- (2) Materials not typically used or designated/manufactured for fencing such as metal roofing panels, corrugated or sheet metal, tarps or plywood.

**FERTILIZER:** Compounds given to plants to promote growth either through application to the soil or direct application to the plants. Fertilizers can be composed of organic (e.g. leaves or manure) or inorganic matter (such as urea or phosphates). They can be naturally occurring compounds (such as peat or mineral deposits) or manufactured through natural processes (such as composting) or chemical processes.

**FINAL APPROVAL:** Unconditional approval of the final plat as evidenced by appropriate certifications on the plat; such approval constitutes authorization to record a plat.

**FINAL DECISION:** The written decision at the conclusion of a case.

**FIRE DISTRICT:** A Fire Protection District exercising jurisdiction over property or premises as authorized by Idaho Code, title 31, chapter 14.

**FIREWORKS SALE:** The sale of fireworks pursuant to Idaho Code, title 39, chapter 26.

**FISH POND (PRIVATE):** A pond created and maintained for personal use and not for commercial or charitable purposes.

**FLEA MARKET:** A site used for ongoing sales that includes rented space for the public to show and sell selected items.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of waters;
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODPLAIN:** The relatively flat area or low land adjoining the channel of a river, stream, watercourse, lake or other body of standing water, which has been or may be covered by water of a base flood. The flood plain includes the channel, floodway and floodway fringe.

- A. "Channel": a natural or artificial watercourse of perceptible extent with definite bed and banks to confine and conduct continuously or periodically flowing water.
- B. "Flood of one hundred (100) year frequency": a flood magnitude which has a one percent (1%) chance of being equaled or exceeded in any given year.
- C. "Floodway": The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- D. "Floodway fringe": That part of the flood plain which is beyond the floodway encroachment lines limiting a designated floodway. Such areas will include those portions of the flood plain which will be inundated but which may be developed for use under land use regulations without material effect upon the flood water carrying capacity of the floodway and the flood water levels. Such areas are characterized by shallow flood depths and low velocities of water flow.

**FLOOR:** The top surface of an enclosed area within a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**FOOD PROCESSING FACILITY:** A facility where food, in its raw product form, is prepared for market.

**FOUNDATION FACIA:** A weather resistant material surrounding the entire perimeter of a manufactured house or mobile home which encloses the space, excluding ventilation, between the exterior wall of the manufactured house or mobile home and the ground.

**FUNERAL HOME OR MORTUARY:** An establishment where the activities necessary for the care and custody of the dead, including: refrigeration, embalming; cremation; other necessary care; viewings; wakes; funerals; and other rites and ceremonies consistent with the proper final disposition of the dead, are conducted.

**GRADE PLANE:** A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building.

**GRAVEL PIT:** An area that is being used for the purpose of removing the gravel from the land for commercial or private uses.

**GROSS FLOOR AREA:** The sum of the gross horizontal areas of the floors including the area under the exterior walls of a building or portion thereof.

**GROUP HOME:** A place or facility providing care and supervision for compensation for nine (9) or more persons during all or part of a twenty-four (24) hour day. Examples may include, but not be limited to, halfway houses and homes for the disadvantaged.

**HARD SURFACE:** Any surface which is capable of providing an all weather driving surface for reasonable emergency traffic, including fire department travel and may be, but is not limited to, gravel, concrete, asphalt, stone, or brick.

**HAZARD:** A probable source of danger.

**HAZARDOUS WASTE:** This is defined or determined by the United States Environmental Protection Agency.

**HEARING EXAMINER:** A person hired by county to act in the capacity of a hearing examiner as defined in Idaho Code § 67-6520.

**HEIGHT OF BUILDING:** The vertical distance from grade plane to the average height of the highest roof surface.

**HIGHEST ADJACENT GRADE:** The highest elevation of the ground surface next to the proposed walls of a structure.

**HIGHWAY DISTRICT:** A highway district exercising jurisdiction over property or premises as authorized by Idaho Code, title 40, chapter 13.

**HILLSIDE DEVELOPMENT:** Any subdivision or that portion of a subdivision located in terrain having a maximum slope exceeding fifteen (15) percent, except where evidence is provided that no construction or development shall take place on slopes greater than fifteen (15) percent.

**HOME BUSINESS:** Any gainful business engaged in by a maximum of two (2) occupants of a dwelling unit and a maximum of three (3) adult employees.

**HOME OCCUPATION:** Any gainful occupation engaged in by an occupant of a dwelling unit and may include, but not be limited to, handicrafts, dressmaking, office of a clergyman, teaching of music, dancing and other instruction, family day care, and other like occupancies which meet the requirements under Article 16 of this chapter.

**ILLUMINATED ADDRESS NUMBERS:** The number portion of the physical address of a home or business having artificial illumination upon them so that they are visible at night from the access road.

**IMMEDIATE FAMILY MEMBER:** Includes natural, adopted and step father, mother, son, daughter, brother, sister, granddaughter, grandson, grandfather, and grandmother.

**IMPOUND YARD OR LOT:** Any portion, piece, division or parcel of land, excluding fully enclosed buildings, that is used for the storage or holding of distrained vehicles or personal property, or for the care and keeping of vehicles or personal property whether taken into the custody of the law or for other reasons.

**IMPROVEMENT:** The term improvement shall include, but not be limited to, structure, roadway paving, curb, gutter, sidewalk, pedestrian pathway, bike path, water line, sewer line, drainage work, bus turnout, street light, and/or landscaping.

**INDOOR RECREATION:** Public or private recreation facilities, tennis or other racquet courts, swimming pools, bowling alleys, skating rinks, or similar uses which are enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. The term "indoor recreation" shall include any accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. The term "indoor recreation" shall not include theaters, cultural facilities, massage parlors, or any use which is otherwise listed specifically in the table of permitted and conditional uses.

**INHABIT:** To dwell, live, reside, work or stay.

**INTERMITTENT USE (AIRSTRIP):** the use of a property for an airstrip for no more than three (3) operations in a six (6) month period. An operation means not more than one (1) touch down and one (1) take off.

**IRRIGATION FACILITIES:** The means and mechanisms necessary for the supply, delivery, and drainage of irrigation water, including but not limited to, canals, laterals, ditches, conduits, gates, wells, pumps and allied equipment.

**JUNKYARD:** Any outdoor space where waste, discarded, salvaged, or recyclable materials have been or will be accumulated and have either been or will be bought, sold, exchanged, baled, packed, disassembled, stored, processed, or handled including house-wrecking and structural steel materials and equipment. It does not include places where such uses are conducted entirely within a completely enclosed building, such as pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, and it does not include cars in licensed operable condition or salvaged materials which are incidental to a legal manufacturing operation. Junkyard includes vehicle wrecking yards, recycling yards, and establishments for the sale, purchase, or storage of used motor vehicles and parts, including machinery, in operating or non-operating condition. The foregoing definition of a junkyard describes the condition, appearance or use of premises or property and includes, but is not limited to, commercial uses of the property or premises. This definition of a junkyard is not intended to apply only to business operations with a primary purpose of handling or conducting transactions in used, discarded, or salvaged materials including vehicles and parts, construction equipment and parts, and farm machinery and parts. Further, this definition is intended to specifically include the accumulation of junk, trash, and garbage on any premises or property by an occupant and/or landowner.

**KENNEL:** Any portion of land, or any building, structure, enclosure or premises on the same or adjacent parcels, in which canines are housed, groomed, bred, boarded, trained, or sold, in which a total of six (6) or more dogs, three (3) months of age or over are kept or maintained in conformance with Canyon County Code of Ordinances, Section 03-05-09.

**LIVESTOCK:** Domesticated animals (other than household pets or exotic animals) raised for food, fiber or transport.

**LOT:** See "PARCEL."

**LOT CLUSTERING:** A development design technique that concentrates residences in specific areas on-site to allow the remaining land to be used for agriculture, recreation, common space, and/or conservation of environmentally sensitive areas.

**LOT COVERAGE:** The area of a lot occupied by an impervious surface.

**LOT LINE:** The boundary property line in a platted subdivision.

**LOT WIDTH:** The horizontal distance between side lot lines measured at right angles to the depth at a point midway between the front and rear lot lines.

~~LOWEST FLOOR: The top of the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that, such enclosure is not built so as to render the structure in violation of the applicable non elevation design requirements of this ordinance.~~

MANUFACTURED HOME: A structure, constructed or rehabilitated according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 USC 5401 et seq.

~~MANUFACTURED HOME (PERMANENTLY AFFIXED): A manufactured house which has the running gear and towing hitch, or similar devices, removed and is set up per manufacturer's instructions on permanent footings, with supports having an anchoring system that is totally concealed under the structure and complies with Department of Housing and Urban Development standards in effect at the time of the construction of the manufactured house.~~

MINERAL EXTRACTION: The various activities associated with the extraction of mineral resources, including but not limited to gravel, from the ground.

MINI-STORAGE FACILITY: A building or buildings containing various size storage compartments not exceeding five hundred (500) square feet each, and wherein each compartment is offered for rent or lease to the general public for the private storage of materials. Materials shall not be sold or delivered to customers directly from the storage compartment.

MOBILE HOME: A transportable, factory-built home, whether single or multi-sectional, designed to be used as a year-round residential dwelling and built prior to the enactment of the state of Idaho, Department of Labor and Industrial Services requiring a state approved insignia or the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Mobile homes must meet the requirements of the "Mobile Home Rehabilitation Checklist – Compliance Certificate" (Idaho Code, title 44, chapter 25)

MOTEL/HOTEL: A building or buildings in which lodging units are offered for persons, for compensation by the day or the week.

MULTI-FAMILY DWELLING: A structure containing more than one dwelling unit with separate ingress-egress from outside and having no inter-connectibility between the units.

MUSEUM: An institution for the acquisition, preservation, study and exhibition of works of artistic, historical or scientific value and for which any sales relating to such exhibits are incidental and accessory to the exhibits presented.

~~NATIONAL GEODETIC VERTICAL DATUM (NGVD): As corrected in 1929 and is a vertical control used as a reference for establishing varying elevations within the flood plain.~~

NATIVE ANIMALS: Animals that are common to the state of Idaho but which are wild and not domestic.

NEIGHBOR: A person possessing or owning contiguous land or property.

NET FLOOR AREA: That portion of the gross floor area of the building occupied by the listed use or uses and shall include hallways, storage and packaging space, dressing or restrooms, and laboratory or work rooms; provided, however, that floor space within the building reserved for parking or loading of vehicles, and space used only for building maintenance and utilities shall be excluded.

~~NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date hereof.~~

**NONCONFORMING STRUCTURE:** A structure that was lawfully constructed and/or existing prior to the effective date of this chapter, but that does not now conform to the zoning standards.

**NONCONFORMING USE:** A use, structure, or parcel of land that lawfully existed prior to the effective date of this chapter but that does not now conform to the land use restrictions for the district in which it is located.

**NUISANCE:** A condition or use of property which is harmful or injurious to, or creates a danger of harm or injury to the health, safety, or welfare of the neighborhood, community, or members of the public, or which is so offensive to the senses or such an obstruction of the free use of property as to interfere with the comfortable enjoyment of life and property by the neighborhood, community, or members of the public.

**NURSERY:** A place where plants are grown for sale or transplanting and where seventy-five (75) percent of the products offered for sale are grown on the premises.

**NURSERY (RETAIL/WHOLESALE):** The selling of products and plants at retail and/or wholesale.

**OFF-STREET PARKING AND LOADING:** An open off-street area of land other than a street or public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys.

**OPEN SPACE LAND:** Any undeveloped or predominately undeveloped land which may be set aside for any of the following:

- A. Park and recreation purposes;
- B. Conservation of land and other natural resources;
- C. Conservation of wildlife habitat and natural space;
- D. Historic or scenic purposes;
- E. Common areas;
- F. Any area without structures that provides an open view.

**OPERATION PLAN:** A plan of action to include, but not be limited to, time requirements, commencement of the operation, hours of operation, noise levels, dust levels, air and water quality, raw material delivery, finished product and marketing, site improvements, public and private facilities, public amenities and infrastructure.

**ORIGINAL PARCEL:** A parcel of platted or unplatted land as it existed on September 6, 1979 (the effective date of the Zoning Ordinance 79-008, including any property boundary adjustments as defined in this chapter.

**OVERLAY ZONE:** A set of zoning requirements that are described in the ordinance text and maps, and subsequently imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones. They are usually employed to deal with special physical characteristics such as flood plains, historic preservation areas, steep slopes, shorelines or other environmentally sensitive areas, but have other applications as well.

**OWNER OR LANDOWNER:** The person or persons holding title by deed to land or holding title as vendees under a land contract or holding any other title.

**PARCEL:** A tract of land described by metes and bounds, chains, rods or aliquot parts or by lot and block. Land that is described by metes and bounds that includes all or parts of multiple, pre-existing parcels or portions of platted lots, all of which are not separately defined or labeled as separate parcels or lots, shall be considered one (1) parcel.

**PARK, PUBLIC:** "Public Park" means a park within the county which is under operation or management of the county's parks, recreation and waterways department that dedicates an area of land, usually in a largely natural state, for the enjoyment of the public, having facilities for rest, recreation, educational opportunities and other ancillary uses associated with a park (see Canyon County Parks, Recreation and Waterways Master Plan).

**PARKING LOT:** An open, graded, compacted and improved surfaced area, other than a street or public way, to be used for the parking or storage, for limited periods of time, of operable passenger vehicles and commercial

vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

**PARKING SPACE:** Usable space within a public or private parking lot, not less than one hundred eighty (180) square feet, (nine [9] feet by twenty [20] feet), exclusive of access drives, aisles or ramps for the storage of one passenger vehicle or commercial vehicle.

**PATHWAY:** See "PEDESTRIAN WAY."

**PEDESTRIAN WAY:** A walkway designed for pedestrians to move from one point to another.

**PERMITTED USE:** The utilization of land which shall be permitted to take place in any district as set forth by this chapter after obtaining a conditional use permit.

**PERSON:** Includes, but is not limited to, an individual, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, limited liability company, agency, department, or division, and all other or any other similar entities.

**PLANNED UNIT DEVELOPMENT (PUD):** An area of land in which a variety of residential, commercial, industrial, or other land uses are provided for under single ownership or control, up until the final plat is recorded, and allows for flexibility in site design and dimensional standards to develop residential, commercial and/or industrial uses not allowed individually within specific zoning districts.

**PLAT:** An engineered map of a land subdivision in compliance with local and state law.

- A. "Final plat" means a map of all or part of a subdivision providing substantial conformance to an approved preliminary plat, prepared by a registered professional engineer or a registered land surveyor in accordance with this chapter, federal, state and local regulations.
- B. "Preliminary plat" means a preliminary map, including supporting data, indicating a proposed subdivision development, prepared in accordance with applicable federal, state and local regulations consisting of an approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, and blocks in the subdivision.
- C. "Recorded plat" means a final plat bearing all of the certificates of approval required in this chapter and duly recorded in the county recorder's office.
- D. "Short plat" means the combined approval process of preliminary and final plats.

**POLITICAL SUBDIVISION:** A county, city, school district, highway district, irrigation district, fire district or other district recognized by the Idaho Code.

**PRIVATE ROAD:** A road serving more than two (2) permanent dwellings or inhabited buildings, which is privately maintained, and not accepted for maintenance by the local highway district having jurisdiction.

**PRESIDING PARTY:** The board, commission, hearing examiner, or hearing officer.

**PROCESS:** The mode, method, or operation necessary to prepare for market or to convert into marketable form.

**PROPERTY LINE (FRONT):** Property lines that abut any public or private road or are intersected by an ingress/egress easement.

**PROPERTY LINE (REAR):** The property line that is most opposite the front property line. If a property has more than one front property line, then the rear property line is that which is most opposite the front property line containing the access approach. The remaining property lines, opposite the other front property lines, may be side property lines.

**PROPERTY LINE (SIDE):** Property lines that are not front or rear property lines.

**PUBLIC SERVICE AGENCY TELECOMMUNICATION FACILITIES:** The term describes police, fire, emergency medical services, highway district, and Idaho Transportation Department facilities which permit communication between public service agency dispatching facilities and public service agency personnel with each other. A public service agency telecommunication facility does not lose its designated status because it leases out a portion of its communication towers to private telecommunication facilities as long as the public service agency telecommunication facilities are the predominating use.

**PUBLIC USES:** Public parks, schools, administrative and cultural buildings and structures, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities. Also public owned buildings, fire and police stations, libraries, post offices, and public utilities administration buildings.

**QUASI-JUDICIAL MATTER (HEARING):** A term applied to the action of public administrative officers or bodies at public hearings, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. However, state law rules of evidence apply to judicial proceedings and do not apply to quasi-judicial hearings.

**QUASI-PUBLIC USE (PERMANENT):** Hospitals, convalescent, colleges, and other facilities of an educational, religious, charitable, or philanthropic nature that are nonprofit organizations or exempt properties.

**QUASI-PUBLIC USE (TEMPORARY):** An activity of a quasi-public nature which has a duration not to exceed seven (7) days and seven (7) nights in a six (6) month period and is allowed in all zones within the unincorporated parts of the county. Activities may include, but are not limited to, religious retreats, revivals, carnivals and like uses, musical concerts, theatrical performances, and sporting events.

**RACE TRACK:** A configured course where races are run with animals, machines, or equipment.

**RECREATIONAL VEHICLE (RV):** An enclosed piece of equipment primarily designed as temporary living quarters for recreation, camping, or travel use, which is either self-propelled or pulled.

**RECREATIONAL VEHICLE (RV) PARKS:** A parking lot designed and intended for recreational vehicles and camper trailers, with towing automobiles. The RV park may feature either fee simple land sales or land leased or rented by the RV owner. Applications for development of RV parks featuring fee simple land sales shall be treated the same as those for site-built homes.

**RECYCLED ASPHALT:** Recycled or reclaimed asphalt pavement which is used as a base material, or to supplement the virgin aggregate and oil in plant mix pavement. It is pavement which is supplemented with oil and acceptable binding materials, to be used as an asphalt surface.

**REFINERY:** A facility where a group of chemical engineering unit processes and unit operations are used to convert raw material into products of value.

**RENDERING PLANT:** A facility where animal parts are converted into industrial fats and oils or fertilizers.

**REPLAT:** A new plat of all or a portion of an existing subdivision plat.

**RESIDE:** Dwell or inhabit.

**RESTAURANT:** Any land, building, or part thereof, other than a boarding house, where meals are provided for compensation.

**REZONE:** Changing the zoning classification of land from one zone to another.

**RIBBON CURBING:** Ribbon curbing, at a minimum, is curbing matching the slope and grade of adjoining road(s), with a two (2) foot wide six (6) inch thick concrete roadway edging strip (ribbon curbing), using road base in the same thickness as the adjoining road and designed to channel water from the road into adjacent infiltration swale.

**RIGHT-OF-WAY:** Any land dedicated and open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

**ROAD:** An open, generally public way for the passage of persons, vehicles, and animals.

**ROAD LOT:** A private road that provides access to more than two (2) lots within a subdivision.

**ROADSIDE STAND:** The site used for the seasonal vending of fruit, vegetables and farm produce where the majority of the produce is grown by the landowner. A roadside stand must not exceed four hundred (400) square feet in size. Roadside parking and loading must occur off the right-of-way or easement.

**SCHOOL (PUBLIC OR PRIVATE):** "Public or private schools" means an institution of learning or instruction

primarily catering to minors, whether public or private, which is licensed at such facility by either the city or the state of Idaho. The definition includes nursery schools, kindergarten, elementary schools, junior high schools, middle high schools, senior high schools or any special institution of learning under the jurisdiction of the state department of education, but not including professional and vocational schools, charm schools, dancing schools, music schools or similar limited schools nor public or private universities or colleges.

**SEASONAL ACTIVITIES:** Activities dependent on a particular season of the year.

**SECONDARY RESIDENCE:** A dwelling, other than a temporary residence, that is detached from the primary residence.

**SETBACK:** The space on a lot required to be left open and unoccupied by buildings or structures, either by the front, side or rear yard requirements of this chapter, or by delineation on a recorded subdivision map or a record of survey.

**SHOOTING RANGE:** An indoor or outdoor facility designed for the use of firearms and for which a fee is charged.

**SIGN:** Any sign, copy, logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial, industrial, or public activity.

**SIMILAR USES:** A use that has characteristics generally like those of a listed or defined use.

**SINGLE-FAMILY DWELLING:**

- A. A dwelling for one family.
- B. Any dwelling in which eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons reside and which is supervised and conforms to Idaho Code § 67-6531 and § 67-6532.
- C. A manufactured home as defined by Idaho Code § 39-4105(10).

**SITE PLAN:** A scaled drawing showing the parcel and all existing and proposed uses and structures and roads all with dimensions, distances and private and public road names. It includes lot lines, lot area, parking spaces, private roadways, walkways, topographic features, reserved open space, buildings and other structures, major landscape features, and the location of proposed utility easements. A site plan is a more detailed representation of a proposed development than shown in a plat, and may also include density and statistical data.

**SLAUGHTER HOUSE:** A facility where animals are killed and may be processed into meat products.

**SMALL WIND ENERGY SYSTEM:** A wind energy conversion system consisting of a wind turbine, a tower, not exceeding eighty (80) feet, and associated control or conversion electronics which has a rated capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of utility power.

**SPECIAL EVENTS:** Any temporary event including, but not limited to, weddings, picnics, barbeques, holiday events and parties, dances, concerts, footraces and walks, bazaars, and harvest festivals.

**STAGING AREA:** An area where:

- A. All work is conducted off-site;
- B. Equipment and/or materials are stored;
- C. Business vehicles are operable and parked on site, not on a public or private road;
- D. Persons are not employed on the premises, but may visit the premises for the purpose of picking up equipment and materials to be used elsewhere and including trucks off-loading or transferring equipment and/or materials to other vehicles;
- E. Employees may meet on the premises to share rides to and from job sites; and
- F. Employees' vehicles are parked on site and not on a public or private road.

**STRUCTURE:** Any building used or intended for supporting or sheltering any use or occupancy as defined in the Canyon County Building Code.

**SUBDIVISION:** The division of any lot, tract or parcel of land into more than four (4) parts since recognition of the original parcel under this chapter for the purpose of development or transfer of ownership.

**SUBDIVISION REVIEW TEAM:** A committee of DSD employees which reviews proposed preliminary and final subdivision plats.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained whereby the cost of restoring the structure would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:**

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure, either:

1. Before the improvement or repair is started; or,

2. If the structure has been damaged and is being restored, the value of the structure before the damage occurred.

B. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

C. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions; or,

2. Any alteration of a structure listed on the national register of historic places or a state inventory of historic places.

**SURVEYOR:** Any person who is licensed in the state of Idaho to engage in the practice of land surveying.

**SWINE:** Any of the various stout short legged, hoofed mammals with bristly skin and flexible snout including, but not limited to, pigs, hogs or boars.

**SWINE FARM:** Land where swine are raised for compensation or animal care projects.

**TANNERY (COMMERCIAL):** A facility where the tanning process is applied to hides to produce leather.

**TAVERN OR LOUNGE:** A building where alcoholic beverages are sold for consumption on the premises, not including restaurants where the principal business is serving food.

**TELECOMMUNICATION FACILITY:** Public or private cell phone, broadcast, communication, or wireless internet towers and associated facilities.

**TEMPORARY USE:** A land use intended to last or continue for a limited time.

**TRACT:** A parcel of land.

**URBAN DENSITY:** Development of land into parcels of less than one acre in size.

**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.

**UTILITY DISTRIBUTION SYSTEM:** A system used to deliver any utility.

**UTILITY FACILITY:** Any facility providing utility services including, but not limited to, buildings, plants, substations, reservoirs or wastewater treatment plants owned or operated by a utility provider regulated by the Idaho Public Utility Commission or other regulatory agency or political subdivision of the state.

**VARIANCE:** A modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance

provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. **This includes also a grant of relief from the "F" (Flood Hazard Overlay) zone regulations.**

**VEHICLE SALES LOT:** Premises on which new or used passenger vehicles, trailers, mobile homes or trucks in operating condition are displayed in the open for sale or trade, and where no repair or service work is done.

**VEHICLE SERVICE FACILITY:** Premises on which repair and service work to vehicles is performed.

**VEHICLE SERVICE AND/OR FUELING STATION:** Premises used for the sale and delivery of petroleum products and parts such as fuel, lubrication oils, tires, and incidental vehicular accessories and related services, including minor motor vehicle repairs and/or rental of vehicles.

**VEHICLE WRECKING YARD:** Any use of premises, excluding fully enclosed buildings, on which two (2) or more motor vehicles not in licensed operating condition are standing more than thirty (30) days, or on which motor vehicles not in licensed operating condition, or parts thereof, are dismantled, displayed, stored, recycled or sold.

**VIABLE FARM LAND:** Land that is capable of producing marketable farm animals or crops.

**WAREHOUSING:** Storage of goods or merchandise.

**WIND FARM:** Multiple wind turbines grouped in a single location for the purpose of generating a large amount of electric power.

**WIND TURBINE:** A structure that uses moving air to generate electricity through the use of blades that are turned by the wind.

**WINERY:** A place where wine is produced.

**YARD:** An area that extends along a property line to a depth or width specified in the setback regulations for the zone in which the property is located.

**YARD (FRONT):** The open space extending across the full width of the lot and lying between the front street line and the nearest line of a structure.

**YARD (REAR):** The open space extending across the full width of the lot and lying between the rear line of the lot and the nearest line of a structure.

**YARD (SIDE):** The open space extending from the front yard to the rear yard and lying between the side lot line and the nearest line of a structure.

**YARD/GARAGE SALE:** A sale of used or unwanted household goods, personal items, bric-a-brac typically held in one's garage or yard.

**ZONING MAP:** An official map designating land use zones in the County.

## ARTICLE 3

### ADMINISTRATION

#### SECTION:

07-03-01: Planning and Zoning Commission; Membership and Duties

07-03-03: Director of the Development Services Department; Duties

07-03-05: Hearing Officer

07-03-07: Hearing Examiner

**07-03-01: PLANNING AND ZONING COMMISSION; MEMBERSHIP AND DUTIES:**

- (1) **Membership:** The Canyon County Planning and Zoning Commission is established to perform both planning and zoning duties specified in the Idaho "Local Land Use Planning Act," Idaho Code Idaho Code, title 67, chapter 65 and this chapter. The number of members on the commission is hereby set at seven (7) members.
- (2) **Term:** The length of the appointment term for commissioners shall be four (4) years unless removed for cause pursuant to Idaho Code § 67-6504. A commissioner must have resided in the county for two (2) years prior to his/her appointment, and must remain a resident of the county during his/her service on the commission. Commissioners serving when this chapter is adopted shall continue to serve the terms for which they were appointed.
- (3) **Officers:** The commission shall elect a chairman and create and fill other positions as provided for in Idaho Code § 67-6504(b).
- (4) **Duties and Powers:** The commission shall have those powers and perform those planning and zoning duties assigned by the board that are provided for in the Local Land Use Planning Act, Idaho Code, title 67, chapter 65 and in county ordinances.

07-03-03: **DIRECTOR OF THE DEVELOPMENT SERVICES DEPARTMENT; DUTIES:**

The director shall perform those duties assigned by the board.

07-03-05: **HEARING OFFICER:**

The Chairman of the board, when confirmed by majority vote of board, may appoint a hearing officer.

07-03-07: **HEARING EXAMINER:**

**Authority, Duties and Procedures:** Any hearing examiner appointed by the board shall perform such duties as assigned by the board pursuant to Idaho Code § 67-6520.

## ARTICLE 4

### FEES

#### SECTION:

- 07-04-01: Established  
07-04-03: Development Service Department Fees  
07-04-05: Fee Waivers  
07-04-07: Refunds

07-04-01: **ESTABLISHED:**

By resolution, the board shall establish fees to defray the costs of processing all applications, renewals and requests for action filed pursuant to this chapter. All fees shall be established in accordance with Idaho Code § 31-870(1) and Idaho Code § 63-1311A.

07-04-03: **DEVELOPMENT SERVICES DEPARTMENT FEES:**

Any person filing any application, renewal or request authorized by this chapter shall pay the fees authorized by the board. No application, renewal or request for action, except as hereafter provided, shall be accepted by DSD, unless accompanied by the required filing fee.

07-04-05: **FEE WAIVERS:**

Notwithstanding any required fee, only the board shall have the authority to waive, in whole or in part, any fee established by the board for an application, renewal or request for action filed by any governmental agency or persons when such a fee would present an undue hardship. An application for a hardship waiver must be in writing, must specifically describe the undue hardship, and must be filed with the clerk of the board for board action.

07-04-07: **REFUNDS:**

Upon request, the director shall determine the percentage of application processing time and expenditures that have been incurred and may recommend to the board that the applicant be refunded that portion of the processing fee which has and will not be used. All refunds shall not be issued unless approved by resolution by the board.

ARTICLE 5

**NOTICE, HEARING, AND APPEAL PROCEDURES**

07-05-01: Notice Procedure

07-05-03: Board, Commission or Hearing Examiner Hearing Procedures

07-05-05: General Appeal Procedures

07-05-07: Appeal of Director Administrative Decision

07-05-09: Mediation of Quasi-Judicial Land Use/Land Division Matters

07-05-01: **NOTICE PROCEDURE:**

(1) **Notice Procedures:** Notice shall be given for all proceedings in accordance with Idaho Code §§ 67-6509, 67-6511 and 67-6512, as applicable, except as provided for in Section 07-05-01(2).

(2) **Special Notice Procedures:** When notice is required to two hundred (200) or more property owners or purchasers of record, notice shall be provided as follows:

A. Notice shall be provided to property owners or purchasers of record, within the land being considered and properties within six hundred (600) feet beyond the external boundaries of the land being considered; and

B. The county shall publish the public hearing notice in the official newspaper or newspaper of general circulation at least fifteen (15) calendar days prior to the date of hearing. In addition, the county shall provide notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the county at least fifteen (15) calendar days prior to the hearing date. Notice shall also be posted on all public and/or private roads abutting the development not less than one (1) week prior to the hearing.

(3) Any person that appears at a hearing, or who submits any exhibit to be considered at such hearing, shall be deemed to have had actual notice by such appearance.

07-05-03: **BOARD, COMMISSION OR HEARING EXAMINER HEARING PROCEDURES:**

The following hearing procedures shall be followed in all matters heard by the presiding party:

A. The presiding party shall adhere to the requirements of Chapter 1, Article 17 of the Canyon County Code of Ordinances.

B. Prior to the commencement of a hearing, a sign-up sheet shall be provided for prospective witnesses to sign.

C. The hearing shall be opened with a statement of the rules and procedures.

D. The chairman or his designee shall administer the oath or affirmation to the witnesses, except at legislative hearings where public input is solicited.

E. The applicant shall provide reports and testimony which will provide information necessary to enable the presiding party to render a decision on an application.

F. The presiding party may refuse to permit any person to testify who has not signed the witness list, is disruptive of the hearing proceedings, or is belligerent.

G. The presiding party shall approve, modify, or deny an application after reviewing whether or not the application satisfies the applicable provisions of the comprehensive plan, ordinances, and the Local Land Use Planning Act, Idaho Code title 67, chapter 65. The applicant carries the burden of persuasion.

H. When the presiding party makes a recommendation to the board the FCOs, the minutes, and documents regarding the notice of hearing shall be certified to the board and shall be included in the official record of the board.

I. The presiding party shall issue FCOs, reflecting its final decision.

J. A copy of the signed FCOs, shall be mailed to the applicant and/or the applicant's representative.

**07-05-05: GENERAL APPEAL PROCEDURES:**

(1) The decisions of the commission or the hearing examiner may be appealed to the board by filing a written notice of appeal with DSD within fifteen (15) calendar days of the date the FCOs were signed. The notice of appeal should include a statement of the reasons for the appeal and must be accompanied by a filing fee as established by the adopted fee schedule.

(2) The board considers the appeal as a new hearing on the application as a matter being heard for the first time.

**07-05-07 APPEAL OF DIRECTOR ADMINISTRATIVE DECISION**

(1) An affected person aggrieved by a final administrative decision or action of the director that was made pursuant to the provisions of this chapter may appeal to the board.

(2) **Appeal Procedures:**

A. Appeals shall be filed with DSD within fifteen (15) calendar days after the date of the decision. A notice of appeal should include a statement of the reasons for the appeal and must be accompanied with all appropriate fees as established by the adopted fee schedule.

B. The appeal shall be noticed and heard as a conditional use permit.

C. At the public hearing held in accordance with this article, the board shall consider the decision of the director and any additional evidence that may be offered by the public, applicant or director.

D. The board may affirm, reverse or modify, in whole or in part, the director's decision.

**07-05-09: MEDIATION OF QUASI-JUDICIAL LAND USE/LAND DIVISION MATTERS:**

The procedure for mediation shall be in accordance with the provisions of Idaho Code § 67-6510. Nothing in this chapter shall affect the rights of any party regarding mediation of land disputes. The county shall not be liable for nor pay the fees or expenses of any mediation requested by any applicant or affected property owner.

**ARTICLE 6**

**REZONE, AMENDMENT OF COMPREHENSIVE PLAN, AMENDMENT OF ZONING ORDINANCE**

**SECTION:**

07-06-01: Initiation Of Proceedings

07-06-03: Comprehensive Plan Amendment Criteria

07-06-05: Zoning Amendment Criteria for Requested Zoning District Boundary Change:

07-06-07: Conditional Rezone

**07-06-01: INITIATION OF PROCEEDINGS:**

(1) **Initiation of proceedings:** Any person may apply for the following:

- A. An amendment to the county comprehensive plan and/or map ~~at any time~~;
- B. An amendment to this chapter; or
- C. Amendment to official zoning maps (rezone or conditional rezone).;

(2) **Applications:** All applications for the above changes or amendments shall be filed with DSD. An application must be accompanied by a filing fee as established by the adopted fee schedule. Applications shall contain all required information.

(3) **Comprehensive Plan Changes:** Requests for comprehensive plan changes and ordinance amendments may be consolidated for notice and hearing purposes. Although these procedures can be considered in tandem, pursuant to Idaho Code § 67-6511(b), the commission, and subsequently the board, shall deliberate first on the proposed amendment to the comprehensive plan; then, once the commission, and subsequently the board, has made that determination, the commission, and the board, should decide the appropriateness of a rezone within that area. This procedure provides that the commission, and subsequently the board, considers the overall development scheme of the county prior to consideration of individual requests for amendments to zoning ordinances. The commission, and subsequently the board, should make clear which of its findings relate to the proposed amendment to the comprehensive plan and which of its findings relate to the request for an amendment to the zoning ordinance.

(4) **Zoning Ordinance Changes:**

A. If an amendment to the ordinance text is approved, then the approved changes shall be effective in accordance with time requirements of Idaho Code §§ 31-715 and 31-715A. The board shall, when considering an application for an amendment to the zoning ordinance, consider the comprehensive plan and other evidence gathered through the public hearing process.

B. If an amendment to a zone or zone boundary is approved, then the approved amendment shall be effective immediately upon written approval and shall be established and clearly indicated, as soon as practicable, on the zoning map or maps adopted as part of this chapter. The board shall, when considering an application for an amendment to the zoning ordinance, consider the comprehensive plan and other evidence gathered through the public hearing process.

07-06-03: **COMPREHENSIVE PLAN AMENDMENT CRITERIA:**

(1) The commission shall review the particular facts and circumstances of each proposed comprehensive plan amendment and make a recommendation regarding the same to the board. The commission and the board shall determine whether the proposed amendment meets the requirements of the Local Land use Planning Act, Idaho Code, Title 67, Chapter 65, and is consistent with the comprehensive plan's purposes, goals and policies:

- A. Is the requested type of growth generally in conformance with the comprehensive plan;
- B. When considering the surrounding land uses, is the proposed land use more appropriate than the current comprehensive plan designation;
- C. Is the proposed comprehensive plan amendment compatible with surrounding land uses;
- D. Do development trends in the general area indicate that the current designation and circumstances have changed since the comprehensive plan was adopted; and
- E. Will the proposed comprehensive plan amendment impact public services and facilities. What measures will be implemented to mitigate impacts?

07-06-05: **ZONING AMENDMENT CRITERIA:**

(1) The commission shall review the particular facts and circumstances of each proposed zoning amendment and make a recommendation regarding the same to the board. The presiding party shall make its review in terms of the following standards and shall find adequate evidence regarding the following criteria when evaluating the proposed zoning district boundary amendment:

- A. Is the proposed zone change generally consistent with the Comprehensive Plan;
- B. When considering the surrounding land uses, is the proposed zone change more appropriate than the current zoning designation;

- C. Is the proposed conditional rezone compatible with surrounding land uses;
- D. Will the proposed use negatively affect the character of the area? What measures will be implemented to mitigate impacts?
- E. Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate the proposed use;
- F. Does legal access to the subject property for the development exist or will it exist at the time of development;
- G. Does the proposed development require road improvements provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns created by the proposed development? What measures have been taken to mitigate road improvements or traffic impacts; and
- H. Will the proposed zone change amendment impact essential public services and facilities, such as, schools, police, fire and emergency medical services? What measures will be implemented to mitigate impacts?

07-06-07: **CONDITIONAL REZONE:**

(1) **Restrictions:** In approving a conditional rezone application, the presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions or limitations may be imposed to promote the public health, safety and welfare, or to reduce any potential damage, hazard, nuisance or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. When the presiding party finds that such conditions, stipulations, restrictions or limitations are necessary, land may be rezoned upon condition that if the land is not used as approved, or if an approved use ends, the land use will revert back to the zone applicable to the land immediately prior to the conditional rezone action.

(2) **Development Agreement:** Any condition, stipulation, restriction or limitation imposed pursuant to this article shall be incorporated as part of any site plan, plat, document of title of conveyance and building permit relating to the restricted land. Any pre-development condition, stipulation, restriction or limitation imposed pursuant to this subsection shall be verified as being met prior to the issuance of any building permit. The applicant must execute a written development agreement to implement and be bound by any such condition, stipulation, restriction, or limitation. No final conditional rezone action shall be taken until such development agreement is recorded in the office of the county recorder. The development agreement shall have the effect and impact provided by Idaho Code § 67-6511A.

(3) **Conditional Rezoning Designation:** Such restricted land shall be designated by a "CR" (Conditional Rezoning) on the official zoning map upon approval of a resolution by the Board for an "Order of Intent to Rezone." An "Order of Intent to Rezone" shall be submitted to the Board for approval once the specific use has commenced on the property and all required conditions of approval have been met and any required improvements are in place. Land uses that require approval of a subdivision shall have an approved final plat in accordance with this chapter before the "Order of Intent to Rezone" is submitted for approval by the Board. Designation of a parcel as CR shall not constitute "spot" zoning and shall not be presumptive proof that the zoning of other property adjacent to or in the vicinity of the conditionally rezoned property should be rezoned the same.

(4) **Time Requirements:** All conditional rezones for a land use shall commence (see definition of commencement, § 07-02-03) within two years of the approval of the Board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. All subsequent developments on the property shall reapply for land use approval.

(54) **Notice That Conditional Rezone Conditions Not Being Met:** If any person, including staff or member of the commission, files a written notice presenting sufficient evidence, as determined by the director, to establish that the rezone conditions have not been met, or that a use approved by conditional rezoning has been abandoned or has ended, the commission shall notice a public hearing pursuant to Article 5 of this chapter, said hearing to be conducted

pursuant to Article 5 of this chapter. The burden of proof at such hearing shall be on the person who filed the notice. If the commission finds that the rezone conditions are not being followed or that the use approved by conditional rezoning has ended, it may recommend to the board a time schedule for compliance or may recommend that the board order the zone to revert back to the zone from which the property was conditionally rezoned, as provided by Section 07-06-07(6)I of this chapter.

**(65) Rezoning Approval:**

- A. The presiding party shall review the particular facts and circumstances of the proposed conditional rezone. The presiding party shall apply the following standards when evaluating the proposed conditional rezone:
1. Is the proposed zone change generally consistent with the Comprehensive Plan;
  2. When considering the surrounding land uses, is the proposed conditional zone change more appropriate than the current zoning designation;
  3. Is the proposed conditional rezone compatible with surrounding land uses;
  4. Will the proposed use negatively affect the character of the area? What measures will be implemented to mitigate impacts?
  5. Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate proposed use;
  6. Does the proposed development require road improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns. What measures have been taken to mitigate traffic impacts; and
  7. Does legal access to the subject property for the development exist or will it exist at time of development;
  8. Will the proposed zone change amendment impact essential public services and facilities, such as, schools, police, fire and emergency medical services? What measures will be implemented to mitigate impacts?
- B. If the commission recommends and the board approves such order of preliminary rezoning, the order shall include any conditions, stipulations, restrictions or limitations which the commission recommends and the board finds are necessary to the public health, safety and welfare. Such conditions, stipulations, restrictions or limitations must be met before the "Order of Intent to Rezone" is issued. The development agreement must be signed and recorded before final approval is given.
- C. Any conditions, stipulations, restrictions or limitations imposed pursuant to this section shall be incorporated as part of any site plan, plat, document of title of conveyance, and building permit relating to the restricted land.

**(6) Provisions Governing the Creation, Form, Recording, Modification, Enforcement and Termination of a Development Agreement:**

- A. **Creation of Development Agreement:** The county may enter into a development agreement with a developer for the development of real property in accordance with these rules and the board's FCOs following a public land use hearing; provided that the development agreement shall:
1. Describe the land subject to the development agreement;
  2. Specify the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings;
  3. Specify any ongoing performance of owner or developer and the consequence for any owner's or developer's noncompliance therewith;
  4. Provide, where appropriate, for reservation or dedication of land for public purposes;

5. State that the development agreement shall not prevent the county, in subsequent actions applicable to the property, from applying new rules, regulations or policies that do not conflict with development agreements applicable to the property as set forth in the agreement;
6. Provide that the director shall administer the development agreements after such agreements become effective;
7. Provide that the director shall conduct a review of compliance with the terms and conditions of the development agreement on a periodic basis as established by the development agreement; and
8. Provide that a development agreement must be approved by the board, upon recommendation of the commission, which recommendation may be accepted, modified or rejected. A preliminary conditional rezoning approval becomes final when the conditions set forth in the recorded development agreement have been fully met by the developer as determined by the director, in the exercise of the director's discretion including but not limited to unforeseen circumstances.

**B. Development Agreement Duration:** The development agreement shall run with the land and bind the property, only as in accordance with law, and shall inure to the benefit of and be enforceable by the parties, and any of their respective legal representatives, heirs, successors and assignees.

**C. Subject Matter:** The development agreement may also cover any other matter not inconsistent with this chapter, which is reasonably related to the project, and not prohibited by law.

**D. Parties:** In addition to the county and developer, any federal, state or local government agency or body may be included as a party to the development agreement. If more than one (1) government body is made party to a development agreement, the development agreement shall specify which agency shall be responsible for the overall administration of the development agreement.

**E. Form of Development Agreements:** Development agreements shall include in the board's discretion, but not be limited to, a clear statement of the intent of the parties in regard to entering the agreement, necessary real property descriptions, schedules and exhibits, a detailed statement regarding the development of the property, and periodic review, as established by the development agreement. The development agreement shall address the requirements and conditions for conditional rezoning approval and shall be accompanied by, or include, a statement necessitating the need for a development agreement.

**F. Modification of Development Agreements:** A development agreement by a developer concerning the use or development of the subject parcel may be modified only by permission of the board after complying with the notice and hearing provisions of Idaho Code § 67-6509. The modification proposal must be in the form of a revised development agreement and must be accompanied by a statement demonstrating the necessity for the requested modification.

**G. Recording of Development Agreements:** Development agreements or amended development agreements shall be recorded by the director in the office of the county recorder and shall take effect upon the adoption by the board. The director shall provide a copy of the recorded development agreement or amended development agreement to the prosecuting attorney and to the developer. Should a development agreement be terminated by the county, and the zoning designation upon which the use is based is reversed, a document authorizing such termination and zoning reversal shall be recorded by the director in the office of the county recorder and supplied to the same parties noted above.

**H. Enforcement of Development Agreements:**

1. Unless terminated pursuant to Section 07-06-07(6) I of this chapter, a development agreement, amended development agreement, or modified development agreement, shall be enforceable by any party thereto, or their successors in interest, notwithstanding any subsequent change in any applicable law adopted by the county which alters or amends the laws, ordinances, resolutions, rules, or policies (hereafter referred to as "laws") specified in this section.
2. All laws governing permitted uses of the land that is the subject of the development agreement, including but not limited to uses, density, design, height, size, and building specifications

of proposed buildings, construction standards and specifications, and water utilization requirements applicable to the development of the property subject to a development agreement, shall be those laws made applicable and in force at the time of execution of the development agreement, notwithstanding any subsequent change in any applicable laws adopted by the county, which alter or amend the laws specified in this section. Such subsequent change shall be void as applied to the property subject to such development agreement to the extent that it changes any laws which any party to the development agreement has agreed to maintain in force as written at the time of execution; provided that a development agreement shall not prevent the board from requiring the developer to comply with laws of general applicability enacted subsequent to the date of the development agreement, if they could have been lawfully applied to the property which is the subject of the development agreement at the time of execution of the development agreement, provided the board finds it necessary to impose the requirements because a failure to do so would place the residents of a subdivision or of the immediate community, or both, in a condition perilous to the residents' health or safety, or both.

#### **I. Termination of Development Agreements:**

1. A development agreement may be terminated and the zoning designation upon which the use is based reversed, upon the failure of the developer to comply with the provisions in the development agreement. The developer shall comply with the requirements set forth in the development agreement. A development agreement may be terminated only after complying with the notice and hearing provisions of Idaho Code § 67-6509.

2. If, as a result of a periodic review, the director finds and determines that the developer has committed a breach of the terms or conditions of the development agreement, the director shall serve notice in writing, within a reasonable time period after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and provide a reasonable time period in which to cure such material breach. If the developer fails to cure the breach within the time period given, the county may terminate or modify the development agreement only after complying with the notice and hearing provisions of Idaho Code § 67-6509 and Section 07-06-07(4) of this chapter.

(7) **Final Rezoning Approval (“Order of Intent to Rezone”):** A conditional rezoning approval becomes final when the conditions set forth in the development agreement have been fully met by the developer. Such approval shall be in the form of a board action known as an "Order of Intent to Rezone", and the property shall be designated by a CR mark on the official zoning map so that persons using the map will be put on notice. Building permits may not be issued until the “Order of Intent to Rezone” is approved by the board and recorded in the county recorders office by the developer.

## ARTICLE 7

### **CONDITIONAL USE PERMITS**

07-07-01: Purpose

07-07-03: Application Process

07-07-05: Hearing Criteria

07-07-07: Additional Standards A Temporary Residence Permit That Requires A Conditional Use Permit

07-07-09: Additional Standards For Day Cares That Require A Conditional Use Permit (Cup)

07-07-11: Additional Standards For Mineral Extraction (Long Term)

07-07-13: Standards For A Conditional Use Permit (Cup) For A Wind Farm

07-07-15: Standards For Manufacturing or Processing of Hazardous Chemicals or Gases:

07-07-17: Special Conditions

07-07-19: Additional Studies

07-07-21: Violation of Conditions of Conditional Use Permit

07-07-23: Provisions for Land Use Time Limitations

07-07-25: Request for Extension

07-07-01: **PURPOSE:**

Every use which requires the granting of a conditional use permit is declared to possess characteristics which require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons or property in the vicinity. The commission may require higher standards of site development than those listed specifically in this chapter in order to assure that the proposed use will be compatible with other property and uses in the vicinity. The commission may revoke or modify its approval of a conditional use permit in accordance with the procedures set forth in the hearing and appeals procedures found in Article 5 of this chapter.

07-07-03: **APPLICATION PROCESS:**

A conditional use permit application shall be subject to a public hearing, review, and approval, as provided by Article 5 of this chapter. The application process shall be as follows:

- (1) **Form:** Applications for conditional use permits, including a development plan and/or an operation plan if applicable, shall be filed with DSD.
- (2) **Fee:** An application must be accompanied by a filing fee as established by the adopted fee schedule.

07-07-05: **HEARING CRITERIA:**

The presiding party shall consider each conditional use permit application by finding adequate evidence to answer the following questions in its FCOs:

- A. Is the proposed use permitted in the zone by conditional use permit;
- B. What is the nature of the request;
- C. Is the proposed use consistent with the Comprehensive Plan;
- D. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area;
- E. Will adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems be provided to accommodate the use;
- F. Does legal access to the subject property for the development exist or will it exist at the time of final plat;
- G. Will there ~~will~~ be undue interference with existing or future traffic patterns; and
- H. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

07-07-07: **ADDITIONAL STANDARDS A TEMPORARY RESIDENCE PERMIT THAT REQUIRES A CONDITIONAL USE PERMIT:**

- (1) The decision making body shall consider the following:
  - A. The uses of the surrounding properties in the determination of the compatibility of the proposed Temporary Use Permit with such uses;
  - B. Duration of the proposed use;
  - C. Considerations of site and building design and capabilities; and

D. Recommendations from applicable government agencies.

- (2) The decision making body may require conditions as are necessary to protect the health, safety and welfare of the residents of parcels within the set notification distance, as well as conditions that would protect the uses of surrounding properties.

**07-07-09: ADDITIONAL STANDARDS FOR DAY CARES THAT REQUIRE A CONDITIONAL USE PERMIT (CUP):**

- A. If the presiding party approves a daycare, it shall specify the maximum number of children as a condition of approval. The presiding party shall also consider all health and safety requirements, considerations of site and building design and capabilities, and recommendations from applicable government agencies.
- B. The board shall consider the uses of the surrounding properties in the determination of the compatibility of the proposed day care center with such uses. Additional conditions as are necessary to protect the public health, safety, and welfare of the children may be required.

**07-07-11: ADDITIONAL STANDARDS FOR MINERAL EXTRACTION (LONG TERM):**

- (1) **Standards for a Conditional Use Permit (CUP) of a Mineral Extraction (Long Term):** The decision making body shall consider the following:
1. The uses of the surrounding properties in the determination of the compatibility of the proposed application with such uses;
  2. Duration of the proposed use;
  3. Setbacks from surrounding uses;
  4. Reclamation plan as approved by Idaho Department of Lands;
  5. The locations of all proposed pits and any accessory uses; and
  6. Recommendations from applicable government agencies.
- (2) **Standards for an Allowed Mineral Extraction (Long Term):** Prior to commencing any phase of extraction, the landowner or operator/extractor shall submit the following to DSD:
- A. Name of the landowner;
  - B. Name of the operator/extractor;
  - C. Legal description of the property where gravel is to be extracted;
  - D. A site plan of the property showing the area where the gravel is to be extracted;
  - E. Commencement and completion date (no later than twenty (20) years after commencement date). A CUP is required for extraction longer than twenty years.
  - F. Reclamation plan as approved by Idaho Department of Lands.

**07-07-13: STANDARDS FOR A CONDITIONAL USE PERMIT (CUP) FOR A WIND FARM:**

The presiding party shall consider the following:

- A. Lot size;
- B. Lot configuration;
- C. Proximity to neighboring structures;
- D. Topography;
- E. Viewsheds; and

- F. The uses of the surrounding properties in the determination of the compatibility of the proposed Wind Farm with such uses.

**07-07-15: STANDARDS FOR MANUFACTURING OR PROCESSING OF HAZARDOUS CHEMICALS OR GASES:**

The following standards shall apply to the manufacture or processing of hazardous chemicals or gases as a permitted use in this chapter. The standards shall not apply to research and development facilities.

- A. All structures shall be located a minimum of three hundred (300) feet from any property line. The use shall be located a minimum of one thousand (1,000) feet from any residential district or approved hospital use.
- B. All hazardous chemicals or gases shall be stored and/or used within an enclosed structure.
- C. The facility shall be enclosed by a minimum eight (8) foot high security fence or wall. Entrance and exit shall be through a gate that shall be locked during nonbusiness hours.
- D. The application materials shall include written documentation from the appropriate fire authority approving the proposed location and plan specifications of the facilities.
- E. The application materials shall include maps and engineering drawings showing proposed drainage, proposed sewer system design, the depth of the water table, soil composition, all existing surface water, and all existing uses within one-fourth (1/4) mile of the property. The applicant shall also furnish evidence that the dangerous characteristics of the particular process or activity in question have been, or shall be, eliminated or minimized sufficiently so as not to create a public nuisance or be detrimental to the public health, safety, or welfare.
- F. The use shall comply with the flood hazard overlay district as set forth in Article 10 of this chapter.
- G. This facility must register and maintain current hazardous waste generation notification as required by Environmental Protection Agency and/or Idaho Department of Environmental Quality and provide such proof of registration.

**07-07-17: SPECIAL CONDITIONS:**

Special conditions may be attached to a conditional use permit including, but not limited to, conditions which:

- A. Minimize adverse impact, such as damage, hazard, and nuisance, to persons or the subject property or property in the vicinity;
- B. Control the sequence and timing of development;
- C. Control the duration of development;
- D. Designate the exact location and nature of development;
- E. Require the provision for on-site or off-site public facilities or services;
- F. Require more restrictive standards than those generally required in this chapter; or
- G. Mitigate the negative impacts of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the county.

**07-07-19: ADDITIONAL STUDIES:**

Prior to making a decision concerning a conditional use permit request, the presiding party may require studies at the applicant's expense of the social, economic, fiscal, and environmental effects of the proposed conditional use.

**07-07-21: VIOLATION OF CONDITIONS OF CONDITIONAL USE PERMIT:**

If any person, including staff or a member of the commission, files a written notice presenting sufficient evidence, as determined by the director, that the conditions of the conditional use permit have been violated, the presiding party that made the final decision, shall set the matter for a public hearing noticed in accordance with Article 5 of this chapter.

07-07-23: **PROVISIONS FOR LAND USE TIME LIMITATIONS:**

(1) **Commencement:** When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the presiding party or a court of appropriate jurisdiction. The improvements for the approved use must be completed within five (5) years of the same date. If the use is not commenced or completed within these time periods, the use and its approval shall expire as provided for in subsection 07-07-13 (2). Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application. However, gravel pits and public utility facilities are excepted from the commencement and time completion requirements. The presiding party has the discretionary power to establish commencement and completion requirements as specific conditions of approval for gravel pits and power plant public service facilities.

(2) **Expiration:** After the three (3) year period has expired, if any person, including staff or member of the commission, files a written notice presenting sufficient evidence, as determined by the director, to establish that the land use or construction of its facility provided for in the conditional use permit, has not commenced or after the five (5) year period that said use has been abandoned, ended, or not completed, the director shall notice the property owner, by certified mail, that the use has expired.

A. **Appeal By Affected Person:** Any affected person who is aggrieved by the director's decision as to an application pursuant to this subsection, may file a written notice of appeal in accordance with Section 07-05-07, Appeal of Director Administrative Decision.

B. **Reversion:** If an appeal is not received or if the commission finds that the use has been abandoned, ended, or not completed, the prior approval shall be set aside and the property shall revert to its prior status.

07-07-25: **REQUEST FOR EXTENSION:**

(1) **Request:** An applicant may request extension of the time period provided by this section by filing an application for extension with DSD. Such application must be filed at least sixty (60) calendar days prior to expiration of the three (3) year period for commencement of the land use or sixty (60) calendar days prior to the expiration of the five (5) year period for completion of the project. The matter shall be heard at a public hearing before the presiding party who made the final decision, in accordance with the notice and hearing procedures of Article 5 of this chapter. If the application is not timely filed, it shall not be accepted.

(2) **Decision:** The presiding party may extend the commencement period or the completion period upon proof of good cause by the applicant. The burden of proof as to the showing of good cause for the extension shall be on the applicant, and good cause shall be determined at the discretion of the presiding party.

ARTICLE 8

**VARIANCE**

SECTION:

07-08-01: Application

07-08-03: Criteria

07-08-05: Approval or Denial

07-08-07: Appeal

07-08-01: **APPLICATION:**

(1) The applicant shall submit to DSD an application for variance along with the appropriate fee.

(2) The director may grant a variance, as an administrative decision, of up to thirty-three percent (33%) of the following requirements: lot size, lot width or depth, structure height, setback distances for the front, back, or side yards, or parking space.

- A. **Application and Administrative Requirements:** A site plan and letter of intent shall be submitted to DSD for review together with all appropriate fees as established by the adopted fee schedule. The burden of proof lies upon the applicant to show whether characteristics of the site create an undue hardship.
- B. **Notifications:** Upon acceptance of an application, DSD shall provide notification by mail of the variance request to the owners of parcels within three hundred (300) feet of the external boundaries of the parcel and shall provide such individuals a period of fifteen (15) calendar days from the date of the mailing to submit comments concerning the proposed variance.
- C. **Comments:** The director shall consider all comments that are received within the fifteen (15) calendar day comment period prior to making a final written decision concerning the variance request. In considering comments, the director shall evaluate whether granting the variance will be consistent with the Comprehensive Plan and whether characteristics of the site create an undue hardship.
- D. The director shall give notice of the decision granting or denying the application, to those previously notified of the pending application.

~~(3) The Director may grant a variance of the floodplain requirement to elevate non-residential structures to one (1) foot above base flood elevation in accordance with 07-10-2947 if the following standards are met:~~

- ~~A. The structure shall represent a minimal investment and be designed to have a low damage potential with respect to the structure and contents.~~
- ~~B. It must be anchored to resist flotation, collapse, and lateral movement;~~
- ~~C. The portions of the structure located below the BFE must be constructed of flood resistant materials;~~
- ~~D. It must be designed to allow for the automatic entry of flood waters;~~
- ~~E. Mechanical and utility equipment must be elevated or floodproofed to or above the BFE;~~
- ~~F. A certificate from a licensed engineer certifying that the structure meets these requirements and FEMA's minimum standards for wet floodproofing shall be submitted to Development Services.~~
- ~~G. It must comply with the floodway encroachment provisions of the NFIP regulations; and~~
- ~~H. It's use must be limited to parking and/or limited storage or its use must be used exclusively for agriculturally exempt buildings used for the sole purpose of storage of farm machinery and equipment (only pole and pre-fabricated metal frame structures with open or closed sides permitted), grain bins, corn cribs, hay storage or barns constructed exclusively for the temporary feeding of farm animals provided that at least one side remain open.~~

(34) The commission shall consider all other applications for variances in accordance with the notice and hearing procedure of Article 5 of this chapter.

**07-08-03: CRITERIA:**

- (1) A variance shall be granted in compliance with Idaho Code § 67-6516, and notice and an opportunity to be heard shall be provided to property owners adjoining the subject property.
- (2) The presiding party shall ask and answer the following questions in their FCOs:
  - A. Will granting the variance be consistent with the comprehensive plan;
  - B. Do characteristics of the site create an undue hardship; and
  - C. Is the variance in conflict with the public interest?

**07-08-05: APPROVAL OR DENIAL:**

Whenever the presiding party grants or denies a variance, it shall specify:

- A. The ordinance and standards used in evaluating the application;
- B. The reasons for approval or denial; and
- C. If denied, what actions, if any, the applicant might propose to try to obtain the variance upon submission of a new application.

07-08-07: **APPEAL:**

Any affected person who is aggrieved by the decision made pursuant to this Article, may file a written notice of appeal in accordance with Article 5.

ARTICLE 9

**PLANNED UNIT DEVELOPMENTS**

SECTION:

07-09-01: Purpose

07-09-03: Effect

07-09-05: Requirements

07-09-07: Single Entity Control

07-09-09: Contained Development

07-09-11: Area Assigned To Use-In-Common; Amenities

07-09-13: Required Findings

07-09-01: **PURPOSE:**

It is the purpose of this section to encourage the unified and planned development of land that results in:

- A. A more efficient, aesthetic and desirable use of open space and recreational amenities;
- B. A placement of structures compatible with abutting development;
- C. An integrated development that is served by essential services;
- D. The protection of existing natural, scenic, and historic resources; and
- E. The protection of existing neighborhoods through buffering techniques including screen planting, open space, and landscaping.

07-09-03: **GENERAL CHARACTERISTICS:**

(1) The development is preplanned in its entirety with the subdivision and zoning controls applied to the project as a whole rather than to individual lots as development occurs. Therefore, densities are calculated for the entire development, usually permitting a trade-off between clustering of housing and provision of common open space. The PUD is usually characterized by a unified site design and while most commonly used for residential development, the technique is also frequently applied to other forms of development such as shopping centers and industrial parks. Occasionally, a PUD may have a mix of uses. The PUD also refers to the process of site-plan review, in which public officials have considerable involvement in determining the nature of the development. The technique includes aspects of both subdivision and zoning regulations but permits a variation in the rigid zoning and subdivision regulations.

(2) Planned unit developments (PUDs) allow consideration of deviations from specific or strict compliance with zone regulations in this ordinance and to allow by master planning, flexibility in site design and dimensional standards to develop residential, commercial and/or industrial uses not allowed individually within the specific zoning districts.

**07-09-05: REQUIREMENTS:**

A PUD must be platted and is administered through a conditional use permit and development agreement, but shall not be subject to the provisions of Section 07-07-13 of this chapter. The development agreement shall include conditions pertaining to the density, design and degree of development that ensure achievement of the purpose of this Article.

**07-09-07: SINGLE ENTITY CONTROL:**

One person or entity shall maintain one hundred percent (100%) ownership interest of the subject property to ensure that the proposed development can be accomplished, until an approved final plat is recorded.

**07-09-09: CONTAINED DEVELOPMENT:**

A PUD shall generally be physically disassociated from surrounding properties, particularly those with different uses by terrain, orientation, fences, buffers, streets and highways, woods, rivers, or other natural barriers which may create such separation.

**07-09-11: AREA ASSIGNED TO USE-IN-COMMON; AMENITIES:**

The commission may require that PUDs contain open areas and/or amenities for use-in-common by its residents and occupants. All amenities shall be functionally related and accessible to all dwelling units via pedestrian and/or bicycle pathways. Dedicated open space shall abut any lots that have been reduced below the minimum property size and shall abut multi-family development within the PUD. Such amenities for use-in-common may include, but are not limited to:

- A. Peripheral buffers of a width approved by the commission as part of the PUD containing trees and other horticultural landscaping;
- B. Undeveloped areas between buildings and outside of platted lots;
- C. Areas left in a natural condition;
- D. At least twenty percent (20%) of the net area of the development for open space. "Net Area" means gross area less area devoted to public use or quasi-public use whether or not available to the public;
- E. Private active recreational facilities such as a swimming pool, tennis court, playground, picnic areas, or park of a size appropriate to meet the needs of the development; or
- F. Other amenities approved by the commission.

**07-09-13: REQUIRED FINDINGS:**

In addition to the findings required for a conditional use permit, the following additional findings are required:

- A. The arrangement of uses and/or structures conforms to the topography and natural landscape features; and
- B. The internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive influence upon the activities and facilities within the development.

ARTICLE 10

**ZONES**

SECTION:

- 07-10-01: Zones Enumerated
- 07-10-03: Private Road and Driveway Requirements
- 07-10-05: Public Right-Of-Way Widths
- 07-10-07: Unspecified Uses
- 07-10-09: Transmission Poles and Lines
- 07-10-11: Functional Classification Map
- 07-10-13: Signs
- 07-10-15: Property Boundary Coverage
- 07-10-17: Property Boundary Adjustment
- 07-10-19: Section Line Setback
- 07-10-21: Setbacks; Minimum Parcel or Lot Size; Height Regulations
- 07-10-23: City Impact Areas
- 07-10-25: Purposes of Zones
- 07-10-27: Land Use Regulations (Matrix):
- 07-10-29: Regulations For The "F" (Flood Hazard Overlay) Zone
- 07-10-31: Regulations For The "AP" (Airport Overlay) Zone

07-10-01: **ZONES ENUMERATED:**

For the purpose of promoting pride of ownership, health, safety, and general welfare within its area of jurisdiction, the County is hereby divided into the following zones:

- "A" (Agricultural) Zone
- "R-R" (Rural-Residential) Zone
- "R-1" (Single-Family Residential) Zone
- "R-2" (Combined Medium-Density Residential) Zone
- "C-1" (Neighborhood Commercial) Zone
- "C-2" (Service Commercial) Zone
- "M-1" (Light Industrial) Zone
- "M-2" (Heavy Industrial) Zone
- "F" (Flood Hazard Overlay) Zone
- "AP" (Airport Overlay) Zone

07-10-03: **PRIVATE ROAD AND DRIVEWAY REQUIREMENTS:**

(1) **Frontage, Easement, or Road Lot Required:** For the purpose of providing adequate access for equipment, emergency vehicles and other services to inhabited buildings, each parcel must demonstrate access by one of the following prior to the issuance of a Certificate of Zoning Compliance:

- A. **Frontage:** A minimum property frontage of sixty (60) feet is required along the right-of-way of a public road for the purpose of ingress/egress. The frontage width requirement may be reduced to a width not less than fifty (50) feet, as determined by the director, upon consideration of the following criteria:
  - 1. Will the proposed frontage reduction provide adequate access;
  - 2. Do physical characteristics of the site require a reduction in the frontage width; and
  - 3. Would approval of the request cause injury, damage or a safety hazard?

B. **Easement:** A recorded permanent, perpetual easement, having a minimum width of sixty (60) feet, is required from the right of way of a publicly-maintained road to the property for the purpose of ingress/egress. The easement width requirement may be reduced to a width not less than twenty-eight (28) feet, as determined by the director, upon consideration of the following criteria:

1. Will the proposed easement reduction provide adequate access;
2. Do physical characteristics of the site require a reduction in the easement width; and
3. Would approval of the request cause injury, damage or a safety hazard?

C. **Road Lot:** A minimum road lot width of sixty (60) feet is required. The road lot width requirement may be reduced to a width not less than fifty (50) feet, as determined by the director, upon consideration of the following criteria:

1. Will the proposed road lot reduction provide adequate access;
2. Do physical characteristics of the site require a reduction in the road lot width; and
3. Would approval of the request cause injury, damage or a safety hazard?

(2) **Fire District Road Requirements:** If the most distant portion of an inhabited building is located further than one hundred fifty (150) feet from a public or approved private road, the driveway or private road shall have an approved turn-around from the local fire district having jurisdiction.

(3) **Driveway and Private Road Requirements:**

A. **Driveway:**

1. Shall be constructed or improved according to the following minimum standards:
  - a. Six (6) inch thick three quarter (3/4) inch minus gravel base and leveling course;
  - b. Graded and compacted; and
  - c. Twelve (12) foot wide all weather driving surface.
2. A driveway serving two (2) permanent residences shall have a recorded perpetual easement for access to both residences and a permanent and recorded Road User's Maintenance Agreement.

B. **Private Road:**

1. A private road must have a recorded, permanent, perpetual easement and permanent Road Users Association or Maintenance Agreement.
2. Any new private road constructed after January 19, 2005, or existing private road that adds additional residences that is included within or serving a subdivision, shall be constructed according to the following minimum standards and shall be inspected and certified by an engineer:
  - a. Subbase or Ballast: Nine (9) inches of minus six (-6) inch uncrushed aggregate (pit run); and
  - b. Base course: Six (6) inches of three-quarter (3/4) inch crushed aggregate (gravel); and
  - c. Plant mix pavement (ISPMC Class III Mix) Two and one-half (2.5) inches thick for local roads serving forty (40) or less single family residences and three (3) inches for all other uses;
  - d. Pavement width: Twenty-four (24) feet for local roads serving forty (40) or less single family residences and twenty-six (26) feet for collector roads.

3. Any existing private road or driveway constructed before January 19, 2005 that adds additional residences, but does not require platting, shall be improved according to the following minimum standards:

- a. Base course: Six (6) inch thick three-quarter (3/4) minus gravel base and leveling course, graded and compacted.
- b. Surface width: Twenty (20) foot wide all weather driving

4. Any private road shall be named and a sign conforming to the applicable highway district standards shall be erected and maintained at the property owners' expense. The road must have a road name approved by the director. The naming of roads shall comply with Article 5, Chapter 6 of the Canyon County Code of Ordinances. Verification of installation of road signs shall be provided to DSD.

C. A driveway or private road must be constructed prior to final inspection of an inhabited building. Private road construction must be inspected and certified by the applicant's engineer prior to obtaining a Certificate of Occupancy.

D. Bridges shall be inspected and certified by an engineer of the developer's choice, to have been constructed in compliance with all applicable federal, state, and local laws.

E. Cul-de-sacs shall have a fifty (50) foot radius for a driving surface and a seventy (70) foot radius for right-of-way or easement.

**07-10-05: PUBLIC RIGHT-OF-WAY WIDTHS:**

Public right-of-way widths shall be determined and approved by the governing highway district or agency.

**07-10-07: UNSPECIFIED USES:**

Uses not specified are prohibited, unless determined by the director to be similar or accessory to at least one of the allowed or permitted uses for that particular zone. If a proposed use is similar to or accessory to a conditionally permitted use, the applicant may only receive permission for the similar or accessory use through a conditional use permit.

**07-10-09: TRANSMISSION POLES AND LINES:**

Transmission poles and lines ninety-five (95) feet or less in height are an allowed use in all zones. Transmission poles and lines exceeding ninety-five (95) feet in height require a conditional use permit or a variance in all zones.

**07-10-11: FUNCTIONAL CLASSIFICATION MAP:**

The adopted Canyon County Functional Classification Map shall be considered in all development requests to the County.

**07-10-13: SIGNS:**

- (1) No signs are allowed in any zones without an approved administrative decision with the following exceptions:
  - A. The following types of signs, when not illuminated, do not require an administrative decision:
    - 1. Signs related to Home Occupations in accordance with Article 16.
    - 2. Directional or information signs bearing no advertising message located within a parcel, and signs not exceeding four (4) square feet in area erected for the convenience of the public, such as signs identifying restrooms, public telephones, walkways and similar features or facilities.
    - 3. Any sign which is visible only from the parcel on which it is located.
    - 4. Campaign signs, provided they are removed within seven (7) days after the election.
    - 5. Property signs advertising the availability of property for sale, lease, or rent, but shall not be greater than thirty-two (32) square feet.

6. Home signs: an accessory sign or nameplate announcing the names of the owners or occupants of the premises.
7. Memorial signs or tablets and names of buildings and dates of erection when cut into the surface or facade of the building.
8. Signs placed by a public utility showing the location of underground facilities.
9. Traffic or other county signs, signs required to be mentioned by law, railroad crossing signs, legal notices and such temporary emergency or non-advertising signs as may be authorized by the board.

B. **Agricultural Zone:** Signs for any allowed or approved use not exceeding thirty-two (32) square feet in area and not exceeding ten (10) feet in height.

C. **Business Park Zone:** All signs advertising the business park and/or businesses located therein which are not affixed to a building within the park shall be monument signs, which blend with and complement landscaping and architecture. No roof signs, freestanding pole signs, signs perpendicular to walls, or billboard signs are permitted. All wall signs shall not exceed ten percent (10%) of wall areas in size.

D. **Commercial and Industrial Zones:** For commercial and industrial uses, the area of the sign shall not exceed sixty-four (64) square feet and shall not exceed ten (10) feet in height, unless approved by an administrative decision from the director. Signs may be lighted, electric, or have moving parts but may not be a distraction to the public so as to be a traffic hazard.

- (2) No sign shall be placed on a highway district right-of-way unless authorized by the highway district having jurisdiction.
- (3) All signs must be placed so as not to block vision by oncoming traffic.
- (4) All signs shall be maintained in good order and repair. If damaged, it shall be repaired or removed from the premises within thirty (30) days of notice from DSD.
- (5) A building permit for a sign may be required upon review by DSD, or if the sign is over six (6) feet in height and permanently affixed to the ground.
- (6) **Standards for Signs that Require an Administrative Decision:**
  - A. **Application and Administrative Requirements:** A site plan and letter of intent shall be submitted to DSD for review together with all appropriate fees as established by the adopted fee schedule.
  - B. **Notifications:** Upon acceptance of an application, DSD shall provide notification of the sign application by mail to the owners of parcels within six hundred feet (600') of the external boundaries of the parcel on which the sign will be located and shall provide such individuals a period of fifteen (15) calendar days from the date of the mailing to submit comments concerning the proposed sign. DSD shall also provide notice to the appropriate highway district for comment.
  - C. **Comments:** The director shall consider all comments that are received within the fifteen (15) day comment period prior to making a final decision concerning the sign request. In considering comments, the director shall evaluate whether such comments adequately demonstrate that the sign would be reasonably compatible with the surrounding vicinity.
  - D. **Approval shall be at the discretion of the Director:** The director shall consider all of the application materials as well as all comments received relating to the application and the uses of the surrounding properties in the determination of the compatibility of the proposed sign. The burden is on the applicant to show compatibility. The director may require conditions that are necessary to make the sign compatible with the surrounding vicinity.
  - E. The director shall give notice of the decision granting or denying the application, to those previously notified of the pending application.

F. **Appeal by Affected Person:** Any affected person who is aggrieved by the director's decision as to an application pursuant to this subsection, may file a written notice of appeal in accordance with Section 07-05-07, Appeal of Director Administrative Decision.

**07-10-15: PROPERTY BOUNDARY COVERAGE:**

In residential and agricultural zones, there are no county regulations regarding the maximum area of a lot which shall be occupied by impervious surface. In commercial and industrial zones, the area of a lot occupied by impervious surface shall not exceed eighty-five percent (85%) of the total area of the lot.

**07-10-17: PROPERTY BOUNDARY ADJUSTMENT:**

Property lines of unplatted parcels may be adjusted in accordance with the following:

- A. The adjustment does not create eligibility for a building permit or administrative lot split on a parcel that was otherwise ineligible;
- B. The adjustment does not create any additional parcels;
- C. The adjustment does not result in the relocation of a building permit or provide for an administrative lot split onto a contiguous parcel that is not eligible for an administrative lot split;
- D. A recorded survey showing all changes to affected property lines shall be submitted to DSD;
- E. The adjustment does not create parcels smaller than the minimum lot size for the zone in which the property is located, unless the adjustment increases the size of an existing parcel that was smaller than the minimum lot size for the corresponding zone prior to the adjustment;
- F. Original property lot lines may not be adjusted by more than eighty (80) feet except that the director may allow the adjustment of over eighty (80) feet if the adjustment does not cause injury, damage or a safety hazard.
- G. The adjustment shall not alter the location of any platted lot line;
- H. The property owner has submitted the application form, required supporting information and the applicable fee as established by the adopted fee schedule;
- I. If the adjustment involves contiguous parcels with different owners, both property owners shall submit their written consent to the adjustment with the application. However, only one (1) application form and fee are required;
- J. Upon compliance with the above items of Section 07-10-17, the director shall, within ten (10) business days, issue a permit for the property boundary adjustment. The property owner shall record the permit from the director and the corresponding survey and legal description with the Canyon County Recorder's Office.

**07-10-19: SECTION LINE SETBACK:**

No permanent structure shall be located closer than seventy (70) feet to any section line or quarter section line preserved for a future road unless the highway district having jurisdiction waives the seventy (70) foot setback requirement.

07-10-21: **SETBACKS; MINIMUM PARCEL OR LOT SIZE; HEIGHT REGULATIONS:**

(1) **Setback Requirements:**

A. **Agricultural and Residential Zones:**

**Table 1  
Agricultural and Residential Zones  
Setback Requirements**

	<i>Front</i>	<i>Side</i>	<i>Rear</i>	<i>Corner</i>
<i>Agricultural Zone “A”</i>	<i>30’</i>	<i>10’</i>	<i>20’</i>	<i>30’</i>
<i>Residential Zones “R-R”, “R-1”, and “R-2”</i>	<i>20’</i>	<i>10’</i>	<i>20’</i>	<i>20’</i>

1. **Front Yard:** Front setbacks shall be measured from the greatest of either the front property line, right-of-way line, or road easement line of any minor arterial or collector or local or private street. Long established setbacks are permissible:
  - a. When the alignment of existing buildings is matched on two (2) or more parcels, with at least one (1) contiguous parcel; and
  - b. When not a corner parcel; and
  - c. When in a platted subdivision.
2. **Rear Yard:** setbacks shall apply except that long established existing setbacks are permissible:
  - a. When the alignment of existing buildings is matched on two (2) or more parcels, with at least one (1) contiguous parcel; and
  - b. When in a platted subdivision.
3. **Corner Parcel:** Front yard setback requirements are applicable on both street sides of a corner parcel with no exceptions made for long established setbacks.
4. **Principal Arterial and Major Collector Preservation:**
  - a. No building or structure shall be erected nearer than fifty (50) feet from the center line of any major collector shown on the Canyon County Functional Classification Map unless the highway district having jurisdiction waives such setback.
  - b. No building or structure shall be erected nearer than seventy (70) feet from the center line of any principal arterial shown on the Canyon County Functional Classification Map unless the highway district having jurisdiction waives such setback.
  - c. No building or structure shall be erected nearer than one hundred (100) feet from the center line of any state highway unless the Idaho Transportation Department waives such setback.
5. **Expressway:** No building or structure shall be erected nearer than 130 feet from the center line of any expressway shown on the Canyon County Functional Classification Map unless the highway district having jurisdiction waives such setback.
6. **Front and Corner Yard:** Front and corner setbacks shall be measured from the greatest of either the property line, right-of-way line, or road easement line of any local or private street.

**B. Commercial and Industrial Zones:**

1. **If Parcel Is Adjacent To Parcel In Unlike Zone:** Setbacks on all lot lines adjacent to a parcel of any other zoning classification shall be determined by the sum of the setbacks where the zones abut, divided by two (2), when not located on section or quarter section line.
2. **Parcel Adjacent On All Boundaries To Other Parcels In Like Zone:** If a parcel is adjacent on all boundaries to other parcels within the same zoning classification, then there are no side or rear setback requirements. Notwithstanding the foregoing, no building or structure shall be erected nearer than twenty (20) feet from the front property line, right of way line, or road easement line of any street, except that long established setbacks are permissible:
  - a. When the alignment of existing buildings is matched on two (2) or more parcels, with at least one (1) contiguous parcel; and
  - b. When not a corner parcel; and
  - c. When in a platted subdivision.
3. **Principal Arterial and Major Collector Preservation:**
  - a. No building or structure shall be erected nearer than fifty (50) feet from the center line of any major collector shown on the Canyon County Functional Classification Map unless the highway district having jurisdiction waives such setback.
  - b. No building or structure shall be erected nearer than seventy (70) feet from the center line of any principal arterial shown on the Canyon County Functional Classification Map unless the highway district having jurisdiction waives such setback.
  - c. No building or structure shall be erected nearer than one hundred (100) feet from the center line of any state highway unless the Idaho Transportation Department waives such setback.
4. **Expressway:** No building or structure shall be erected nearer than 130 feet from the center line of any expressway shown on the Canyon County Functional Classification Map unless the highway district having jurisdiction waives such setback.

**C. Mineral Extraction:**

**Table 2  
Mineral Extraction  
Setback Requirements**

	<i>Front</i>	<i>Side</i>	<i>Rear</i>	<i>Corner</i>
<i>Short Term</i>	30'	10'	20'	30'
<i>Permitted Long Term</i>	30'	30'	30'	30'
<i>Allowed Long Term</i>	30'	20'	20'	30'

**Front and Corner Yard:** Front and corner setbacks shall be measured from the greatest of either the property line, right-of-way line, or road easement line of any local or private street.

(2) **Minimum Parcel or Lot Size:**

**Table 3  
Minimum Parcel or Lot Size**

	<i>Minimum Lot Size</i>	<i>Minimum Lot Width</i>
<i>Agricultural Zone “A”</i>	Forty (40) acres or in accordance with the Administrative Land Division requirements of Article *.	60’
<i>Residential Zone “R-R”</i>	Average minimum lot size of two (2) acres for a residential lot.	60’
<i>Residential Zones “R-1”</i>	Average minimum lot size of one (1) acre for a residential lot.*	60’
<i>Residential Zones “R-2”</i>	Average minimum lot size of one-half (1/2) acre for a residential lot	60’
<i>Commercial and Industrial Zones “C-1”, “C-2”, “M-1”, and “M-2”</i>	No minimum lot size.	80’**

\* For parcels within the area of city impact with central sewer and/or water services, the parcel or lot size may be reduced to twelve thousand (12,000) square feet.

\*\* No minimum lot width requirement for parcels or platted lots containing or intended for non-inhabitable structures.

(3) **Height Regulations:** The following table sets forth the maximum height requirements, unless a greater height is approved by a conditional use permit or variance.

**Table 4  
Height Regulations**

	<i>Residential</i>	<i>Accessory Structure</i>	<i>Commercial/Industrial Structures</i>
<i>Agricultural Zone “A”</i>	35’	35’	<i>Not Applicable</i>
<i>Residential Zones “R-R”, “R-1”, and “R-2”</i>	35’	35’	<i>Not Applicable</i>
<i>Commercial Zones “C-1” and “C-2”</i>	<i>Not Applicable</i>	50’	50’
<i>Industrial Zones “M-1” and “M-2”</i>	<i>Not Applicable</i>	75’	75’

*Exceptions:*

A. Accessory agricultural structures in an “A” Agricultural Zone shall not exceed one hundred (100) feet in height unless a greater height is approved by conditional use permit or variance.

B. Except for public service agency telecommunication facilities, telecommunication facilities shall not exceed seventy-five (75) feet in height unless a greater height is approved by conditional use permit or variance in all Industrial and Commercial Zones. Except for public service agency telecommunication facilities, telecommunication facilities are listed as a permitted use provided the maximum height shall be determined by the presiding party. Public service agency telecommunication facilities under seventy-five (75) feet are permitted in all zones as an allowed use. Public service agency telecommunication facilities seventy-five (75) feet or greater may be permitted in all zones as an allowed use by administrative approval of the director.

- C. Transmission poles and lines shall not exceed ninety-five (95) feet unless approved by a conditional use permit or variance.
- D. Detached living accommodations as provided for in the Commercial and Industrial Zones shall have a maximum height of twenty (20) feet.
- E. Height regulations for approved commercial/industrial structures in an "A" Zone shall not exceed seventy-five (75) feet in height unless approved by a conditional use permit or variance.

**07-10-23: CITY IMPACT AREAS:**

Within adopted city impact areas, the applicable city's setback and height requirements may be applied. Combinations of county setbacks and heights and city setbacks and heights are not allowed.

**07-10-25: PURPOSES OF ZONES:**

- (1) The purposes of the "A" (Agricultural) Zone are to:
  - A. Promote the public health, safety, and welfare of the people of the county by encouraging the protection of viable farm land and farming operations;
  - B. Limit urban density development to areas of city impact in accordance with the comprehensive plan;
  - C. Protect fish, wildlife, and recreation resources, consistent with the purposes of the "Local Land Use Planning Act." Chapter 65, Title 67, Idaho Code;
  - D. Protect agricultural land uses, and rangeland uses, and wildlife management areas from unreasonable adverse impacts from development; and
  - E. Provide for the development of schools, churches, and other public and quasi-public uses consistent with the comprehensive plan.
- (2) The purpose of the "R-R" (rural residential) zone is to encourage and guide growth in areas where a rural lifestyle may be determined to be suitable.
- (3) The purpose of the "R-1" (Single-Family Residential) Zone is to promote and enhance predominately single-family living areas at a low density standard.
- (4) The purpose of the "R-2" (Combined Medium-Density Residential) Zone is to provide medium-density residential development areas. Medium-density development concentrations should have a full range of community services and facilities available or projected for establishment.
- (5) The purpose of the "C-1" (Neighborhood Commercial) Zone is to provide for local commercial service needs and to restrict incompatible uses.
- (6) The purpose of the "C-2" (Service Commercial) Zone is to provide areas where activities of a service nature, which are more intensive in character than in other commercial zones, may be carried out.
- (7) The purpose of the "M-1" (Light Industrial) Zone is to provide for and encourage the grouping together of light industrial uses capable of being operated under such standards as to location and appearance of buildings and the treatment of the land about them so that they will be unobtrusive and not detrimental to surrounding commercial or residential uses.
- (8) The purpose of the "M-2" (Heavy Industrial) Zone is to encourage industries to locate in and provide for suitable areas in which heavy industrial uses may be established, substantially free from residential, light industrial or commercial activities which could interfere with heavy industrial development and operations.

**07-10-27: LAND USE REGULATIONS (MATRIX):**

All development shall be in accordance with this chapter. This section lists uses within each land use zone: Allowed Uses (A), Permitted Uses through a Conditional Use Permit (C), Director Administrative Decision (D), Not Applicable because covered by different use/section (n/a), or prohibited (-).

- (1) Conditional uses shall be reviewed in accordance with the specific use standards in Article 7 of this chapter.
- (2) Director Administrative Decision's shall be in accordance with the specific provisions throughout this chapter.
- (3) Some uses may require Building Permits and are covered by Canyon County Code of Ordinances Chapter 6.
- (4) Some uses may require a Certificate of Zoning Compliance and are covered by Article 12 of this chapter.

**Table 5**  
**Zoning & Land Use Matrix**

<b>Zoning Classification</b>	<b>AG</b>	<b>R-R</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>
Accessory uses and/or structures to allowed use	A	A	A	A	A	A	A	A
Accessory uses and/or structures to a permitted use <sup>4</sup>	D	D	D	D	D	D	D	D
Agriculturally related activities	A	C	-	-	-	-	-	-
Agricultural research facility	A	-	-	-	-	-	A	-
Agriculture, except those animal uses with more restrictive provisions within this article and all other uses specifically listed in other zones. <sup>1</sup>	A	A	A	A	-	-	A	A
Airpark	-	C	-	-	-	-	-	-
Airport	C	-	-	-	-	-	C	-
Airstrip excepting intermittent use.	C	C	-	-	-	-	-	-
Amusement park, theme park or commercial racetrack	C	-	-	-	-	C	-	-
Animals are allowed as long as it is not an Animal Facility or CAFO <sup>1</sup>	A	A	A	A	A	A	A	-
Animal cremation service	C	-	-	-	-	-	A	-
Animal Facility (Small) on less than five acres	C	C	C	-	-	-	C	-
Animal Facility (Small) on five acres or more <sup>1</sup>	A	A	C	-	-	-	A	-
Animal Facility (Large): Bird Farm, Calf Raising Operation, Dairy, Feedlot, and Swine Farm <sup>1</sup>	C	C	-	-	-	-	-	C
Animal hospital	C	C	-	-	A	A	A	-
Arena (commercial)	C	C	-	-	C	A	A	-
Assisted care facility <sup>4</sup>	D	D	D	D	A	A	-	-
Auction establishment	C	-	-	-	-	C	A	A
Batch plants	C	-	-	-	-	-	C	A
Bed and breakfast (with employees) <sup>4</sup>	D	D	D	D	-	-	-	-
Bed and breakfast (without employees)	A	A	A	A	-	-	-	-
Brewery	C	-	-	-	-	-	A	A
Bulk storage for wholesale distribution of any flammable liquid above or below ground	-	-	-	-	-	-	C	A
Bulk storage as an accessory use of any flammable liquid above or below ground	-	-	-	-	-	-	A	A
CAFO	C	-	-	-	-	-	C	C
Caretaker residence	C	-	-	-	A	A	A	A
Cemetery	C	C	-	-	-	-	-	-
Chemical processing and storage of hazardous materials, including explosives <sup>6</sup>	-	-	-	-	-	-	-	C
Church	C	C	C	C	A	A	-	-
Clinics or hospitals	-	-	-	-	A	A	-	-
Commercial and private off-street parking facilities for vehicles	-	-	-	-	-	A	A	A
Contractor shop	C	-	-	-	C	A	A	A
Day care facilities <sup>4</sup>	D	D	D	D	D	D	-	-

<b>Zoning Classification</b>	<b>AG</b>	<b>R-R</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>
Distillery	C	-	-	-	-	-	A	A
Drive-in theater	C	-	-	-	-	-	-	-
Equipment rentals (outdoor) <sup>2</sup>	-	-	-	-	A	A	A	A
Ethanol plant	C	-	-	-	-	-	C	A
Family day care home <sup>4</sup>	A	A	A	A	A	A	-	-
Farm implement sales or service, farm supply sales	C	-	-	-	A	A	A	-
Fertilizer processing facility	C	-	-	-	-	-	-	A
Fireworks sales	-	-	-	-	A	A	A	A
Firewood sales <sup>4</sup>	D	C	-	-	D	A	A	A
Food processing facility	C	-	-	-	-	-	A	A
Golf course	C	A	-	-	-	-	-	-
Group day care facility <sup>4</sup>	-	-	-	-	A	A	-	-
Group home	C	C	C	C	C	C	-	-
Home business <sup>4</sup> (associated with any residential use)	D	D	D	D	-	-	-	-
Home occupations, as provided for in Article 16 of this chapter (associated with any residential use)	A	A	A	A	-	-	-	-
Impound yard <sup>2</sup>	-	-	-	-	-	-	A	A
Indoor recreation	-	-	-	-	A	A	A	-
Junkyards and vehicle wrecking yards <sup>2</sup>	-	-	-	-	-	-	-	A
Kennel	C	C	C	C	C	C	A	A
Light manufacturing, assembly, testing and/or packaging facilities	-	-	-	-	-	-	A	A
Lumber yard	-	-	-	-	-	A	A	-
Manufacturing, assembling, fabricating, processing, packing, repairing, or storage uses	-	-	-	-	-	-	-	A
Mineral extraction (long term)	C	-	-	-	-	-	C	A
Mineral extraction (short and/or long term) <sup>3</sup>	-	-	-	-	-	-	A	A
Mineral extraction (short term) <sup>4</sup>	D	D	-	-	-	-	-	-
Mini-storage and/or RV storage facility	-	-	-	-	C	A	A	A
Mortuaries, cremation, and funeral home	-	-	-	-	A	A	A	-
Multi-family dwellings limited to not more than eight (8) units per lot	-	-	-	C	-	-	-	-
Multi-family dwellings limited to not more than four (4) units per lot	-	-	-	A	-	-	-	-
Museum	C	-	-	-	A	A	A	-
Nursery	A	A	-	-	A	A	A	A
Nursery (retail/wholesale)	C	C	-	-	A	A	A	-
Outdoor sales or displays (accessory to allowed use)	A	-	-	-	A	A	A	-
Public Service Agency Telecommunication Facilities seventy-five (75) feet or greater <sup>4</sup>	D	D	D	D	D	D	D	D
Public uses and quasi-public uses	C	C	C	C	A	A	A	A
PUDs	-	C	C	C	C	C	C	C
Quasi-public uses (temporary) <sup>4</sup>	D	D	D	D	-	-	-	-
Radio, television and broadcasting stations	-	-	-	-	A	A	A	A
Recreational vehicle (RV) park	C	-	-	-	-	-	-	-
Refinery	-	-	-	-	-	-	-	A
Rehabilitation of manufactured/mobile homes <sup>2</sup>	-	-	-	-	-	-	A	A
Rendering plant	-	-	-	-	-	-	C	A
Retail stores, personal service shops, banks, offices, hotels, motels, micro-brewery, and restaurants	-	-	-	-	A	A	A	-
Sale (Commercial) of hay, grain, seed and related supplies	C	-	-	-	-	A	A	A
Sale of heavy building materials and machinery	-	-	-	-	-	A	A	A
Sale of salvage goods <sup>2</sup>	-	-	-	-	-	-	A	A
Sanitary landfill	C	-	-	-	-	-	-	-
School (Public or Private)	C	C	C	C	A	A	-	A

<b>Zoning Classification</b>	<b>AG</b>	<b>R-R</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>
School (Vocational or Trade)	C	-	-	-	-	A	A	A
Seasonal activities	A	A	-	-	A	A	-	-
Secondary residence <sup>5</sup>	A	A	A	-	-	-	-	-
Shooting range (outdoor)	C	-	-	-	-	-	-	-
Shooting range (indoor)	-	-	-	-	-	A	A	-
Similar uses to allowed use	A	A	A	A	A	A	A	A
Similar uses to a conditional use	C	C	C	C	C	C	C	C
Single-family dwelling, one per lot or parcel unless otherwise provided in this chapter	A	A	A	-	-	-	-	-
Single-family dwellings, but not more than two (2) such dwellings per lot or parcel unless otherwise provided for in this chapter	-	-	-	A	-	-	-	-
Slaughter house	C	-	-	-	-	-	C	A
Small wind energy systems <sup>4</sup>	D	D	D	D	D	D	D	D
Special events facility	C	C	C	-	A	A	-	-
Staging area	C	-	-	-	-	-	A	A
Tannery	-	-	-	-	-	-	-	A
Taverns, <del>or</del> lounges, or wine bars	-	-	-	-	C	C	C	-
Telecommunication facilities (height determined by presiding party)	C	C	C	C	-	-	-	-
Telecommunication facilities seventy-five (75) feet in height or less	-	-	-	-	A	A	A	A
Telecommunication facilities in excess of seventy-five (75) feet in height	-	-	-	-	C	C	C	C
Temporary uses <sup>4</sup>	D	D	D	C	C	C	C	C
Theater	-	-	-	-	C	A	A	-
Transit or trucking terminal and/or service facility	-	-	-	-	-	C	A	A
Mobile or manufactured home sales	-	-	-	-	-	C	A	A
Utility distribution system	A	A	A	A	A	A	A	A
Utility facility <sup>4</sup>	D	D	D	D	A	A	A	A
Vehicle sales lot	-	-	-	-	-	A	A	-
Vehicle fueling station with convenience store	-	-	-	-	C	A	A	A
Vehicle service facility	-	-	-	-	C	A	A	A
Warehousing, wholesaling and distribution facilities	-	-	-	-	-	C	A	A
Wind Farm	C	-	-	-	-	-	-	-
Winery	C	-	-	-	-	-	A	A
Yard/Garage sales (associated with any residential uses)	A	A	A	A	-	-	-	-
Zoo	C	-	-	-	-	-	C	-

<sup>1</sup> See Confined Animal Feeding Operation (CAFO), Chapter 8 of the Canyon County Code of Ordinances

<sup>2</sup> With a sign obscuring fence (see §07-02-03)

<sup>3</sup> In accordance with § 07-07-11(2) of this chapter

<sup>4</sup> In accordance with Article 15 of this chapter

<sup>5</sup> In accordance with Article 14 of this chapter

<sup>6</sup> In accordance with § 07-07-15 of this chapter

**07-10-29: REGULATIONS FOR THE "F" (FLOOD HAZARD OVERLAY) ZONE:**

**(I) STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES**

**A. Statutory Authority**

The Legislature of the State of Idaho in I.C. 46-1020 through I.C. 46-1024, authorized local government units to adopt a floodplain map and floodplain management ordinance that identifies floodplains and that sets forth minimum development requirements in floodplains that are designed to promote the public health, safety, and general welfare of its citizenry.

**B. Findings of Fact**

The flood hazard areas of Canyon County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
2. Local government units have the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.

**C. Statement of Purpose**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;
2. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
3. Control filling, grading, dredging and other development which may increase flood damage or erosion;
4. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters.

**D. Objectives**

The objectives of this ordinance are to:

1. Protect human life, health and property;
2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
4. Minimize expenditure of public money for costly flood control projects;
5. Minimize the need for rescue and emergency services associated with flooding and generally undertaken at the expense of the general public;
6. Minimize prolonged business interruptions.

**(2) DEFINITIONS**

Unless specifically defined in Article II, words or phrases used in this ordinance shall be interpreted according to the meaning they have in common usage.

“Accessory structure” means a structure on the same lot or parcel as a principal structure, the use of which is incidental and subordinate to the principal structure or a structure on the same lot or parcel of an agricultural operation. An insurable building should not be classified as an accessory or appurtenant structure.

“Appeal” means a request for review of the Floodplain Administrator's interpretation of provisions of this ordinance or request for a variance.

“Area of shallow flooding” means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of special flood hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designations on FIRMs include the letters A, AE, V. Also known

as the Special Flood Hazard Area (SFHA).

“Base Flood” means the flood having a one percent chance of being equaled or exceeded each year. Also known as the “Regulatory Flood.”

“Base Flood Elevation (BFE)” means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest .1 foot.

“Basement” means the portion of a structure including crawlspace with its floor sub grade (below ground level) on all sides.

“Building” see “Structure.”

“Critical Facility” means a facility that is critical for the health and welfare of the population and is especially important following hazard events. Critical facilities include essential facilities, transportation systems, lifeline utility systems, high potential loss facilities and hazardous material facilities.

“Datum” The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and storage of equipment or materials.

“Digital FIRM (DFIRM),” means Digital Flood Information Rate Map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

“Existing Construction” means a structure for which the “start of construction” commenced before September 28, 1984, and any subsequent revisions thereto including the effective FIRM effective May 24, 2011.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before May 24, 2011.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“Federal Emergency Management Agency (FEMA)” is the agency with the overall responsibility for administering the National Flood Insurance Program.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) the overflow of inland or tidal waters; or

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Fringe” means the portion of the floodplain outside of the floodway covered by floodwaters during the

regulatory flood.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Insurance Administration or U.S. Department of Housing and Urban Development, where the boundaries of areas of special flood hazard have been designated as Zone A. The FHBM usually is the initial flood hazard map.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

“Flood Insurance Study (FIS)” means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.

“Floodplain” means the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe. (I.C. 46-1021)

“Flood Proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Flood Protection Elevation (FPE)” means an elevation that corresponds to the elevation of the one percent (1%) chance annual flood (base flood), plus any increase in flood elevation due to floodway encroachment, plus one (1) foot of freeboard. Therefore the Flood Protection Elevation for Canyon County is equal to BFE plus allowed floodway elevation plus a one (1) foot freeboard.

“Floodway (Regulatory Floodway)” means the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.

“Freeboard” means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams and the hydrologic effects of urbanization in a watershed.

“Functionally Dependent Facility” means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG related to building elevation information.

“Historic Structure” means a structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on a state inventory of historic places and determined as eligible by states with historic

- preservation programs which have been approved by the Secretary of the Interior, or
4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
    - a. By an approved state program as determined by the Secretary of the Interior, or
    - b. Directly by the Secretary of the Interior in states without approved programs.

“Letter of Map Change (LOMC)” means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are issued in the following categories:

1. Letter of Map Amendment (LOMA)  
A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
2. Letter of Map Revision (LOMR)  
A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure of parcel has been elevated by fill above the base flood elevation and is excluded from the special flood hazard area.
3. Conditional Letter of Map Revision (CLOMR)  
A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

“Levee” means a man-made structure, usually an earthen embankment, designed and constructed according to sound engineering practices, to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

“Levee System” means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

“Lowest Adjacent Grade (LAG)” means the lowest point of the ground level next to the structure. Refer to the Elevation Certificate, FEMA Form 81-31, for LAG related to building elevation information.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement) used for living purposes, which includes working, storage, cooking and eating, or recreation, or any combination thereof. This includes any floor that could be converted to such a use including a basement or crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor. The lowest floor is a determinate for the flood insurance premium for a building, home or business.

“Manufactured Home” means a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Home” does not include a “Recreational Vehicle.”

“Mean Sea Level” means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community’s FIRM are referenced.

“New construction” means a structure for which the “start of construction” commenced after May 24, 2011, and includes subsequent improvements to the structure.

“New Manufactured Home Park or Subdivision” means a place where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed on or after May 24, 2011.

“Recreational Vehicle” means a vehicle that is:

1. Built on a single chassis,
2. 900 square feet or less when measured at the largest horizontal projection,
3. Designed to be self-propelled or permanently towed by a light duty truck, and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“Repetitive Loss” means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost where the construction of facilities for servicing the lots on which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

“Start of construction” includes substantial improvement and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of its market value before the damage occurred.

“Substantial improvement” means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed. The term does not include either:

1. A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. Alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

“Variance” is a grant of relief by the governing body from a requirement of this ordinance.

“Water surface elevation” means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other specified datum) of floods of various magnitudes and frequencies in the flood plains of costal or riverine areas.

### **(3) GENERAL PROVISIONS**

#### **A. Lands to Which This Ordinance Applies**

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of Canyon County. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance.

#### **B. Basis for Area of Special Flood Hazard**

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Canyon County, Idaho and incorporated areas, dated May 24, 2011, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the Development Services Department of Canyon County.

#### **C. Establishment of Floodplain Development Permit**

A Floodplain Development Permit shall be required prior to any development activities in Special Flood Hazard Areas established in Article III Section B.

#### **D. Interpretation**

In the interpretation and application of this ordinance all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body, and;
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **E. Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Canyon County or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

### **(4) ADMINISTRATION**

#### **A. Designation of Floodplain Ordinance Administrator**

The Director of Development Services Department, or his/her designee, is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance.

#### **B. Permit Procedures**

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the administrator or the administrator’s designee prior to starting development activities. Specifically, the following information is required:

1. Application Stage

- a. Plans drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities.
  - b. Elevation in relation to the Flood Protection Elevation, or highest adjacent grade, of the lowest floor level, including crawlspaces or basement, of all proposed structures;
  - c. Elevation to which any non-residential structure will be flood-proofed;
  - d. Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria in Article V(F)(2);
  - e. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.
  - f. Any additional information required by the floodplain administrator including, but not limited to a pre-construction drawing elevation certificate, and;
2. Construction Stage
    - a. For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level, using appropriate FEMA elevation or flood-proofing certificate, immediately after the lowest floor or flood-proofing is completed. When flood-proofing is utilized for non-residential structures, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
    - b. Certificate deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.
  3. **Technical Review:** If the community does not have the expertise to evaluate the technical data that is part of the application, the community may contract for an independent engineering review or require a review by FEMA through the Letter of Map Revision process. The applicant will pay the costs of an independent technical review.
  4. **Expiration of Floodplain Development Permit:** All floodplain development permits shall be conditional upon the commencement of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion. An extension may be applied for prior to expiration of the permit; if said permit expires, or the extension is denied, a new floodplain development permit must be applied for, including any required fees per the adopted fee schedule for Development Services Department.

**C. Duties and Responsibilities of the Administrator**

Duties of the Floodplain Administrator shall include, but shall not be limited to:

1. Review all floodplain development permit applications to assure that the permit requirements of this ordinance have been satisfied.
2. Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Idaho Stream Channel Alteration permits, I.C. 42 Chapter 38 require that copies of such permits be provided and maintained on file.
3. When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this ordinance.
4. When Base Flood Elevations or other current engineering data are not available, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site will be reasonably safe from flooding.
5. Obtain, and record the actual elevation in relation to the vertical datum on the effective FIRM, or highest adjacent grade, of the lowest floor level, including basement, of all new construction or substantially improved structures.

6. Obtain, and record the actual elevation, in relation to the vertical datum on the effective FIRM to which any new or substantially improved structures have been flood-proofed.
7. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect.
8. Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
9. All records pertaining to the provisions of this ordinance shall be maintained in the office of the city/county clerk or his/her designee and shall be open for public inspection.

(5) **PROVISIONS FOR FLOOD HAZARD REDUCTION**

**A. Subdivision Standards**

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM.
3. Subdivision proposals of five (5) acres or more, located within the unnumbered A Zone (100 year floodplain) shall submit base flood elevation data to FEMA for an approval of the new detailed study or Letter of Map Amendment removing the property from the areas of special flood hazard. The approval from FEMA shall be submitted along with the application for a Preliminary Plat.
4. All subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
5. All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

**B. Construction Standards**

In all Areas of Special Flood Hazard, excepting those areas designated as a Zone X with a 0.2% annual chance flood, the following provisions are required:

1. New construction and substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. New construction and substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be constructed with materials and utility equipment resistant to flood damage.
3. New construction or substantial improvements of an existing structure, including a structure that has been substantially damaged, shall be constructed by methods and practices that minimize flood damage.
4. All new construction or substantial improvements of an existing structure, including a structure that has been substantially damaged, that includes a fully enclosed area located below the lowest floor formed by the foundation and other exterior walls shall be designed to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or meet the following minimum criteria:
  - a. Provide a minimum of two openings with a total net area of not less
    - i. than one square inch for every square foot of enclosed area subject to flooding;
    - ii. the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
    - iii. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

- b. To comply with the “Lowest Floor” criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- d. For crawlspace foundation types, construction must follow the guidelines in FEMA TB 11-01, Crawlspace Construction for Structures Located in Special Flood Hazard Areas: National Flood Insurance Program Interim Guidance, specifically:
  - i. Below grade crawlspaces are prohibited at sites where the velocity of floodwaters exceed 5 feet per second;
  - ii. Interior grade of the crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG);
  - iii. Height of the below grade crawlspace, measured from the lowest interior grade of the crawlspace to the bottom of the floor joist must not exceed 4 feet at any point;
  - iv. Contain an adequate drainage system that removes floodwaters from the interior area of the crawlspace, including but not limited to the provision listed in B(4)(a).
- 5. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other facilities shall be designed and/or elevated to prevent water from entering or accumulating within the components during flooding.
- 6. New and replacement water supply systems shall be designed to minimize or to eliminate infiltration of flood waters into the system.
- 7. New and replacement sanitary sewage systems shall be designed to minimize or to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 8. On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.
- 9. Any alteration, repair, reconstruction or improvement to a structure that is not compliant with the provisions of this ordinance, shall be undertaken only if the nonconformity is minimal in order to meet health and safety standards.

### **C. Manufactured Home Standards**

In all Areas of Special Flood Hazard where the Flood Protection Elevation is established, these standards for manufactured homes and recreational vehicles that are an allowed use under the zoning ordinance shall apply:

- 1. Manufactured homes placed or substantially improved:
  - a. On individual lots or parcels
  - b. In new or substantially improved manufactured home parks or subdivisions
  - c. In expansions to existing manufactured home parks or sub-divisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred “substantial damage” as the result of a flood, must have the lowest floor, including basement, elevated to the Flood Protection Elevation.
- 2. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
  - a. The lowest floor of the manufactured home is elevated to the Flood Protection Elevation.
  - b. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less that 36 inches above the highest adjacent grade.
- 3. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements.
- 4. Manufactured homes placed on solid perimeter walls shall meet the flood vent requirements in Article V(B)(4).

### **D. Accessory Structures**

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 1500 square feet. Such a structure shall still apply for and receive a floodplain development permit and must meet the following standards:

1. It shall not be used for human habitation;
2. It shall be constructed of flood resistant materials;
3. It shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
4. It shall be firmly anchored to prevent flotation;
5. Services such as electrical and heating equipment shall be elevated or flood-proofed to or above the Flood Protection Elevation;
6. It shall meet the opening requirements of Article V(B)(4).

#### **E. Recreational Vehicle Standards**

In all Areas of Special Flood Hazard, Recreational Vehicles, must either:

1. Be on the site for fewer than 90 consecutive days;
2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
3. The recreational vehicle must meet all the requirements for “New Construction,” including the anchoring and elevation requirements.

#### **F. Floodway Standards**

The following provisions shall apply in a floodway:

1. A project in the regulatory floodway must undergo an encroachment review to determine its effect on flood flows. An encroachment analysis must include:
  - a. Determination and documentation that the filling, grading or construction of a structure will not obstruct flood flows and will not cause an increase in flood heights upstream or adjacent to the project site;
  - b. Determination and documentation that grading, excavation, channel improvements, bridge and culvert replacements that remove an obstruction, do not cause increases in downstream flood flows;
  - c. Certification and documentation by a licensed professional engineer that the project will not result in a rise in flood heights;
  - d. The Administrator may make the encroachment determination for minor projects, such as projects that do not increase the natural grade (e.g., paving a driveway or parking lot at existing grade, open fences and small isolated obstructions such as a mailbox or telephone poles).
2. Upon demonstrating that there are no alternatives, the applicant may propose an encroachment in the floodway that will cause an increase in the base flood elevation in excess of the allowable level provided that the applicant obtain a Conditional Letter of Map Revision from FEMA before the development can be approved and permitted.

#### **G. Standards for Zones with Base Flood Elevations**

In Special Flood Hazard Areas designated A1-30, AE, AH, A (with estimated BFE), the following provisions are required.

1. New residential construction and substantial improvements
  - a. Where base flood elevation data are available, new construction or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, constructed at or above the community’s Flood Protection Elevation. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Article V(B)(4).
2. Non-Residential Construction
  - b. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one (1) foot above base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is watertight with walls

substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

#### **H. Standards for Zones Without Base Flood Elevations (A Zones)**

These standards apply in Special Flood Hazard Areas where streams exist but no base flood elevation data have been provided (A Zones), or where base flood data have been provided but a floodway has not been delineated.

1. When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, then the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If data are not available from any source, **only** then provisions 2 and 3 shall apply.
  - a. Where the floodplain administrator has obtained base flood elevation data, applicants of proposed projects that increase the base flood elevation more than one foot shall obtain a Conditional Letter of Map Revision preconstruction and a Letter of Map Revision post construction.
2. No encroachments, including structures or fill, shall be located within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless certification by a licensed professional engineer documents that the encroachment will not result in any increase in flood levels during the base flood.
3. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement or crawlspace) elevated no less than two feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Articles V (B) and (C).

#### **I. Standards for Areas of Shallow Flooding (AO Zones)**

Shallow flooding areas designated AO Zones, are Areas of Special Flood Hazard that have base flood depths of one to three feet, with no clearly defined channel. The following provisions apply.

1. All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the adjacent grade at least as high as the flood depth number specified in feet on the Flood Insurance Rate Map (FIRM). If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet (2) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movement of flood waters shall be provided in accordance with the construction standards in Article V(B)(4).
2. New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure and attendant utility and sanitary facilities must be designed to be water tight to the specified base flood level or at least two (2) feet above highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting these provisions, and shall provide certification to the Floodplain Administrator.
3. Drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

#### **J. Alteration of a Watercourse**

A water course is considered altered when any change occurs within its banks.

1. The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.

2. Adjacent communities, the U.S. Army Corps of Engineers and the Idaho Department of Water Resources Stream Channel Alteration program must be notified prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the flood carrying capacity will not be diminished.
4. The applicant shall meet the requirements to submit technical data in Sections K (1) and K(2) when an alteration of a water course results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

**K. Requirement to Submit New Technical Data**

1. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
  - a. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
  - b. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area in accordance with V (A)(3);
  - c. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts.
2. It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

**(6) VARIANCE AND APPEAL PROCEDURES**

**A. Variance**

1. An application for a variance must be submitted to the floodplain administrator on the form provided by the Canyon County Development Services Department and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.
2. Upon receipt of a completed application for a variance, the variance request will be set for public hearing at the next Planning & Zoning Commission meeting in which time is available for the matter to be heard.
3. Prior to the public hearing, Notice of the hearing will be published in the official newspaper of Canyon County at least 15 days prior to the hearing. In addition to the newspaper publication, written notice shall be provided to all property owners within 300' of the boundaries of the parcel.
4. The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

**B. Criteria for Variances**

2. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances may be issued upon;
  - a. A showing by the applicant of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances.

6. Variiances pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.

**C. Variance Decision**

1. The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Flood Protection Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

**D. Appeals**

1. The Board of Canyon County Commissioners shall hear and decide appeals from the interpretations of the Administrator.
2. An appeal must be filed with the floodplain administrator within fourteen (14) days of the date of any permit denial or interpretation of the Administrator. Failure to timely file an appeal shall be considered a failure to exhaust the administrative remedies. The appeal must set out the interpretation of the Administrator and a narrative setting forth the facts relied upon by the appellant and the appellants claim regarding the error in the interpretation.
3. Upon receipt of a completed appeal, the appeal will be scheduled for the next available board of commissioners meeting to be heard. The Board of Commissioners shall consider the following in ruling on an appeal:
  - a. All technical evaluations, all relevant factors, standards specified in other sections of this ordinance, including:
    - i. The danger that materials may be swept onto other lands to the injury of others;
    - ii. The danger to life and property due to flooding or erosion damage;
    - iii. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual landowner;
    - iv. The importance of the services provided by the proposed facility to the community;
    - v. The necessity of the facility to a waterfront location, where applicable;
    - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
    - vii. The compatibility of the proposed use with existing and anticipated development;
    - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
    - ix. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
    - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
    - xi. The cost of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**E. Decision**

The Board of Commissioners decision on appeal shall be in writing and set out the facts, technical information and the legal basis for the decision.

**(7) PENALTIES FOR VIOLATION**

No structure or land shall hereafter be located, extended, converted or altered unless in full compliance with the terms of this ordinance and other applicable regulations.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall comply with Article 19 of this Chapter in regards to Penalties and Enforcement.

**(8) REPEAL OF CONFLICTING PROVISIONS**

This ordinance shall not in any way impair or remove the necessity of compliance with any other laws, ordinances, regulations, etc. Where this ordinance imposes a greater restriction, the provisions of this ordinance shall control.

(1) — **Purpose:** The purpose of the flood hazard regulation is to guide development in the designated floodway and flood fringe areas (also known as the flood plain) of any watercourse that flows, and to minimize the expense and inconvenience to the individual as a result of being flooded. Maintenance should be encouraged of the altered or relocated portion of said watercourse so that the flood carrying capacity is not significantly diminished. Any use or structure located within this overlay zone shall not hinder the movement of floodwaters. The "F" (Flood Hazard Overlay) Zone includes the "FW" floodway, the "F 100" and "F 500" flood fringes and the Zone is superimposed over other zones.

(2) — **Flood Hazard Area Lands:** The Canyon County Flood Hazard Area Ordinance of 1987 (Ordinance 87-002) is fully incorporated herein and Section 07-10-2947 shall apply to all lands within those zones which are designated as floodway plain and flood fringe areas by the Flood Insurance Rate Maps (FIRM). The FIRM Maps are the official maps covering the flood prone areas within the county and are issued by the Federal Emergency Management Agency. The Canyon County Flood Hazard Area Ordinance of 1987 is to be used in conjunction with this chapter in order to minimize the effects of flooding within Canyon County.

(3) — **Uses Allowed Without a Public Hearing:** No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations. All uses allowed and permitted by conditional use permit procedures, pursuant to Article 7 of this chapter, in the respective zone with which the "F" Zone is combined, are appropriate with the stipulation that the uses must meet all of the regulations of the "F" Zone as established by this section.

(4) — **Non-liability Clause:** The granting of approval by the county of any structure or use in the "F" Zone shall not constitute a representation, guarantee, or warranty of any kind or nature by the commission or the board or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

**(5) General Provisions:**

A. — **Lands To Which These Provisions Apply:** These provisions shall apply to all areas of special flood hazards within the jurisdiction of the county.

B. — **Basis For Establishing The Areas Of Special Flood Hazard:** The areas of special flood hazard identified by the federal insurance administration in a scientific and engineering report entitled "Flood Insurance Study Canyon County, Idaho", dated September 28, 1984, with accompanying flood insurance rate map (FIRM) effective December 3, 1993, and any subsequent revisions thereto, is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the DSD office, Canyon County Courthouse, Caldwell, Idaho. (Flood Insurance Rate Maps also on file in Canyon County Office of Emergency Management.)

C. — **Establishment Of Development Permit:** A development permit shall be required in conformance with the provisions of this section prior to the commencement of any "development" activities, as defined in Section 07-02-03 of this chapter.

D. — **Compliance:** No structure or land shall hereafter be located, extended, converted, or structurally layered without full compliance with the terms of this section and other applicable regulations.

E. **Warning And Disclaimer Liability:** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the County or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision.

F. **Abrogation And Greater Restrictions:** This section is not intended to repeal, abrogate, or impair any existing easement, covenants, or deed restrictions. However, where this and another section in this chapter conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

G. **Interpretation:** In the interpretation and application of this section, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the board; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

H. **Penalties For Noncompliance:** Violation of the provisions of this section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor, as provided in Section 07-1927-01 of this chapter. (Ord. 87-002, 9-18-87; Ord. 90-004, 9-11-90, eff. 9-14-90; 1996 Code)

(6) **Director's Role:**

A. **Designation:** The director is hereby appointed to administer and implement the provisions of the Flood Hazard Overlay regulations.

B. **Duties And Responsibilities:** Duties of the director shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of the flood hazard regulations have been satisfied;
2. Advise permittee that additional federal or state permits may be required, and if specified federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit;
3. Notify adjacent communities and the Idaho Department of Water Resources prior to any alteration or location of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
4. Encourage maintenance of the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;
5. Verify and record the actual elevation certificate (in relation to mean sea level) of the top of the lowest floor (including basement) of all new or substantially improved structures;
6. Verify and record the actual elevation certificate (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed;
7. When flood proofing is utilized for a particular structure, the director shall obtain certification from a registered professional engineer or architect;
8. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the director shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section;
9. When base flood elevation data has not been provided, the director shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source. When

base flood elevation data has not been provided, structures and buildings shall be built two (2) feet above the highest adjacent grade;

10. All records pertaining to the provisions of this section shall be maintained in the office of the director and shall be open for public inspection; and

11. Where base flood elevation data is provided through the flood insurance study, obtain and record the actual elevation (in relation to mean sea level) of the top of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. (Ord. 87-002, 9-18-87)

**(7) Permit Requirements:**

**A. Development Permit Required:** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in subsection (5) of this section. The permit shall be for all structures including manufactured homes, as defined in Section 07-02-03 of this chapter and for all development including fill and other activities, also as defined in Section 07-02-03 of this chapter.

**B. Permit Procedures:** Application for a development permit shall be made to the director on forms furnished by DSD, prior to any development activities, and may include, but not be limited to, the following plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level of the proposed top of the lowest floor (including basement) of all structures;

2. Elevation in relation to mean sea level to which any nonresidential structure will be flood proofed;

3. Provide a certificate from a registered professional engineer or architect that the nonresidential, flood proofed structure meets the flood proofing criteria;

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

5. Provide a floor elevation or flood proofing certification after the top of the lowest floor is completed. Within twenty one (21) calendar days of establishment of the lowest floor elevation, or flood proofing by whatever construction means, or upon placement of the horizontal structural members of the top of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the director a certification of the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by a registered land surveyor or professional engineer and certified by the same. When flood proofing is utilized for a particular building, said certification shall be prepared by a professional engineer or architect and certified by same. Any work done within the twenty one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The director shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order for the project. (Ord. 87-002, 9-18-87; 1996 Code)

**6. Crawl Spaces:**

a. Crawl spaces are commonly used as a method of elevating building in special flood hazard areas.

b. The crawl space is an enclosed area below the base flood elevation and as such, must have openings that equalize the hydrostatic pressures by allowing for the automatic entry and

exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

c. Portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the base flood elevation.

d. Any building utility systems within the crawl space must be elevated one (1) foot above base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.

e. The interior grade of a crawl space below the base flood elevation must not be more than two (2) feet below the lowest adjacent exterior grade.

f. The height of the below grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall, must not exceed four (4) feet at any point.

g. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space.

**(8) Flood Hazard Reduction Means:**

**A. General Standards:** In all areas of special flood hazard, the following provisions are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors (reference Federal Emergency Management Agency's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques);

3. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

5. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

9. All subdivision proposals shall be consistent with the need to minimize flood damage. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

**10. Base Flood Elevation Data:**

a. Subdivision proposals of five (5) acres or more, located within the unnumbered A Zone (100-year floodplain) shall submit base flood elevation data to FEMA for an approval of the

new detailed study or Letter of Map Amendment removing the property from the areas of special flood hazard. The approval from FEMA shall be submitted along with the application for a Preliminary Plat.

b. Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes, but is not limited to, the use of historical data, high water marks, photographs of past flooding, where available. Failure to elevate at least two (2) feet above highest adjacent grade in these zones may result in higher insurance rates.

c. In all areas of special flood hazards where base flood elevation data has been provided, the following provisions are required:

i. New construction and substantial improvement of any residential structure shall have the top of lowest floor, including basement, elevated to one (1) foot above base flood elevation.;

ii. Fully enclosed areas below top of the lowest floor that are subject to flooding are prohibited, or shall be assigned to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect and must meet or exceed the following minimum criteria:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;

(b) The bottom of all openings shall be no higher than one (1) foot above grade; and

(c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.

11. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the top of the lowest floor, including basement, elevated to one (1) foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans;

d. Any development within the flood hazard boundaries shall not obstruct permitted access by respective flood control districts as deemed necessary to maintain and protect the rivers and tributaries from future loss.;

e. Development permits shall include, when deemed necessary, a flood mitigation plan that is enforceable by the County. This will help prevent altering of the hydraulics of the river.;

f. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor; and

g. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).

12. All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is two (2) feet above the base flood elevation and be securely anchored to an adequately anchored foundation system.

13. Located within areas of special flood hazard are areas designated as the floodway. Since the floodway is an extremely hazardous area, due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

b. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

**B. Specific Standards:** In all areas of special flood hazard where base flood elevation data has been provided, the following provisions are required:

1. **Residential Construction:** New construction or substantial improvement of any residential structure shall have the top of lowest floor, including basement, elevated to one (1) foot above base flood elevation.

2. **Nonresidential Construction:** New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one (1) foot above base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. (Ord. 87-002, 9-18-87)

**(9) Variance Procedures:**

A. The commission shall hear and decide appeals and requests for variances from the requirements of this article. No variance shall be granted to allow structures or buildings in a floodway.

B. The commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the director in the enforcement of this article.

C. Any person aggrieved by the decision of the commission may appeal such decision to the board as provided by state law.

D. Any person aggrieved by the decision of the board may appeal such decision to the district court as provided by state law.

E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the national register of historic places or the state inventory of historic places without regard to the procedures set forth in the remainder of this section.

F. In passing upon such application, the commission shall review and consider recommendations of a qualified engineer relating to all technical evaluations, all relevant factors, all standards specified in this section; and

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and the flood plain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

G. Upon consideration of the factors listed above and the purpose of this section, the commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

H. Variances shall not be issued within any designated floodway if any significant increase in flood levels during the base flood discharge would result.

**I. Conditions For Variances:**

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
2. Variances shall only be issued upon:
  - a. Showing of good and sufficient cause;
  - b. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. The commission shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. 87-002, 9-18-87)

07-10-31: **REGULATIONS FOR THE "AP" (AIRPORT OVERLAY) ZONE:**

- (1) **Purpose:** The purpose of the "AP" (Airport Overlay) Zone is to provide zoning protection to the present and long-term use of airports and airport facilities. Uses within the "AP" Zone are generally associated with airport-related activities, open space and agricultural uses which are harmonious with the use of airports. The "AP" Zone is superimposed over other zones.
- (2) **Uses Allowed And Permitted:**
  - A. A use is allowed or permitted within the "AP" Zone only by approval of the commission after a hearing held pursuant to the conditional use permit procedure as set forth in Article 7 of this chapter.
  - B. All uses allowed and all uses permitted by conditional use permit in the respective zone over which the "AP" Zone is superimposed are appropriate, but uses of airports and airport-related facilities such as radio facilities, directional aids to navigation and other structures or facilities as may be determined to be essential to air navigation and operation, agriculture uses, structures used for the habitation of people, and those uses, operations or structures where people might congregate or meet may be approved by the commission only following the conditional use permit procedure. The commission shall not permit a use which would conflict with the airport presently or in the future, unless the conflict can be avoided by imposition of special conditions.
  - C. Utility distribution facilities not in violation of any applicable federal airport standard or regulation applicable to the airport.
- (3) **Conflict:** If any of the regulations specified in Section 07-10-2947 differ from regulations in this chapter, then the regulations of Section 07-10-2947 of this chapter shall govern.
- (4) **Other Considerations:** In evaluating a proposed land use, the presiding party shall consider the following:
  - A. Evaluation of the effect of a proposed use on airport facilities will be made based not only on a single use acting alone but upon the reasonable assumption that other land owners within the "AP" (Airport Overlay) Zone may need or desire to establish similar land uses. As such, accumulative effects will be considered in making decisions.
  - B. Different construction material and methods may be required for sound control purpose beyond those normally required to avoid adverse effects from noise.
  - C. Auditoriums, churches, schools, hospitals, theaters, and other uses where congregations of people are common, shall be avoided whenever possible.
  - D. Criteria related to the established noise contours for the airport shall be used in considering conditional use permit applications.
  - E. Criteria related to Federal Aviation Administration regulations shall be used in considering conditional use permit applications.
  - F. Input from government entities.
- (5) **Non-liability Clause:** The granting of a conditional use permit for a use in the "AP" Zone shall not constitute a representation, guarantee, or warranty of any kind or nature by the commission or the board or by any office or employee thereof of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

ARTICLE 11

**NONCONFORMING USES**

SECTION:

- 07-11-01: Purpose
- 07-11-03: Maintenance and Repair
- 07-11-05: Expansion/Extension
- 07-11-07: Abandonment
- 07-11-09: Restoring a Damaged Nonconforming Use

07-11-01: **PURPOSE:**

The purpose of this article is to allow a nonconforming use to continue until it is removed, but not to encourage its survival. The right to continue a nonconforming use is one which attaches to the land. A nonconforming use does not extinguish when the property is transferred to a new owner.

07-11-03: **MAINTENANCE AND REPAIR:**

Maintenance and repair necessary or desirable to keep a nonconforming use in a safe and healthy condition, including construction of accesses as required by the Americans With Disabilities Act, is permitted.

07-11-05: **EXPANSION/EXTENSION:**

Expanding or extending a nonconforming use is prohibited. An expanded or extended use conducted in violation of the ordinance invalidates the existing nonconforming use and the owner loses the right to continue the nonconforming use and the owner's nonconforming use must immediately cease. For the purpose of these regulations, the terms "expanded" or "extended" shall include, but not be limited to:

- (1) Increased hours;
- (2) Increased services or programs;
- (3) Increased number of residential dwellings;
- (4) Interior renovations or structural addition that increase the occupant load of the structure dedicated to the nonconforming use;
- (5) Any new structures accessory to the nonconforming use;
- (6) Expansion of the structure (or portions thereof) dedicated to the nonconforming use;
- (7) Anything beyond regular maintenance and minor repairs required by the Canyon County Building Code;
- (8) Any action that extends the duration of the nonconforming use; and
- (9) Change of use to another nonconforming use or similar use.

07-11-07: **ABANDONMENT:**

- (1) **Voluntary Abandonment:** If a non-conforming use of improvements has ceased for more than ten (10) consecutive years, the non-conforming use shall be deemed abandoned and not allowed. A property owner may voluntarily abandon a use by filing an affidavit of abandonment and withdrawn use with DSD.
- (2) **Request for Declaration of Intent to Continue:**
  - A. Notwithstanding the provisions of sub-paragraph (1) of this section, if a non-conforming use of improvements has ceased for one (1) year or longer, the County may request in writing that the owner declare in writing within twenty-eight (28) days his intentions with regard to the use.

B. If the owner elects to continue with the right to conduct the non-conforming use on the property, he must:

1. Within twenty-eight (28) days of his receipt of the request of the County, notify the County in writing of his intention to continue the non-conforming use;

2. Within one (1) week of the written intention to DSD, notice shall be posted on all external boundaries of the site for not less than two (2) weeks stating the intention to continue the nonconforming use. Proof of posting shall be submitted to DSD within two (2) days of the posting the property.

3. Within one (1) week of the written intention to DSD, a notice shall be published once in a newspaper of general circulation in the County of the intent to continue the non-conforming use. Proof of publication shall be submitted to DSD upon publication of the notice.

C. The right to continue the non-conforming use shall continue until it is deemed abandoned pursuant to sub-paragraph (1) of this section.

#### 07-11-09: **RESTORING A DAMAGED NONCONFORMING USE:**

Where a nonconforming improvement, or a conforming improvement housing a nonconforming use, is damaged by fire, collapse, explosion, or other similar involuntary events, the nonconforming use may be recommenced or the building housing the nonconforming use may be replaced or repaired, provided that all of the following conditions are met and the commencement or reconstruction does not expand or extend the original use:

A. A building permit for replacement or repair is issued within twelve (12) months of the date of the damaging event. Expansion and extension is prohibited.

1. **Damage of more than 50%:** A nonconforming use or a structure housing a nonconforming use that is damaged more than fifty (50) percent of its current assessed taxable value by fire, flood, explosion, wind, earthquake, war, riot, calamity, or other catastrophic event, shall comply with all current applicable ordinances, including but not limited to Section 07-10-29 and Chapter 6, Building Regulations.

2. **Damage of 50% or less:** If the damage to the nonconforming use or structure housing the nonconforming use is fifty (50) percent or less of the current assessed taxable value, the nonconforming use may continue, provided that the nonconforming use commences within eighteen (18) months of the catastrophic event. The damaged portion may be rebuilt or repaired to its pre-damaged standards.

B. The owner recommences the nonconforming use or reconstruction and diligently acts to restore the nonconforming improvement or use;

C. The replacement or repaired improvement does not have a nonconforming feature that the original nonconforming building did not have;

D. The replacement or repaired improvement does not exceed the size of the original building square footage;

E. The replacement or repaired improvement, if possible, will be situated to meet minimum setbacks required by the zoning ordinance; and

F. The replacement or repaired improvement is located as close as possible to the original location.

## ARTICLE 12

### CERTIFICATES OF ZONING COMPLIANCE

#### SECTION

07-12-01: Provisions for Certificate of Zoning Compliance

#### 07-12-01: **PROVISIONS FOR CERTIFICATE OF ZONING COMPLIANCE:**

- (1) **Certificate Of Zoning Compliance Required:** A certificate of zoning compliance is required for all structures requiring a building permit, and for agricultural structures exempt from the requirement to obtain a building permit. An application for a certificate of zoning compliance shall be on a form approved by the director. The application shall be filed with the DSD and accompanied by a filing fee as established by the adopted fee schedule.
- (2) **Illuminated Address Numbers:** Address numbers for dwellings shall be illuminated for emergency services prior to issuance of a certificate of occupancy.
- (3) No Certificate of Zoning Compliance for a new dwelling shall be issued until the subject property, if divided, has been divided according to county ordinances and has access as required in Section 07-10-03. However, an existing dwelling located on a parcel of land that was not divided in accordance with county ordinance provisions for the division of land may be rebuilt or replaced.
- (4) **Hazardous Material Storage:** The storage of any hazardous materials, as defined by title 40 of CFR part 261, shall require a list of those materials to be submitted to the Canyon County Sheriff's Office, the Canyon County paramedics, DSD, and the applicable fire district, prior to issuance of a certificate of zoning compliance.
- (5) **Expiration Of Certificate Of Zoning Compliance:** A certificate of zoning compliance is valid as long as the building permit for the applied-for structure is valid. For agricultural structures exempt from the requirement to obtain a building permit, a certificate of zoning compliance expires upon failure to obtain a setback inspection within one hundred eighty (180) calendar days from the date of issuance of the certificate of zoning compliance.

## ARTICLE 13

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### SECTION:

07-13-01: Off-Street Parking And Loading

07-13-03: Number Of Spaces Required

#### 07-13-01: **OFF-STREET PARKING AND LOADING:**

- (1) When the intensity of use of any building, structure or premises is increased through the addition of dwelling units, gross floor area, seating capacity or other unit of measurement requiring parking or loading facilities, such parking and loading facilities shall be increased to provide for the intensity of use.
- (2) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use.
- (3) Access roads from state and local highway district highways into parking areas as required herein for commercial and industrial uses shall be forty (40) feet wide at the curb line.

- (4) No lawfully existing building shall be deemed to be a nonconforming building solely because of the lack of any such required spaces; provided, that space being used for off-street parking or loading in connection with any such building at the time of the effective date hereof shall not be further reduced in area or capacity.
- (5) When the calculation of the required number of spaces called for herein results in a fractional number, fractions equal to or greater than one-half (1/2) shall be adjusted to the next highest whole number of spaces.
- (6) Parking space requirements for a use not specifically mentioned in this article shall be the same as for a use specified which has similar traffic generating characteristics.
- (7) Except as required for dwellings and motels, off-street parking facilities for several buildings, structures or uses, or for mixed uses, may be provided collectively if the total number of spaces so located together shall not be less than the sum of the separate requirements for each of the buildings or uses.
- (8) Every open off-street parking area having more than four (4) parking spaces shall be hard surfaced.
- (9) Lighting used to illuminate off-street parking areas shall be directed away from residential properties.
- (10) Off-street parking areas may be required to screen any side adjoining any residential property by a wall, fence, or hedge to a height of six (6) feet, except for the front yard setback areas of the adjoining residential property, which shall be a maximum height of three (3) feet.
- (11) Required parking spaces for dwellings shall be upon the same premises as the dwelling, and no parking space shall be located in any public right of way.

**07-13-03: NUMBER OF SPACES REQUIRED:**

Parking spaces as hereinafter set forth shall be provided for all uses allowed and conditional uses permitted in any zone, provided that a greater number of spaces may be required in any case where a conditional use permit is involved and further provided these regulations are subject to the Americans with Disabilities Act and state law.

- A. For each dwelling unit - two (2) spaces inclusive of a garage, carport, or open off-street parking.
- B. For each guest bedroom in a hotel, motel, bed and breakfast, club, lodging house, fraternity or sorority house - one (1) parking space, plus one (1) additional parking space for each three (3) beds in a room, plus two (2) parking spaces for each three (3) employees.
- C. For each two (2) persons in a convalescent, nursing or rest home, sanitarium or home for the care of children or the aged - one (1) parking space, plus one (1) parking space for each doctor assigned full-time to the staff, plus two (2) parking spaces for each three (3) employees.
- D. For a hospital - one parking space for each one thousand (1,000) square feet of net floor area, plus one parking space for each two (2) employees.
- E. For a church, school auditorium or gymnasium, auditorium, theater, or sports arena - one (1) parking space for each five (5) persons based on building capacity.
- F. For floor space used by the public or by members in a social hall, dance hall, nightclub, pool hall, restaurant, or other similar enterprise or establishment - a number of parking spaces equal to twenty (20) percent of the capacity in persons. For the purpose of this section, "capacity in persons" shall mean the gross floor area used by the public divided by fifteen (15) square feet.
- G. For a bowling alley - three (3) parking spaces for each bowling lane.
- H. For a drive-in theater - an additional parking area at the entrance containing one (1) parking space for each ten (10) vehicles accommodated within the theater.
- I. Business offices, not otherwise specified - one (1) parking space for each two hundred fifty (250) square feet of net floor area.
- J. Medical or dental office or clinic - one (1) parking space for each two hundred fifty (250) square feet of net floor area.
- K. Mortuary - one (1) parking space for each five (5) seats based on building capacity.

- L. Retail stores, banks, and shops other than as specified below - one (1) parking space for each two hundred (200) square feet of net floor area; and for drive-in banks three (3) additional parking spaces for each teller window.
- M. Retail sales establishments handling only durable goods or bulky merchandise such as machinery, furniture or vehicles, personal service and repair shops, or wholesale stores - one (1) parking space for each six hundred (600) square feet of net floor area.
- N. For manufacturing establishments - one (1) parking space for each employee, based on the greatest number of employees on-site at any one time.
- O. For every building containing more than fifteen thousand (15,000) square feet in area and which is designed to be occupied by any use requiring regular receipt or dispatch of merchandise by truck - one (1) loading space not less than thirty (30) feet in length and ten (10) feet in width, exclusive of access platforms and maneuvering areas.
- P. Subdivision Community Facility - one (1) parking space for every three hundred (300) square feet of net floor area.

ARTICLE 14

**SECONDARY RESIDENCE**

SECTION

07-14-01: Secondary Residence Permit

07-14-01: **SECONDARY RESIDENCE PERMIT:**

- (1) A secondary residence permit is only allowed in the following zones:

**Table 5**  
**Secondary Residence Permit**

	<i>Agricultural Zone (A)</i>	<i>Rural - Residential Zones (R-R)</i>	<i>Single Family Residential Zone (R-1)</i>	<i>Multi-Family Residential (R-2)</i>
<i>Secondary Residence Permit</i>	<b>Allowed</b>	<b>Allowed</b>	<b>Allowed</b>	<b>Permitted</b>

- (2) A secondary residence is allowed when the following requirements are met:
  - A. Is owned by the owner of the lot or parcel containing the owner's primary residence;
  - B. Does not have its own separate house number (address);
  - C. The occupants do not provide compensation of any kind to the owner;
  - D. Has maximum enclosed floor square footage not exceeding one thousand (1,000) square feet, exclusive of eaves, steps, porches, patios and a maximum of a six hundred (600) square foot garage. Any bonus room over the garage with a ceiling height greater than eighty (80) inches shall be considered within the maximum floor square footage;
  - E. Is located within two hundred (200) feet of the principal residence;
  - F. Is built to current building codes and standards; and

- G. Living space located within an accessory structure greater than one thousand six hundred (1,600) square feet, must comply with all requirements for a secondary residence.

## ARTICLE 15

### DIRECTOR ADMINISTRATIVE DECISIONS

#### SECTION:

- 07-15-01: Applicability
- 07-15-03: Application, Procedure, Approval, Renewal, Revocation
- 07-15-05: Temporary Use Permit Additional Requirements/Standards
- 07-15-07: Home Business Permit Additional Requirements/Standards
- 07-15-09: Day Care Facilities Additional Requirements/Standards
- 07-15-11: Assisted Care Facilities Additional Requirements/Standards
- 07-15-13: Small Wind Energy Systems Additional Requirements/Standards
- 07-15-15: Mineral Extraction (Short Term) Additional Requirements/Standards:

#### **07-15-01: APPLICABILITY:**

This article applies to land uses that require approval of a Director's Administrative Decision in accordance with Table 5, Zoning and Land Use Matrix of this Chapter.

#### **07-15-03: APPLICATION, PROCEDURE, APPROVAL, RENEWAL, REVOCATION:**

- (1) **Application:** The applicant shall submit to DSD an application ~~for an assisted care facility~~ along with the appropriate fee. DSD shall provide notification by mail of the application to the owners of parcels within six hundred (600) feet of the external boundaries of the parcel, as well as any applicable agencies and shall provide such individuals and agencies a period of fifteen (15) calendar days from the date of the mailing to submit comments concerning the proposed application.
- (2) Prior to issuance of a Director's Administrative Decision, the subject property shall be in compliance with the Public Nuisance Ordinance (Chapter 2, Article 1 of the Canyon County Code of Ordinances), the Building Code (Chapter, 6 of the Canyon County Code of Ordinances), and with all other articles of this chapter.
- (3) The property shall comply with all applicable federal, state, and county laws, ordinance, rules and regulations that pertain to the property and or business.
- (4) The property shall be in compliance with the Canyon County Zoning Ordinance, Public Nuisance Ordinance and Building Ordinance.
- (5) This permit is not transferable to any other property or individual and is not valid for any business or use other than that specifically approved by the director.
- (6) Off-street parking shall be provided in accordance with Article 13. No parking space shall be located in any public right of way.
- (7) **Decision of the Director:**
  - A. Compliance with granting an administrative approval shall be within the discretion of the director following a full review of the facts as stated on the application and as received as a result of the required notification process. The burden of persuading the director to grant a permit is on the applicant. The director shall consider the uses of the surrounding properties in the determination of the compatibility of the proposed use with such uses.

- B. **Additional Conditions:** The director may require additional land use related conditions as are necessary to protect the health, safety and welfare of the residents of parcels within six hundred (600) feet, as well as conditions that would protect the uses of surrounding properties.
  - C. The director shall give notice of the decision granting or denying the application, to those previously notified of the pending application.
- (8) **Appeal by Affected Person:** Any affected person who is aggrieved by the director's decision may file a written notice of appeal in accordance with Section 07-05-07, Appeal of Director Administrative Decision. An appeal shall be noticed and heard as a conditional use permit.
- (9) Renewals are not required for administrative decisions unless specifically addressed in the additional standards of this article. Development Services will conduct periodic reviews of approved administrative decisions to ensure compliance with conditions of approval.
- (10) **Revocation/Violation of Conditions:**
- A. Any person, including staff, may file a written notice with the director presenting evidence that the conditions of the administrative decision have been violated. The director shall review the evidence and may conduct additional investigation deemed necessary. If the director determines that sufficient evidence shows a violation of the conditions, he shall provide by mail notice of such findings to the permit holder. The permit holder shall be given thirty (30) days to bring the condition into compliance.
  - B. The director may issue written findings revoking a permit for non-compliance if the permit holder fails to comply with the conditions of the notice given.
  - C. The director's revocation may be appealed in accordance with Section 07-05-07, Appeal of Director Administrative Decision.

**07-15-05: TEMPORARY USE PERMIT ADDITIONAL REQUIREMENTS/STANDARDS:**

- (1) In zones allowing a temporary use, a landowner who resides on the subject property may apply for a temporary use permit, one (1) per parcel, for placement of a manufactured home or a recreational vehicle (RV) on the property for any of the following reasons:
- A. While a single-family dwelling is being constructed;
  - B. Substantiated bona fide health care for any member of the landowner's immediate family; or
  - C. Temporary residence for an immediate family member of the landowner who resides on-site.
- (2) In zones allowing a temporary use, without regard to whether the landowner resides on the subject property, he or she may apply for a temporary use permit for the following reasons:
- A. To rehabilitate a mobile home pursuant to Idaho Code § 44-2501 through § 44-2504 (limit of one (1) temporary residence per parcel); or
  - B. For farm workers engaged in performing a substantial amount of the operation of the applicant's bona fide farming activities in an agricultural zone.
- (3) All other reasons for a temporary use may only be approved by conditional use permit procedures pursuant to Article 7 of this chapter.
- (4) Manufactured homes, placed for the purpose of a temporary use permit, shall not be placed on a permanent foundation.
- (5) No person may reside in an RV outside an RV park for a period exceeding ninety (90) days without applying for a temporary use permit.
- (6) Duration; Renewal; Removal of Temporary Use for a Manufactured Home:
- A. **Duration:** A temporary use permit shall be issued for one (1) year for all temporary uses. A temporary use may be renewed as follows:

1. For a manufactured home to be rehabilitated under Section 07-15-05(2)A no renewal is allowed;
  2. For farm workers and bona fide health care of family members there shall be no restrictions on the number of annual renewals;
  3. A temporary use permit for immediate family members shall be for a maximum of five (5) years. If the temporary use permit for immediate family member is still desired after five (5) years the applicant shall request a Conditional Use Permit for the extension of the temporary use permit as provided for by Section 07-07-07.
- B. **Renewals:** Annual renewals and fees are required for all temporary use permits. Renewals are at the discretion of the director and, if granted, shall be for the same duration as the original permit.
- C. **Removal:** When a temporary use permit expires or the use ceases, whichever occurs first, the landowner has thirty (30) calendar days to remove the temporary use. If the temporary use is not removed within this stated period of time, the property owner shall be considered in violation of this section and subject to enforcement action.

(7) Conversion to Permanent Use: If a temporary use becomes a permanent use, pursuant to a change that would cause the temporary use permit to be subject to and in conformance with other provisions of this chapter, then all requirements of this chapter shall apply, including but not limited to access and subdivision requirements.

**07-15-07: HOME BUSINESS PERMIT ADDITIONAL REQUIREMENTS/STANDARDS:**

(1) Permissible Occupations: A permit for a home business may issued for, but not be limited to, the following occupations which meet the requirements of this article:

- A. Professional services such as clerical, engineering, tax preparation, graphic design, or web services;
- B. Assembly of parts into salable items;
- C. Teaching of music, dancing and other instruction; or
- D. Other like occupancies.

(2) General Standards:

- A. The use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- B. The use is conducted entirely within a dwelling or only one of its existing accessory structures.
- C. Not more than one-third (1/3) of the gross area of the dwelling may be devoted to such use, whether said use is carried on in the dwelling or in accessory building.
- D. No more than three (3) persons other than the residents of the dwelling may work on the premises.
- E. The use does not adversely affect the uses allowed or permitted in the zone in which it is to be located.

(3) This permit shall not apply to any use that is allowed or permitted or otherwise defined by this ordinance within the agricultural or residential zones. This permit shall not apply to any use of industrial nature.

(4) One sign no larger than four (4) square feet is allowed, which may not be internally illuminated or constructed of reflective materials.

(5) **Duration of Permit:** The Home Business Permit shall be valid for a period of two (2) years from the date of the director’s approval.

**07-15-09: DAY CARE FACILITIES ADDITIONAL REQUIREMENTS/STANDARDS:**

(1) If a daycare facility is approved the director shall specify the maximum number of children within the decision.

(2) **Group Day Care Facility and Day Care Center General Standards:**

- A. There shall be a minimum of thirty-five (35) square feet of net floor area indoors per child. This space shall be measured wall to wall in rooms that are regularly used by the children, exclusive of halls, bathrooms, and kitchen.
- B. On site vehicle pickup and turnaround areas shall be provided to ensure safe discharge and pickup of children, in addition to the required off street parking for the dwelling.
- C. The applicant or owner shall secure and maintain a basic day care license from the state of Idaho Department of Health and Welfare Family and Children's Services Division.
- D. The applicant shall provide a minimum outdoor play area of one hundred (100) square feet per child. The minimum play area requirement may be waived if:
  - 1. There is greater or equal area of parks that abut the facility that can be used by the children; or
  - 2. The program design is such that the number of children using the play area at any one time conforms to the one hundred (100) square feet/child criteria.
- E. All outdoor play areas shall be completely enclosed by a minimum six (6) foot barrier to secure against exit/entry by small children and to screen abutting properties. The fencing material shall meet the swimming pool barrier requirements of the Canyon County Building Code as set forth in chapter 6 of this code.

**07-15-11: ASSISTED CARE FACILITIES ADDITIONAL REQUIREMENTS/STANDARDS:**

- (1) If an assisted care facility is approved, the director shall specify the maximum number of clients within the decision.

**07-15-13: SMALL WIND ENERGY SYSTEMS AND WIND FARMS REQUIREMENTS/STANDARDS:**

- (1) No more than one small wind energy system per one (1) acre of land is allowed.
- (2) **Tower Height:** When located on parcels five (5) acres or less, tower height shall be a maximum of thirty-five (35) feet above finished grade of the fixed portion of the tower, excluding the wind turbine and blades. When located on parcels greater than five (5) acres, tower height shall be limited to eighty (80) feet, unless permitted to exceed this height by a conditional use permit.
- (3) **Setback:** No part of the small wind energy system structure, including guy wire anchors, may extend closer than one hundred (100) feet to the property boundaries of the installation site.
- (4) **Noise:** Small wind energy systems shall be located so that the level of noise produced by wind turbine operation shall not exceed fifty-five (55) dBA, measured at the site property line.
- (5) **Decision of the Director:**
  - A. The director shall consider the following:
    - 1. Lot size;
    - 2. Lot configuration;
    - 3. Proximity to neighboring structures;
    - 4. Topography;
    - 5. Viewsheds; and
    - 6. The uses of the surrounding properties in the determination of the compatibility of the proposed Small Wind Energy System with such uses.
  - B. **Approval:** The director shall specify the maximum number of towers.

**07-15-15: MINERAL EXTRACTION (SHORT TERM) ADDITIONAL REQUIREMENTS/STANDARDS:**

- (1) Gravel, sand, soil or other minerals may be excavated and removed from a maximum of a two (2) acre site,

per parcel. The minerals must be removed from the subject property within six (6) months from the date excavation begins. Extracted minerals may not be stored on site beyond the six (6) month time period.

(2) Crushing, screening, or processing the material is allowed on or at the excavation site at the discretion of the director.

(3) Temporary asphalt mixing and concrete batching may only be allowed as accessory uses to a pit, mine, or quarry at the discretion of the director.

(4) **Application:** Prior to commencing any phase of extraction, the landowner or operator/extractor shall submit all appropriate fees and provide the following to DSD:

- A. Name of the landowner;
- B. Name of the operator/extractor;
- C. Legal description of the property where gravel is to be extracted;
- D. A site plan of the property showing the area where the gravel is to be extracted;
- E. The extraction commencement date and completion date (no later than six (6) months after commencement date); and
- F. Reclamation plan as approved by Idaho Department of Lands.

## ARTICLE 16

### HOME OCCUPATIONS

#### SECTION:

07-16-01: Zoning Criteria for Home Occupations

07-16-03: Criteria

#### 07-16-01: **ALLOWED ZONING CRITERIA FOR HOME OCCUPATIONS:**

A home occupation is only allowed in the "A" (Agricultural Zone) and all residential zones (R-R, R-1, R-2).

#### 07-16-03: **CRITERIA:**

- (1) The home occupation shall not cause the premises to differ from its residential character in the appearance, lighting, or in the emission of noise, fumes, odors, vibrations, or electrical interference.
- (2) The use is clearly incidental and secondary to the use of the dwelling for dwelling purposes.
- (3) The use is conducted entirely within a dwelling or its existing accessory building and is carried on by inhabitants of the dwelling place.
- (4) The use does not adversely affect the uses allowed or permitted in the zone in which it is to be located.
- (5) The use requires no additional off-street parking space.
- (6) No persons other than the residents of the dwelling work on site.
- (7) Not more than one-fourth (1/4) of the gross area of dwelling may be devoted to such use, whether said use is carried on in the dwelling or in an existing accessory building.
- (8) A non-obtrusive, non-electric sign with no moving parts is allowed when it is no larger than four (4) square feet in the message board.
- (9) The home occupation shall not involve the use of more than one (1) vehicle necessary for the home occupation.

## ARTICLE 17

### SUBDIVISIONS

#### SECTION:

- 07-17-01: Purpose
- 07-17-03: Jurisdiction
- 07-17-05: Applicability
- 07-17-07: Pre-Platting Building Permits
- 07-17-09: Preliminary Plat
- 07-17-11: Final Plat Application
- 07-17-13: Final Plat
- 17-17-15: Completion of Bonded Improvements
- 07-17-17: Combining Preliminary And Final Plat
- 07-17-19: Simple Changes to Recorded Plat
- 07-17-21: Minor Replats and Amendments
- 07-17-23: Changes Involving Rights Of Way In A Recorded Plat
- 07-17-25: Lot Requirements
- 07-17-27: Existing Natural Features
- 07-17-29: Road and Utility Required Improvement Requirements
- 07-17-31: Required Improvements
- 07-17-33: Special Developments
- 07-17-35: Subdivision/Easement Vacations
- 07-17-37: Mineral Extraction

#### 07-17-01: **PURPOSE:**

These regulations provide for the following:

- (1) Uniform standards for the subdivision of property and to protect the health, safety, and general welfare of the people of Canyon County.
- (2) The manner and form of making and filing of any plat.
- (3) The administration of these regulations by defining the powers and duties of approval authorities including procedures for the equitable review and approval of all plats of subdivisions covered by these provisions.

#### 07-17-03: **JURISDICTION:**

These regulations shall apply to the subdividing of all land within the unincorporated parts of the county and shall include the following:

- (1) The subdivision of land into more than four (4) lots, parcels or tracts since September 6, 1979 for transfer of ownership or development.
- (2) Any change to a recorded plat.
- (3) The following are exceptions to the subdivision requirements of this article:
  - A. A parcel, resulting from the subdivision of land, that is used exclusively for agricultural purposes (on which there is no permanent dwelling) and is described on the deed, whether including or excluding a public right-of-way, and consists of one-fourth (1/4) of one-fourth (1/4) of a section of land or forty (40) or more acres.

- B. An allocation of land in the settlement of an estate or a court decree for the distribution of property thereunder with the limitation that the land may not be divided into more than four (4) parcels with a minimum size per parcel to be five (5) acres.
- C. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code and when the dedication of a right of way for public purposes is initiated by a public body.
- D. Simple changes to a recorded plat in accordance with Section 07-1723-19.
- E. A lot or parcel created for the exclusive use of a public or private school, other political subdivisions, or public or private utility facilities.
- F. Land that is divided into fewer than five (5) parcels from the original parcel and all of the following have been provided to DSD:
  - 1. An approved irrigation plan, if applicable;
  - 2. Proof that any required conditions of county approvals are met;
  - 3. A record of survey, with metes and bounds descriptions of all lots, that shows access from each lot to a publicly maintained road, either from frontage on the publicly maintained road or by instrument number of a recorded ingress/egress easement, and that includes all required utility easements;
  - 4. Proof that the land does not contain slopes greater than fifteen percent (15%); and
  - 5. Written approval of a site plan from the fire, highway and health districts having jurisdiction.

**07-17-05: APPLICABILITY:**

- (1) No person shall subdivide any tract or parcel of land located wholly or in part in the county except in compliance with the provisions of this article.
- (2) No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the commission, nor offer for recording in the office of the county clerk, any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this article.

**07-17-07: PRE-PLATTING BUILDING PERMITS:**

DSD shall not issue a zoning compliance for construction of residences within any area or upon any property approved for development that requires platting until the final plat has been recorded with the county recorder's office, the applicable conditions of the Canyon County Code of Ordinances met, and the required improvements are constructed or bonded.

**07-17-09: PRELIMINARY PLAT:**

- (1) **Application:** The applicant shall file with DSD a copy of the completed subdivision application form as prescribed by the director and a copy of the preliminary plat with data as required in this section including, but not limited to, preliminary irrigation plans, the availability of irrigation water to the property, and a preliminary drainage plan. All applicable fees shall be paid at this time.
  - A. **Form Of Presentation:** The information hereinafter required as part of the preliminary plat submitted shall be shown graphically or by note on plans, and may comprise several sheets showing various elements or required data. All mapped data for the same plat shall be drawn at the same standard engineering scale, having a scale of no more than one inch equals one hundred feet (1"=100'), unless otherwise approved by DSD prior to submission. The drawing shall measure no larger than twenty-four (24) inches by thirty-six (36) inches.
  - B. **Identification And Descriptive Data:**
    - 1. Proposed name of subdivision and its location by section, township and range.
    - 2. Reference by dimension and bearing to a section corner or quarter section corner.

3. Name, address and phone number of developer.
4. Name, address and phone number of the person preparing the plat.
5. North arrow.
6. Date of preparation.
7. Revision block showing dates of any revisions subsequent to the original preparation date. The revision block shall be part of the title block which shall be placed along the right edge of the drawing sheet.
8. Vicinity map drawn to scale clearly showing proposed subdivision location in relationship to adjacent subdivisions, main arterial routes, collector streets, etc.

**C. Existing Conditions Data:**

1. The general standard for topography shall be by two (2) foot contours and shall be shown on the preliminary plat map which sets out the proposed subdivision layout unless the director determines that another appropriate contour interval would adequately reflect the character and drainage of the land and highlight or show all areas in excess of fifteen (15) percent slope.
2. Location of water wells, streams, canals, irrigation laterals, private ditches, washes, lakes or other water features; direction of flow; location and extent of known areas subject to inundation.
3. Location, widths and names of all platted streets, railroads, utility rights of way of public record, public areas, permanent structures to remain including water wells and municipal corporation lines within or adjacent to the tract.
4. Name, book and page numbers of any recorded adjacent subdivision having a common boundary with the tract.
5. By note, the existing zoning classification of the tract.
6. By note, the approximate acreage of the tract.
7. Boundary dimensions of the tract.
8. Names and addresses of adjoining property owners within three hundred (300) feet of the exterior boundary of the tract.

**D. Proposed Conditions Data:**

1. Road layout including location, width and proposed names of roads, alleys, pathways, easements, and roadway connections, if any, to an adjoining platted tract.
2. Typical lot dimensions including curvilinear data to scale; each lot numbered individually; total number of lots by type and grand total. A private road must be a lot.
3. Location, width and use of easements.
4. Designation of all land to be dedicated or reserved for public use with use indicated.
5. If plat includes land for which multi-family, commercial, or industrial use is proposed, such areas shall be clearly designated together with existing zoning classification and status of zoning change, if any.
6. If the proposed subdivision is part of a larger area intended for development, a development master plan of the entire area shall be provided.
7. Appropriate information that sufficiently details the proposed development within any special development area such as hillside, PUD, flood plain, cemetery, manufactured home, large scale development, hazardous and unique areas of development.
8. All roads must be labeled as either "private" or "public" behind or beneath the road name.

E. **Proposed Utility Methods:**

1. **Sewage:** A statement as to the type of proposed sanitary sewage facilities.
2. **Water Supply:** A statement as to the type of proposed water supply facilities.
3. **Storm Water Disposal:** A statement as to the type of storm water disposal facilities which may include evidence as may be required to the design and operation of proposed storm water system.
4. **Irrigation System:** A statement as to proposed irrigation system, which may include evidence as may be required relative to the design and operation of any proposed irrigation system.
5. **Utility easement:** The utility easement width shall be a minimum of ten (10) feet from the exterior boundaries and five (5) feet from the interior boundaries. Utility easements shall be shown graphically on the plat.

F. If applicable, all requirements of 07-1723-33, Special Developments, shall be submitted with the preliminary plat.

(2) **Acknowledgment:** Upon receipt of the application, preliminary plat, and applicable fees, DSD shall acknowledge, sign, and date the application and deem it accepted.

(3) **Agency Review:**

A. The DSD shall transmit one (1) copy of the preliminary plat to county departments and any such other agencies that may have jurisdiction or an interest in the proposed subdivision for their review and recommendation.

B. If no written reply is received from any of the various departments or interested agencies within thirty (30) calendar days from the date of notification, approval of the preliminary plat by such department or agency will be considered to be granted.

(4) **Commission Review:**

A. The commission or hearing examiner shall hold a noticed public hearing on the preliminary plat. The hearing body shall recommend that the board approve, approve conditionally, modify, or deny the preliminary plat. The reasons for such action will be shown in the commission's minutes. The reasons for action taken shall specify:

1. The ordinance and standards used in evaluating the application;
2. Recommendations for conditions of approval that would minimize adverse conditions, if any;
3. The reasons for recommending the approval, conditional approval, modification, or denial; and
4. If denied, the actions, if any, that the applicant could take to gain approval of the proposed subdivision.

B. Upon recommendation by the commission, the preliminary plat, together with a complete copy of the commission's minutes, shall be transmitted to the board.

(5) **Board Action:**

A. The board shall consider the commission's recommendation at a noticed public hearing.

B. The board shall base its findings upon the evidence presented at the board's public hearing, and within thirty (30) calendar days declare its findings. It may sustain, modify or reject the recommendations of the commission and make such findings as are consistent with the provisions of this chapter and the Idaho Code. The findings shall specify:

1. The ordinance and standards used in evaluating the application;
2. The reasons for approval or denial; and

3. If denied, the actions, if any, that the applicant could take to gain approval of the proposed subdivision.

**07-17-11: FINAL PLAT APPLICATION:**

- (1) After approval or conditional approval of the preliminary plat, the developer may cause the subdivision, or part thereof, to be surveyed and a final plat prepared in accordance with the preliminary plat as approved.
- (2) The developer shall file with DSD a copy of a completed final plat application and five (5) copies of the final plat with data as required in this section including, but not limited to, final irrigation plans, if irrigation water is available to the property, and a final drainage plan. The applicant must submit with the final plat application an engineered construction drawing of the private road design, including curbing and drainage. All fees shall be paid at the time the application is received by DSD.

**07-17-13: FINAL PLAT:**

(1) **Method And Medium Of Presentation:**

- A. All plats to be recorded shall be prepared on a drafting medium in accordance with the requirements of Idaho Code title 55, chapter 19, paragraph (1) for Records of Survey maps.
- B. The plat shall be drawn to an accurate scale of not more than one hundred feet to an inch (100' = 1") unless otherwise approved by DSD prior to submission; and
- C. The final plat drawings shall be additionally submitted in digital form approved by the director.

(2) **Identification Data Required:**

- A. A title which includes the name of the subdivision and its location by number of section, township, range and county shall be placed together at one location at the top of the sheet and generally centered.
- B. Name, address and official seal of the surveyor preparing the plat.
- C. North arrow.
- D. Date of the preparation.
- E. Revision block showing dates of any revisions subsequent to the original preparation date. The revision block shall be part of the title block which shall be placed along the right edge of the drawing sheet.

(3) **Survey Data Required:**

- A. Boundaries of the tract to be subdivided and the interior lots are to be fully balanced and closed, showing all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.
- B. Any excepted lots within the plat boundaries shall show all bearings and distances, determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.
- C. Basis of bearing on the plat shall be referenced.

(4) **Descriptive Data Required:**

- A. Name, right-of-way lines, courses, lengths, width of all private and public streets, alleys, pedestrian ways and utility easements.
- B. All drainage ways.
- C. All easements provided for public services or utilities and any limitations of the easements.
- D. All lots and blocks shall be numbered throughout the plat in accordance with Idaho Code. "Exceptions", "tracts" and "private parks" shall be so designated, lettered or named and clearly dimensioned.
- E. All sites to be dedicated to the public will be indicated and the intended use specified.
- F. All roads must be labeled as either "private" or "public" behind or beneath the road name.

- G. The area of each lot shall be stated in acres and decimals thereof.
- H. The statement from Idaho Code § 22-4503 or any later or amended statutory language shall appear on all final plats located in a zone where agricultural uses are allowed or permitted.
- I. A note as to the type of sewage disposal facilities to be provided.
- J. A note as to the type of water supply facilities to be provided.
- K. Required section and quarter-section line setbacks.

(5) **Dedication And Acknowledgment:**

- A. **Dedication:** A statement of dedication of all streets, alleys, pedestrian ways and other easements for public use by the person holding title of record and by person holding title as vendees under land contract.
- B. **Acknowledgment Of Dedication:** The dedication referred to in Section 07-18-17 of this chapter shall be in the form of a certificate acknowledged in accordance with Idaho Code § 50-1309.

(6) **Required Certifications:** The following certifications shall be placed on the signature page of the final plat:

- A. Landowner's signature.
- B. Certification by a surveyor stating that the plat is correct and accurate and that the monuments described in it have been located as described.
- C. Certification of plat approval by the county surveyor.
- D. Certification of plat approval by the county planning and zoning commission chairman and/or hearing examiner.
- E. Certification of plat approval by the board.
- F. Approval or certification or comment by impacted agencies that may include: highway districts, health department, the city when the development is in an area of impact, treasurer, recorder, and state and federal agencies having jurisdiction.

(7) **Time Limitations:**

- A. The following time limitations are in accordance with Section 07-07-13 of this chapter:
  - 1. In the event that the development of the preliminary plat is made in successive continuous segments in an orderly and reasonable manner and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of twenty four (24) months, may be considered for final plat approval. In the event a longer period elapses, the preliminary plat must be reviewed by the commission and approved by the board;
  - 2. Final plat application must be submitted and accepted by DSD within two (2) years of the date of written approval of the preliminary plat; and
  - 3. The final plat shall be filed with the county recorder within sixty (60) days after approval of the board; otherwise, such approval shall become null and void unless an extension of time is applied for and granted.

(8) **Commission Review:** The commission or hearing examiner will review the final plat as an agenda item and recommend to the board approval, modification or denial. If recommending approval, the commission chairman or hearing examiner shall sign the Mylar.

(9) **Board Action:**

- A. Upon receipt of the final plat and all other data as required herein, the board shall thereafter place the final plat on its agenda for consideration at a regular meeting held not less than fifteen (15) calendar days after the date of submittal.

B. The board, following receipt of the final plat, shall consider said plat and any changes from the approved preliminary plat. If the plat conforms to the requirements of the subdivision regulations and Idaho Code, the board shall approve the plat.

C. At the time of approval and recording of the final plat, the board shall accept the dedications shown thereon. As a condition precedent to the approval of any final plat, the board may require the developer to improve or agree to improve the streets and all other public improvements to the standards approved for the preliminary plat by furnishing a surety bond or other guarantee.

**07-17-15: COMPLETION OF BONDED IMPROVEMENTS:**

All subdivision improvements covered by surety bond or other guarantee shall be completed prior to the issuance of a certificate of occupancy.

**07-17-17: COMBINING PRELIMINARY AND FINAL PLATS:**

The developer may request that the subdivision application be processed as both a preliminary and final plat, known as a short plat, if all of the following exist:

- A. The proposed subdivision does not exceed fourteen (14) lots;
- B. No major special development considerations are involved such as development in floodplain, hillside development, etc; and
- C. All required information for both preliminary and final plat is complete and in acceptable form.

**07-17-19: SIMPLE CHANGES TO RECORDED PLAT:**

This chapter establishes the procedure and requirements for making simple changes to a recorded plat when not involving a vacation or dedication of a public road right of way or easement.

**(1) Application For Change:**

- A. The person seeking a change must file an application on a form provided by the director and fees. The application must demonstrate full compliance with all requirements established by the board as prerequisites for making a change to a plat.
- B. When the application is filed, the director shall have a period of fourteen (14) calendar days from the time of receipt of the application to determine whether the application is complete.
- C. If the director determines that the application is not complete, the application shall be returned to the applicant with written instructions as to what deficiencies must be satisfied. No further consideration will be given to the application until it is returned by the applicant and determined by the director to be complete.
- D. When a fully completed application has been filed and the fees paid, the director shall conduct a review. The burden of proof is on the applicant to show compliance with the requirements for a simple change to a recorded plat. The director may grant the application only if the changed plat can meet all requirements of the zone in which it is located.

**(2) Approval or Denial:**

- A. If the director denies the application, he shall state his reasons in written findings within fourteen (14) calendar days of the denial. A copy shall be forwarded by mail to the applicant at the address given on the application.
- B. If the director grants the application, the applicant must submit a Record of Survey showing the plat change pertaining to the request and a metes and bounds description of all changed lots. The Record of Survey must bear in the title or in a side note on the Record of Survey that the purpose of the Record of Survey is to change the specific plat, stating the name of the plat, with affected lots and blocks. The written decision of the director and a copy of the Record of Survey must be recorded at the applicant's expense.
- C. Any affected person who is aggrieved by the director's decision may file a written notice of appeal in accordance with Section 07-05-07, Appeal of Administrative Decision.

## 07-17-21: **MINOR REPLATS AND AMENDMENTS:**

This chapter establishes the procedure and requirements for making minor modifications to a previously recorded subdivision plat or portion of a plat, when the modification cannot be accomplished as a simple change to a recorded plat in accordance with subsection 07-1723-19 of this Article. A minor correction on a final plat or an amendment that does not create a new lot or alter the character or purpose of a subdivision, may be made by application to the director who shall determine the validity of the requested correction and record, at the applicant's expense, any approved change. A new Mylar and signature page reflecting the correction or amendment shall be required. Minor modifications include insignificant changes in wording, corrections, adjustments between platted and unplatted parcels, consolidations and lot line adjustments for up to five (5) lots where easements not utilized are adjusted with the lot line.

Substantial changes to a recorded plat must comply with the requirements of 07-1723-13 of this Article, and may not be accomplished through the provisions of this section. Substantial changes include those that would affect the location of roads, septic systems, building envelopes, no-build envelopes, easements or utilities that are currently utilized; adjustments that would create additional lots; adjustments that would affect more than five (5) lots; or significant changes in plat language that might affect a property owner's use of their land, or of commonly held land or easements.

### (1) **Application for Approval of Minor Replat or Amendment:**

- A. A completed application must be submitted to the director with the following documents:
  1. Completed application form signed by the property owners whose land is included in the amended plat or replat, or a notarized letter of authorization by the property owners and a sufficient number of copies, as determined by the director, for each agency/organization reviewing the application, shall be submitted by the applicant.
  2. Fees.
  3. Preliminary title report for all lots to be replatted or amended.
  4. A plat meeting the final plat requirements of 07-1723-13 of this Article and Idaho Code title 50, chapter 13. The title of the plat shall state that it is a replat or an amendment of the subdivision or of the particular lots within the subdivision.
  5. Narrative explaining the proposed changes to the plat.

### (2) **Approval Process and Requirements:** When an application for approval of a minor replat or amendment of a recorded plat is filed the following procedure applies:

- A. The director shall provide a copy of the completed application packet to the affected agencies.
- B. Within thirty-five (35) calendar days of the acceptance of application, the director shall review the relevant evidence in the record and issue findings and an order of decision. The findings shall cite the applicable legal standards; state the evidence and conclusions on which the decision was based; explain any relevant contested facts and the evaluation of these facts; and if the decision is denied, any action the applicant could take to gain approval.
- C. To approve a minor replat or amendment, the director must make a finding that the proposed changes and the plat are in compliance with Idaho Code, title 50, chapter 13 and with the requirements of the County and other agencies; that the proposed changes are not substantial in nature; and that there will be no negative effects on public agencies and private corporations that provide services and facilities for the subdivision.
- D. Within one hundred twenty (120) calendar days of approval, the Mylar plat must be submitted in a form ready to record. The applicant shall obtain all required signatures on the plat. If the plat is not submitted for recordation within one hundred twenty (120) days and an extension is not granted by the director, approval is null and void and a new application must be submitted. The director may grant an extension for good cause.

(3) **Appeal:** Any affected person who is aggrieved by the director's decision may file a written notice of appeal in accordance with Section 07-05-07, Appeal of Director Administrative Decision.

**07-17-23: CHANGES INVOLVING RIGHTS OF WAY IN A RECORDED PLAT:**

Changes to any recorded plat involving a public right of way for public use must be applied for with the highway district having and accepting jurisdiction. Other such applications must be made to the board pursuant to Idaho Code, title 50, chapter 13.

**07-17-25: LOT REQUIREMENTS:**

**Lot Design:** Side lot lines shall be substantially at right angles or radial to street lines, except where another design may be justified.

**07-17-27: EXISTING NATURAL FEATURES:**

Existing natural features which add value to residential development and enhance the attractiveness of the community such as streets, watercourses, historic spots and similar irreplaceable assets shall be given consideration in the design of the subdivision.

**07-17-29: ROAD AND UTILITY IMPROVEMENT REQUIREMENTS:**

(1) **Responsibility of Developer:** Construction of improvements such as private roads and other facilities which are required as a condition to plat approval shall be the responsibility of the developer and shall meet county specifications and standards of construction.

(2) **Irrigation Supply And Distribution Systems:** The developer shall disclose, pursuant to Idaho Code § 31-3805, and file as part of the preliminary plat with DSD, evidence that an adequate irrigation supply and distribution system to serve the land within the plat to be recorded will be provided and must include consideration of using existing water rights that go with the land being platted. Such evidence shall include but not limited to the following:

A. Copies of the plans of the proposed distribution system for the lots and areas to be served in the proposed development; and

B. Copies of the community association or similar organization's documents which may be required precedent to the establishment of an irrigation distribution system within the proposed development.

(3) **Construction Drawings:** The applicant shall submit to DSD with the application for final plat, construction drawings for all required improvements.

(4) **Bonding:** Prior to the board signing the final plat, all required improvements shall be constructed and a certificate of completion shall be secured from the County unless a surety bond or other acceptable guarantee of performance to ensure the actual construction of such improvements as submitted and approved is filed with the County Clerk. Such surety bond or other guarantee shall be in the amount of one hundred twenty (120) percent of the estimated cost of the improvements as determined by the County. The improvements when covered by a surety bond shall be constructed within two (2) years from the date of recording of the final plat; provided, however, the board may extend the period one (1) year upon showing of just cause by the developer.

(5) **Record Plans And Specifications:**

A. Prior to acceptance by the County of any improvements installed by the developer, two (2) sets of prints of the approved "record" plans and specifications shall be certified by the developer's engineer and filed with DSD.

B. Within ten (10) calendar days after completion of improvements and submission of "record" plans in accordance with county specifications, the applicant's engineer shall certify the completion and acceptance of the construction and shall transmit a copy of the said certification to the developer. If a surety bond or guarantee agreement has been executed by the developer, the same shall be forwarded to the county clerk. The county clerk shall thereafter release said surety bond or guarantee upon application by the developer upon proof that the improvements have been completed.

**07-17-31: REQUIRED IMPROVEMENTS:**

- (1) **Road Improvements:** Private roads must be a numbered lot and constructed in accordance with 07-10-03
- (2) The commission or hearing examiner may recommend and the board may require improvements in the subdivision, for example curbs, gutters, sidewalks, streetlights, ribbon curbing, swales, and storm-water retention and disposal.
- (3) **Road Names:** Road name signs and traffic-control signs shall be installed by the developer, in appropriate locations such as where roads and streets intersect and are approved by the local highway district having jurisdiction.
- (4) **Curb, Gutters and Sidewalk Improvements (if required):** Curbs and gutters may be either rolled or vertical style. They must be a minimum width of two (2) feet. Sidewalks must be a minimum width of four (4) feet. Both curb and gutter shall be constructed using three quarter (3/4) inch aggregate in the concrete mix.
- (5) All other improvements required as conditions of approval shall be completed.

07-17-33: **SPECIAL DEVELOPMENTS:**

The purpose of this section is to identify various types of special developments that normally pose special concerns to the commission and the board when reviewing and acting upon subdivision requests. The provisions of this article are in addition to other applicable requirements of these subdivision regulations. Required information shall be submitted to the DSD with the preliminary plat.

(1) **Hillside Development:**

A. **Hillside Development Evaluation:**

1. All hillside development proposals shall give consideration to desirable land use planning, soil mechanics, engineering geology, hydrology, and civil engineering. The evaluation includes, but is not limited to:
  - a. Planning of development to fit the topography, soils, geology, hydrology and other conditions existing on the proposed site;
  - b. Orienting development to the site so that grading and other site preparation is kept to a minimum; i.e., use of building or road envelopes, and no build areas.;
  - c. Shaping of essential grading to complement the natural land forms and to minimize padding and terracing of building sites;
  - d. Division of land tracts into smaller workable units on which construction can be completed within one (1) construction season so that large areas are not left bare and exposed during the winter-spring runoff period; and
  - e. Completion of paving as rapidly as possible after grading.
2. Areas having soil, geology or hydrology hazards shall not be developed unless it is shown that their limitations can be overcome; that hazard to life or property will not exist; and that the safety, use or stability of a public way or drainage channel is not jeopardized.

B. **Required Data:** The developer shall retain professional expertise to obtain the following information which is required by the commission:

1. **Soil Reports:** For any proposed hillside development, a soils report shall be submitted with the preliminary plat. 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 Reports:** For any proposed hillside development, a geology report shall be submitted with the preliminary plat. 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 actions.

3. **Hydrology Report:**

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

C. **Grading and Drainage Plan:**

1. A preliminary grading and drainage plan shall be submitted with each hillside preliminary plat 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 material that is 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 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) calendar days prior to the grading.

D. **Development Standards:**

1. **Soils:**
  - a. Fill areas shall be prepared by removing organic material, 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.
  - b. Cuts and fills shall be designed to provide safety, stability and adequate setback from property lines in accordance with county standards drawings and specifications.
2. **Roadways:**
  - a. Road alignments shall reasonably follow natural terrain and no unnecessary cuts or fills shall be allowed.
  - b. One-way streets, in interior subdivision roads only, shall be permitted and encouraged where appropriate for the terrain and when public safety would not be jeopardized. When approved by the county the one-way street may have a thirty (30) foot right-of-way instead of a sixty (60) foot right-of-way.

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

d. Ribbon curbing and swales or concrete curb and gutter shall be installed along both sides of paved roadways, when required by the board.

e. A pedestrian walkway plan may be required.

3. **Driveways And Parking Areas:** Combinations of collective private driveways, cluster parking areas and on-street, parallel parking ways may be used to attempt to optimize the objectives of minimum soil disturbance, minimize impervious cover, and enhance the excellence of design and aesthetic sensitivity.

E. **Vegetation and Revegetation:**

1. The developer shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation, the 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 effects of such operations, including the effects it may have on slope stability, soil erosion, water quality and fish and wildlife.

2. Vegetation sufficient to stabilize the soils 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 developer shall be fully responsible for any destruction of native vegetation proposed and approved for retention. He shall carry the responsibility both for his own employees and for all subcontractors from the first day of construction until the notice of completion is filed. The developer shall be responsible for replacing such destroyed vegetation in kind or its equivalent.

F. **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 chapter, shall continuously maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures or means, and other protective devices, plantings and ground cover installed or completed.

(2) **Condominium and Planned Unit Developments:**

A. **Site Development Plan:** The applicant shall provide the commission with a site plan, elevations, perspective drawings and such other illustrated information at a scale to be determined by DSD to show the proposed development that will include at least the following:

1. Site Plan;
2. Plat showing lots, including common lots and roads;
3. Architectural styles and building design concepts;
4. Architectural materials and colors;
5. Type of landscaping;
6. Screening, if proposed;
7. Type of solid waste facilities;
8. Parking concept; and
9. Open space areas.

B. **Storage Areas:** Storage areas shall be provided for the anticipated needs of boats, campers and trailers. For typical residential development, one (1) adequate space shall be provided for every three (3) living units. This may be reduced by the commission if there is a showing that the needs of a particular development are less.

C. **Parking Space:** One (1) additional parking space beyond that which is required by the zoning regulations may be required for every three (3) dwelling units to accommodate visitor parking.

D. **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.

**(3) Subdivision Within A Flood Plain shall comply with § of this chapter.**

**A. Flood Areas:**

1. For any proposed subdivision that is located within a flood plain, the developer shall provide the commission with a development plan of adequate scale and supporting documentation that will show and explain at least the following:

a. Location of all planned improvements;

b. The location of floodways and the floodway fringe in accordance with sound engineering practices;

c. The location of the present water channel;

d. Any planned rerouting of waterways;

e. All major drainage ways;

f. Areas of frequent flooding;

g. Means of flood proofing buildings; and

h. Means of insuring loans for improvements within the flood plain.

2. To give additional guidance in approving any proposed subdivision within a flood plain, the commission shall review proposed developments considering the new construction and substantial improvements of residential structures within the flood plain shall have the lowest floor (including basement) elevated to or above the level of the one hundred (100) year flood; and for new construction or substantial improvements of nonresidential structures, the lowest floor (including basement) shall be elevated to or above the level of the one hundred (100) year flood, or together with attendant utility and sanitary facilities, shall be floodproofed up to the level of the one hundred (100) year flood.

B. **Justification For Development:** Upon determination that buildings are planned within the flood plain or that alternations of any kind are anticipated within the flood plain area that will alter the flow of water, the developer shall demonstrate conclusively that such development will not present a hazard to life or limb, hazard to property, adverse affects on the safety, use or stability of a public way or drainage channel and not have an adverse impact on the natural environment. Justification shall be submitted in letter form with the preliminary plat.

**C. Appropriateness Of Subdivision:**

1. In determining the appropriateness of subdivision for land located within the flood plain, the presiding party and board shall consider the objectives of this chapter and at least the following upon consideration of the preliminary plat:

a. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses;

b. The danger that intended uses may be swept on the other lands or downstream to the injury of others;

- c. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- e. The importance of the services provided by the proposed facility to the community;
- f. The requirements of the subdivision for a waterfront location;
- g. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
- h. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;
- i. The relationship of the proposed subdivision to the comprehensive plan and any flood plain management programs for the area;
- j. The safety of access to the property for emergency vehicles in times of flood;
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
- l. The cost of providing governmental services during the after flood conditions including maintenance and repair of public utilities such as sewer, gas, electrical and water systems, and streets and bridges.

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

**D. Floodproofing Plans:** Floodproofing plans must be individually approved by the board upon recommendation from the commission before such uses are constructed. Floodproofing may include, but not limited to, the following:

1. Anchorage to resist flotation and lateral movement;
2. Installation of watertight doors, bulkheads and shutters or similar methods of closure;
3. Reinforcement of walls to resist water pressure;
4. Use of paints, membranes or mortars to reduce seepage of water through walls;
5. Addition of mass or weight to structures to resist flotation;
6. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation walls and basement flood pressures;
7. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters;
8. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;
9. Building design and construction to resist rupture or collapse caused by water pressure or floating debris;
10. Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and storm waters into buildings or structures;

11. Location and installation of all electrical equipment, circuits and electrical appliances so that they are protected from inundation by the regulatory flood; and

12. Location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic material which could be hazardous to public health, safety and welfare at elevations above the height associated with the regulatory protection elevation or design of such facilities to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

(4) **Subdivision For A Cemetery:**

A. **Function:** The developer shall provide the county with written documentation that will sufficiently explain if the proposed cemetery will be used for either human or animal remains and the functions that are anticipated on the property.

B. **Compliance With Idaho Code Required:** The developer shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural platting requirements and management requirements that are outlined in Idaho Code, title 27.

(5) **Areas of Critical Concern:**

A. **General:** The development of any hazardous or unique areas that have previously been designated as areas of critical concern by the board, as provided by Idaho Code, may need special consideration by the applicant, as determined by the board, to assure that the development is necessary and desirable in the public interest in view of the existing unique conditions. Areas that may be designated by the board, through due process, as hazardous or unique may be as follows:

1. Unstable soils;
2. Scenic areas;
3. Historical significance areas;
4. Flood plains; and
5. Other areas of critical concern.

B. **Plan Submission:** The applicant, if required, shall prepare and submit an environmental assessment statement for those areas as above noted and designated by the board along with the preliminary plat application.

C. **Content Of Environmental Assessment Statement:** The content of the environmental assessment statement, if required, shall usually be prepared by professional(s) that will provide answers to the following questions:

1. What detrimental environmental effect may occur as a result of the proposed development?
2. What corrective action or alternative plans could be developed so as not to significantly cause detrimental environmental effects?
3. What adverse effects of the proposed development cannot be mitigated?

07-17-35: **SUBDIVISION/EASEMENT VACATIONS:**

(1) Any property owner desiring to have an existing subdivision vacated, in whole or part, including easements, shall complete and file an application along with any fees with DSD and also file such other applications as are otherwise required by law.

(2) Upon receipt of the completed application and other information as may be required, DSD shall affix the date of application acceptance thereon. The application shall be considered by the commission at a public hearing noticed as provided for in Article 5 of this chapter. Vacations shall be processed in accord with the regulations set forth in Idaho Code § 50-1306A and recorded in accord with the regulations set forth in Idaho Code § 50-1324.

(3) The commission shall review the request and any agency response and make a recommendation to the board for approval, conditional approval or denial.

**07-17-37: MINERAL EXTRACTION:**

Short term mineral extraction is allowed during the process of subdivision construction following the provisions of Article 18. The six (6) month time limit shall apply to extraction during each phase as shown on the approved preliminary plat.

**ARTICLE 18**

**ADMINISTRATIVE LAND DECISION**

**SECTION:**

07-18-01: Regulations for Administrative Land Divisions for All Zones

07-18-03: Administrative Division and Relocation of Building Permits Between Contiguous Parcels In Agricultural Zone

07-18-05: Land Divided By Judicial Division (Court Order)

07-18-07: Property Boundary Adjustment

**07-18-01: REGULATIONS FOR ADMINISTRATIVE LAND DIVISIONS FOR ALL ZONES**

- (1) An administrative land division of an original parcel is allowed in accordance with the following:
  - A. For land zoned "A" (Agriculture), the minimum parcel size is one (1) acre and an administrative land division of an original parcel is allowed in accordance with the following:

Less than 80 acres:	Two (2) residential parcels
80 to 119 acres:	Three (3) residential parcels
More than 120 acres:	Four (4) residential parcels
  - B. For all other zones land may be divided into no more than four (4) parcels through the administrative land division process. The minimum parcel or lot area shall be subject to the minimum lot size provisions of Section 07-10-21(2).
- (2) Approval: If the application and its attachments meet the requirements of this chapter, the director shall approve the land division.
- (3) One-Time Only Division: Once an administrative land division has been approved, there shall be no other administrative land divisions from that land regardless of ownership of any of the land involved, unless allowed pursuant to Section 07-18-03 for a relocation of building permits between contiguous parcels in an agricultural zone.
- (4) If the land division does not qualify as an exception under the subdivision standards of Article 17, section 07-17-03 (3), then all regulations of Article 17 shall apply.

**07-18-03: ADMINISTRATIVE DIVISION AND RELOCATION OF BUILDING PERMITS BETWEEN CONTIGUOUS PARCELS IN AN AGRICULTURAL ZONE:**

- (1) The director shall have the authority to relocate available residential building permits between said contiguous parcels for the purpose of clustering said residential building permits on a destination parcel.
- (2) **Minimum Parcel or Lot Area:** The minimum parcel or lot area of this section shall be one (1) acre.
- (3) **Notifications:** Upon acceptance of an application, DSD shall by mail, provide notification of the proposed relocation to the owners of parcels which are contiguous to the destination parcel and to the owners of parcels which

are within three hundred (300) feet of the external boundaries of the destination parcel and shall provide such individuals a period of fifteen (15) calendar days from the date of the certified mailing, to submit comments concerning the proposed relocation.

(4) **Evaluation and Determination Of Application:** The director shall consider all comments that are received within the fifteen (15) day comment period prior to making a final decision concerning the relocation request. In considering comments, the director shall evaluate whether such comments articulate and demonstrate that the parcel is eligible for the relocation of building permits. The director shall evaluate each application on an individual basis and shall exercise discretion in determining whether or not to approve such an application with consideration given to each of the following requirements:

- A. The originating and destination parcels must be contiguous. "Contiguous" means touching at a point or along a boundary, including parcels divided by railroad, public right of way, canal, ditch, river, or stream; and
- B. The same person or entity must have one hundred (100) percent ownership interest in both the originating parcels and the destination parcel. "Originating parcel" means the parcel from which the residential building permit is removed; "destination parcel" is the parcel to which the residential building permit is moved; and
- C. The originating parcels must be eligible for an administrative land division under this article or have a building permit available; and
- D. The relocation uses the originating parcel's administrative land division/building permit and no other administrative land division is available for the parcel; and
- E. The relocation must demonstrate at least one of the following:
  1. Promotion of effective or efficient farming: If the applicant demonstrates that the relocation would create a more cost effective or efficient method of farming the originating parcels or make them more viable for the production of crops; or
  2. Clustering of structures;
- F. Deliberate action to withhold productive farm ground from production strictly in order to qualify for administrative relocation of building permits pursuant to this subsection shall disqualify such farm ground from treatment under this subsection.

(5) **Approval, Division Of Destination Parcel:**

- A. The size, shape, and location of the destination parcel, as well as the parcels to which it will be divided into, shall be subject to the approval of the director.
- B. If the application meets the requirements of this subsection, the director may approve the division of the destination parcel into no more than four (4) parcels. The director may attach limiting conditions to the approval.
- C. If the request is approved, the director shall issue a letter of approval setting forth the details and requirements of the division including the size, shape, and location of the destination parcel.
- D. The director shall give notice of the decision granting or denying the application, to those previously notified of the pending application.

(6) **Appeal by Affected Person:** Any affected person who is aggrieved by the decision may file a written notice of appeal in accordance with Section 07-05-07.

(7) **One Time Only Division:** Once an administrative land division has been approved, there shall be no other administrative land division from that land regardless of ownership of any of the land involved.

(8) **Required Language on Approvals:** Language from the Idaho Right to Farm Act (Idaho Code ' 22-4503) shall appear on administrative land division approvals.

(9) If the land division does not qualify as an exception under the subdivision standards of Article 17, section 07-

17-03 (3), then all regulations of Article 17 shall apply.

**07-18-05: LAND DIVIDED BY JUDICIAL DIVISION (COURT ORDER)**

- (1) Land divided by a judicial order shall be considered an authorized land division.
- (2) If the parcel being divided by court order has an administrative land division available, the division by the court is the same as if DSD had approved it with an administrative land division, even if the resulting parcel sizes are not consistent with normal land division provisions. No application for an administrative land division is required.
- (3) If the parcel being divided is eligible for a residential building permit, but does not have an administrative land division available, the court ordered division creates a building permit for each parcel, but does not render any of the new parcels eligible for an administrative land division.
- (4) If the parcel being divided does not have any building permits or administrative land divisions available, the parcels created by court order will not be eligible for building permits or administrative land divisions unless land use approval is granted in accordance with the provisions of this Chapter.
- (5) If the land division does not qualify as an exception under the subdivision standards of Article 17, section 07-17-03 (3), then all regulations of Article 17 shall apply.

ARTICLE 19

**PENALTIES AND ENFORCEMENT**

SECTION:

07-19-01: Penalties

07-19-03: Enforcement Procedures

07-19-05: Effective Date

07-19-01: **PENALTIES:**

Each violation of this Chapter is a misdemeanor. Each day that work or land use continues after notification of violation shall constitute a separate offense, and each violation shall be punishable as provided in Idaho Code § 18-113.

07-19-03: **ENFORCEMENT PROCEDURES:**

(1) Whenever DSD determines that a probable violation of this chapter has occurred or is about to occur, it shall notify the board of such probable violation and recommend action that should be taken. Upon knowledge of probable violation, whether or not recommendation has been received from the director or the commission, the board may request that the Canyon County Prosecuting Attorney investigate, and if appropriate, commence action, criminal or civil, to correct the violation and to punish the same.

(2) In the event any use of land or any construction commences in violation of the provisions of this chapter, the County, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful use of land or construction, to restrain, correct or abate such violation or to prevent any illegal act, conduct, construction, business or use of land in or about such premises.

07-19-05: **EFFECTIVE DATE:**

This Ordinance shall take effect and be in full force upon its passage, approval, and publication of the Summary, as provided by law in one (1) issue of the Idaho Press-Tribune.

**ADOPTED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF CANYON COUNTY, IDAHO** this 16<sup>th</sup> day of March, 2011.

APPROVED:

*See Adopted Ordinance for Signatures*

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DAVID J. FERDINAND, II, Chairman

*See Adopted Ordinance for Signatures*

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Kathy Alder, Member

*See Adopted Ordinance for Signatures*

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STEVEN J. RULE, Member

ATTEST: Chris Yamamoto, Clerk

*See Adopted Ordinance for Signatures*

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By: Deputy Clerk

Date: March 16<sup>th</sup>, 2011

Idaho Press-Tribune  
Summary Publication Date: March 21<sup>st</sup>, 2011