

ORDINANCE No. 2007 - 10

SUBDIVISION ORDINANCE

CUSTER COUNTY, IDAHO

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**CUSTER COUNTY, IDAHO
SUBDIVISION ORDINANCE**

AN ORDINANCE ENTITLED "THE CUSTER COUNTY SUBDIVISION ORDINANCE;" PROVIDING FOR THE REGULATION AND CONTROL OF SUBDIVISIONS IN CUSTER COUNTY, IDAHO; ESTABLISHING SUBDIVISION REGULATIONS; PROVIDING FOR THE ADMINISTRATION OF SAID REGULATIONS; PROVIDING FOR SEVERABILITY; DEFINING TERMS USED HEREIN; SETTING OUT THE PROCEDURE FOR APPROVAL OF SUBDIVISION PLATS; ESTABLISHING DESIGN STANDARDS FOR SUBDIVISIONS; ESTABLISHING IMPROVEMENT STANDARDS FOR SUBDIVISIONS; PROVIDING FOR FINANCIAL GUARANTEES IN LIEU OF COMPLETION OF IMPROVEMENTS; ESTABLISHING CRITERIA FOR IDENTIFYING AND ACTING UPON SUBDIVISIONS THAT CONTAIN UNUSUAL OR SPECIAL FEATURES; ESTABLISHING PLAT VACATION AND DEDICATION PROCEDURES; ESTABLISHING VARIANCE PROCEDURES; ESTABLISHING DETECTION AND ENFORCEMENT PROCEDURES; PROVIDING FOR CRIMINAL AND/OR CIVIL REMEDIES FOR VIOLATIONS HEREOF; ESTABLISHING AMENDMENT PROCEDURES; AND PROVIDING FOR AND EFFECTIVE DATE AND REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, IDAHO.

**ARTICLE I
GENERAL PROVISIONS**

SECTION A. TITLE

This ordinance shall be cited as the Subdivision Ordinance of Custer County, Idaho.

SECTION B. PURPOSE

The purposes of these regulations are to promote the public health, safety and general welfare, and to provide for;

1. The harmonious development of the area.
2. The coordination of streets and roads within the subdivision with other existing or planned streets and roads.
3. Adequate open space for travel, light, air and sanitary facilities.

4. Adequate transportation, water drainage and sanitary facilities.
5. The avoidance of scattered subdivision of land would result in either of the following:
 - a. The lack of water supply, sewer service, drainage, transportation, police protection, fire protection, or other public services.
 - b. The unnecessary imposition of an excessive expenditure of public funds for the supply of such services.
6. The requirements as to the extent and the manner which:
 - a. Roads shall be created and improved in accordance with the Custer County transportation plan, and the Lost River Highway District.
 - b. Water and sewer and other utility mains, piping connections, or other facilities shall be installed.
 - c. "Flood areas" are recognized according to FEMA maps and regulated under Custer County ordinance.
7. The manner and form of making and filing of any plat.
8. The administration of these regulations by defining the powers and duties of approval authorities.

SECTION C. JURISDICTION

These regulations shall apply to ~~the subdividing of all land~~ **all subdivisions** within the unincorporated parts of the County, unless negotiation procedures result in a determination to the contrary, and ~~shall include~~ **as well as** the following **situations**:

1. ~~The result of an act of dividing a lot, tract, or parcel of land into five (5) or more parts for the purposes of transfer of ownership, use or development.~~
2. ~~1. The dedication of~~ **Dedicating** any public street or alley through or along any tract of land.
3. ~~2. The redivision~~ **Re-dividing** of an original parcel of land into five (5) or more parcels except as provided in the exceptions listed below. (*Ordinance 2011-02*)

This ordinance shall not apply to any of the following:

1. An adjustment of ownership boundary as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat.
2. An allocation of land in the settlement of an estate of a decedent or a court decree

for the distribution of a decedants property.

3. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code.

4. The acquisition of street right-of-ways by a public agency in conformance with the Comprehensive Plan.

5. The exchange of land for the purpose of straightening property boundaries that does not result in the change of the present land usage or which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat.

6. One division of any original parcel into not more than four (4) parcels, provided that each parcel resulting from such subdivision shall have legal access to an improved and open public right of way.

ARTICLE II DEFINITIONS

SECTION A. INTERPRETATION OF TERMS OR WORDS

Terms or words used herein shall be interpreted as follows:

1. The present tense includes the past or future tense, the singular includes the plural, and the plural includes the singular.
2. The word "shall" is mandatory; "may" is permissive; and the word "should" is preferred.
3. The masculine shall include the feminine.

SECTION B. MEANING OF TERMS OR WORDS

Access: A legally and physically defined area available and practical for motor vehicle ingress and egress to parcels, areas or tracts of land. In determining practicality, the topography, drainage, potential for erosion, and other factors may be considered.

The following are types or forms of access:

- a. State Highway: A public road, including its entire right-of-way, under the jurisdiction of the State of Idaho. Contact: Idaho Transportation Department
- b. County Road: A public road, including its entire right-of-way, under the Jurisdiction of Custer County or within the Lost River Highway District.
- c. City Street: A public road under the jurisdiction of an incorporated city.
- d. Private Road: A road which provides access to parcels, areas or tracts of land and has been approved by the County for use as a private road. A private road shall be considered that portion of a lot or parcel that is used for access purposes as described by an easement. A

private road is not repaired, plowed or otherwise maintained by the County nor can the County contract for its maintenance.

- e. U.S. Forest Service and Bureau of Land Management Roads: A federally owned easement or right-of-way which provide access to federally owned land.

Administrator: An official, having knowledge in the principles and practices of subdividing, who is appointed by the Board to administer this ordinance.

Administrative Action: An action, as allowed by ordinance, that is taken by Planning and Zoning staff and does not need the approval or action of the Planning and Zoning Commission.

Alley: Any thoroughfare at least 10 feet wide and not more than 30 feet wide, which has been dedicated or deeded to the public for public use and affords a secondary means of access to abutting properties.

Applicant: Person, firm, group or organization who makes application for subdivision under this ordinance.

Block: A group of lots, tracts, or parcels within well-defined boundaries, usually streets.

Board: The Board of County Commissioners of Custer County, Idaho.

Building: A structure designed or used as the living quarters for one or more families or a structure designed or used for occupancy by people for commercial, agricultural, or industrial uses.

Building Setback Line: An imaginary line established by a zoning ordinance that requires all buildings to be set back a certain distance from lot lines.

Building Site: An area proposed or provided and improved by grading, filling, excavation or other means for erecting pads for buildings.

Commission: The Planning and Zoning Commission of Custer County, Idaho, as appointed by the Board.

Comprehensive Plan: A Comprehensive Plan or parts thereof, providing for the future growth and improvement of the County and for the general location and coordination of streets and highways, schools and recreation areas, public building sites, and other physical development, which shall have been duly adopted by the Board.

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

Contiguous Parcel or Lot: Any unplatted or platted parcels of land under the same ownership that touch each other. If parcels are separated or divided by platted roads or county and state highways, or by rivers, they shall not be considered contiguous..

County: Custer County, Idaho.

County Engineer: An engineer employed by the County, either as a contracted position or as a County employee.

County Recorder: The office of the County Recorder of Custer County, Idaho.

Dedication: The setting apart of land or interests in land for use by the public by ordinance, resolution, or entry in the official minutes as by the recording of a plat. Dedicated land becomes public land upon the acceptance by the Board.

Developer: The subdivider or authorized agent(s) of the subdivider.

Development Agreement: A written agreement or a written commitment that affects the use of development of a parcel of property that is the subject of a rezone or development request. A written commitment shall also be known as a development agreement.

Dwelling Unit: Space within a dwelling comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one (1) family and its household employees.

Easement: Authorization by a property owner for the use by another or the public and for a specified purpose of any designated part of his property. Also, a right acquired by Prescription.

Engineer: Any person who is licensed or registered in the state to practice professional engineering.

Flood Plain: A floodplain is defined by FEMA maps and controlled through the "Flood Damage Prevention Ordinance" of Custer County.

Lot: An area of land occupied or to be occupied by a building or other structure, or to be used in connection with an activity that is shown as a separately bounded area in a recorded subdivision plat or deed.

Lot Area: The area of any lot shall be determined exclusive of street, highway, alley, road, or other rights of way.

Lot Types: As used in these regulations, lot types are as follows:

- a. Corner Lot is a lot located at the intersection of two or more streets.
- b. Interior Lot is a lot other than a corner lot, with frontage on only one street.
- c. Through Lot is a lot with frontage on more than one street other than a corner lot.

Mobile Home: A transportable structure which is at least 10 body feet in width and 40 body feet in length, 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. No mobile home may be placed on a single-family lot within the County after the effective date of this ordinance unless it meets the rehabilitation standards as specified in Title 44 of the Idaho Code. Mobile homes do not include recreational vehicles.

Manufactured/Mobile Home Park: Any site or tract of land under single ownership, upon which two (2) or more mobile home habitations are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of such park.

Monument: Any permanent marker either concrete, galvanized iron pipe, iron or steel rods, used to identify any tract, parcel, lot or street lines.

Open Space: An area open to the sky for outdoor recreation activity, exclusive of streets, buildings, or other covered structures.

Original Parcel: A lot or tract as recorded on any plat or record on file in the office of the County Recorder, or any unplatted contiguous parcel of land held in one ownership and of record as of November 10, 2003. The original vested owner retains original parcel date and rights.

Owner: The individual, firm, association, syndicate, partnership, trust, or corporation or any other entity having any interest in the land to be subdivided.

Parcel: An area of land under one ownership.

Performance Bond or Surety Bond: A financial guarantee by a subdivider or developer with the county in the amount of 150% of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the agreement paid to the Custer County Clerk and Recorder.

Planned Unit Development Subdivision: A subdivision designed as a combination of residential, recreational, commercial and industrial uses planned for a tract of land to be developed as a unit under single ownership or control, which is developed for the purpose of selling individual lots or estates, whether fronting on private or dedicated streets, which may include two or more principal buildings.

Plat: A map of a subdivision.

- a. Preliminary Plat A preliminary map, including supporting data, indicating a proposed subdivision development, prepared in accordance with this ordinance and the Idaho Code.
- b. Final Plat - A map of all or part of a sub-division providing substantial conformance to an approved preliminary plat, prepared by a registered engineer and surveyor in accordance with this ordinance and the Idaho Code.
- c. Recorded Plat - A final plat bearing all of the certificates of approval required in this ordinance and duly recorded in the County.

Recreational Vehicle: A vehicular type unit primarily designed as temporary living quarters, which is less than 10 body feet in width and is less than 45 body feet in length, for recreational, camping, or traveling use, which either has its own motive power or is mounted on or drawn by

another vehicle. The basic entities are: travel trailers, camping trailers, truck camper, fifth wheel camper and motor home.

Recreational Vehicle Lot: A parcel of ground in a recreational vehicle park intended to be rented as a place to park a recreational vehicle for temporary dwelling purposes.

Recreational Vehicle Park: A tract of ground under unified ownership developed for the purpose of providing rental space for parking of recreational vehicles on individual spaces within its confines.

Right-of-way: A strip of land dedicated or reserved for use as a public way, which normally includes streets, sidewalks and other public utilities or service areas.

Sawtooth National Recreation Area (SNRA): The SNRA was created by Congress in 1972 as Public Law 92-400. The SNRA includes 756,000 acres in central Idaho of which 475,600 acres are located in the western part of Custer County. Large portions of the Stanley Basin, Sawtooth Valley and the Sawtooth Mountains Range are included. The privately owned ground consists of 20,000 acres and is federally regulated in the SNRA.

Standard Specifications: Those specifications and drawings pertaining to the construction of streets, curb and gutter, sidewalk, sewers, water lines, fire hydrants, utilities, or other improvements within a subdivision as may be adopted by resolution of the Board.

Street/Road A right-of-way which provides access to adjacent properties, the dedication of which has been officially accepted. The term "street" also includes the terms highway, thoroughfares, parkway, road, avenue, boulevard, lane, place and other such terms.

- a. Alley - Any thoroughfare at least 10 feet wide and not more than 30 feet wide which has been dedicated or deeded to the public for public use and which affords a secondary means of access to abutting properties..
- b. Local - A street providing direct access to residential, commercial, industrial, or other abutting land and for local traffic movements and connects to collector and/or major street.
- d. Arterial - A general term including expressways and major arterial streets; and interstate, state or county highways having regional continuity.
- e. Loop - A local street with both terminal points on the street of origin.
- f. Cul-de-sac - A street connected to another street at one end only and provided with a turn-around space at its terminus.
- g. Frontage - A local street, parallel to and adjacent to an arterial street to provide access to abutting properties.
- h. Partial - A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.
- i. Private - A street that is not accepted for public use or maintenance that provides vehicular and pedestrian access.

- j. State Highway: A public road, including its entire right-of-way, under the jurisdiction of the State of Idaho. Contact: Idaho Transportation Department
- k. County Road: A public road, including its entire right-of-way, under the Jurisdiction of Custer County or within the Lost River Highway District.
- l. City Street: A public road under the jurisdiction of an incorporated city.
- m. Private Road: A road which provides access to parcels, areas or tracts of land and has been approved by the County for use as a private road. A private road shall be considered that portion of a lot or parcel that is used for access purposes as described by an easement. A private road is not repaired, plowed or otherwise maintained by the County nor can the County contract for its maintenance.
- n. U.S. Forest Service Road and the Bureau of Land Management: A federally owned easement or right-of-way which provide access to federally owned land.
- o. Collector - A street providing for traffic movement within neighborhoods of the County and between major

State: The State of Idaho.

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

Subdivision: ~~The division of any original parcel of land or property as more fully defined in Article I of this ordinance.~~ **The result of an act dividing any lot, tract, or parcel of land into five (5) or more parts to transfer ownership in any part, or to develop any part. (Ordinance 2011-02)**

Utilities: Installations for conducting water, sewage, gas, telephone, electricity, television, storm water, and similar facilities providing service to and used by the public.

Vicinity Map: A small map, drawn to scale, which indicates the location of the area to be platted in relation to other known landmarks, roadways, public buildings, etc., within a three-mile radius.

ARTICLE III PROCEDURE FOR SUBDIVISION APPROVAL

SECTION A. SUBDIVISION APPROVAL REQUIRED

Any person desiring to create a subdivision as herein defined shall submit all necessary applications to the Commission. No final plat shall be filed with the County or improvements made on the property until the plat has been acted upon by the Commission and conditionally approved by the Board. No lots shall be sold until the plat has been recorded in the office of the County Recorder.

SECTION B. PRELIMINARY PLAT

1. APPLICATION: The subdivider shall file with the Commission a complete subdivision application form and Preliminary plat data as required by this ordinance.

2. COMBINING PRELIMINARY AND FINAL PLATS: The applicant may request that the subdivision application be processed as both a preliminary and final plat if all the following exists:

- a. The proposed subdivision does not exceed ten (10) lots, and all lots have legal access.
- b. No new public and private street dedicating or street widening is involved.
- c. No major special development considerations are involved such as development in flood plain, hillside development or the like.
- d. All required information for both preliminary and final plat is complete and in an acceptable form.

A request to combine both preliminary plat and final plat into one application shall be acted upon by the Commission.

3. CONTENT OF PRELIMINARY PLAT: The contents of the preliminary plat and related information shall be in such a form as required by this ordinance; however, any additional maps or data deemed necessary by the Commission may also be required.

The subdivider shall submit to the Commission at least the following:

- a. Eight (8) copies of the Preliminary Plat of the proposed subdivision, drawn in accordance with the requirements hereinafter stated; each copy of the Preliminary Plat shall be on good quality paper, shall have dimensions of not less than 24 inches by 36 inches, shall be drawn to scale of not less than one (1) inch to (two) hundred (200) feet unless written waiver for a modified scale is obtained from the Commission.
- b. Appropriate information that sufficiently details the proposed development within any special development area, such as hillside, planned unit development, flood plain, mobile home, large-scale development, hazardous and unique areas of development.

4. REQUIREMENTS OF PRELIMINARY PLATS: The following shall be shown on the Preliminary Plat or shall be submitted separately:

- a. The name of the proposed subdivision.
- b. The names, addresses and telephone numbers of the subdivider or subdividers and the engineer or surveyor who prepared the plat.
- c. The name and address of all adjoining owners of property, whether or not bisected by a public right-of-way as shown on record in the County Assessor's Office.

- d. The legal description of the subdivision.
- e. Scale, north point, and date of preparation including dates of any subsequent revisions.
- f. A statement of the intended use of the proposed subdivision, such as: residential single family; or two family and multiple housing; commercial; industrial; recreational; or agricultural and showing of any sites proposed for parks, play-grounds, schools; churches or other public uses.
- g. A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development.
- h. A vicinity map showing the relationship of the proposed plat to the surrounding area (2 mile minimum radius, scale optional).
- i. The land use and existing zoning of the proposed subdivision and the adjacent land.
- j. Topography by contours related to USGS survey datum, or other datum approved by the County Engineer or Commission, or other water features; direction of flow; location and extent of areas subject to inundation whether such inundation be frequent, periodic, or occasional.
- k. Location of water wells, streams, canals, irrigation laterals, private ditches, washes, lakes, or other water features; direction of flow; location and extent of areas subject to inundation whether such inundation be frequent, periodic, or occasional.
- l. Location, widths, and names of all presently existing platted, streets, railroad, utility rights-of-way of public record, public areas, permanent structures to remain, water wells, and municipal corporation lines.
- m. The acreage of the tract proposed to be subdivided.
- n. Name, book, and page numbers of any recorded adjacent subdivision having common boundary with the tract proposed to be subdivided.
- o. Street layout, including location, width, and proposed names of street, alleys, crosswalks and easements; connections to adjoining platted tracts.
- p. Lot lines and block showing the dimensions and numbers of each.
- q. A site report as required by the appropriate health district where individual wells or septic tanks are proposed.
- r. A statement designating the method of disposal of sewage within the subdivision and a statement indicating the method by which culinary water will be provided to all lots within the proposed subdivision. A written statement of approval from the District Health Department as to the proposed water supply and sewage disposal system shall accompany the preliminary plat.

- s. A preliminary calculation and layout of the proposed system for storm water disposal and locations of outlets subject to approval of the County Engineer or Commission.
- t. Any additional information as required by the Commission after review of the pre-application.
- u. A written statement as to whether a variance will be requested with respect to any provision of this ordinance, describing the particular provision, the variance requested, and the reasons therefor.
- v. All other requirements under sections 50-1301 through 50-1334 of Idaho Code.

5. FEE: Fees shall be set by resolution of the Board.

6. CERTIFICATION: Upon receipt of the preliminary plat, and all required data as provided herein, the County shall certify the application as complete and shall affix the date of application acceptance thereon. Said preliminary plat shall therefore be placed on the Commission agenda for consideration at the next available regular meeting of the Commission.

7. AGENCY REVIEW: The County may transmit one (1) copy of the application to county departments and such other agencies that have jurisdiction or an interest in the proposed subdivision for their review and recommendations. This shall include:

- a. Other governing bodies having joint jurisdiction.
- b. The appropriate utility companies, irrigation companies or districts and drainage districts.
- c. The superintendent of the school district.
- d. All public safety departments including fire and law enforcement.
- e. Other agencies having an interest in the proposed subdivision as suggested on the application form including:
 - Idaho Transportation Department
 - Health Department - -
 - Assessor
 - Planning and Zoning
 - Engineer
 - Custer County and Lost River Highway District

If no written reply is received by the county from any of the various departments or interested agencies within ten (10) business days from the date of notification, approval of the preliminary plat by such department or agency will be considered to be granted.

8. PUBLICATION NOTIFICATION:

- a. NOTIFICATION TO PROPERTY OWNERS: At least fifteen (15) days prior to the hearing notice of the time and place and a summary of the proposal

shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall also be provided to property owners and residents within the land being considered, three hundred (300) feet beyond the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed development as determined by the Commission. When notice is required to two hundred (200) or more property owners or residents, in lieu of the mailing notification, three (3) notices in the newspaper or paper of general circulation is sufficient; provided, the third notice appear ten (10) days prior to the public hearing.

9. COMMISSION ACTION:

- a. HEARING BY COMMISSION: Within a reasonable time period following the close of the public hearing, the Commission shall arrive at a decision on the preliminary plat, considering the preliminary plat, written comments from concerned persons and agencies that are part of the record for the hearing, and evidence and testimony submitted at the public hearing.
- b. COMMISSION'S FINDINGS: In determining the acceptance of a proposed subdivision the Commission shall consider the objectives of this ordinance and at least the following:
 - (i) The conformance of the subdivision with the comprehensive development plan and zoning ordinance.
 - (ii) The availability of public services to accommodate the proposed development.
 - (iii) The continuity of the proposed development with the capital improvement program.
 - (iv) The public financial capability of supporting services for the proposed development.
 - (v) The other health, safety or environmental problem that may be brought to the Commission's attention.

10. ACTION ON PRELIMINARY PLAT BY COMMISSION: The Commission may approve, approve conditionally, disapprove, or table the preliminary plat for additional information. Such action shall occur a reasonable time period from the date of the receipt of the recommendation by the planning commission. The action and the reason for such action shall be stated in writing by the Commission, and forwarded to the applicant. The Commission shall also forward a statement of the action taken and the reasons for such action, together with a copy of the preliminary plat to the Board for their information and record.

11. ACTION ON PRELIMINARY PLAT BY BOARD: The Board shall act upon the report of the Commission within a reasonable time period following receipt of the report.

Upon conclusion of the meeting, the Board shall base its findings upon the report of the Commission and within a reasonable time period will declare its findings. It may sustain, modify, or reject the recommendations of the Commission and may make such findings as are not inconsistent with the provisions of this ordinance, the comprehensive plan, and the Idaho Code.

12. APPROVAL PERIOD:

- a. Failure to file and obtain the certification of the acceptance of the final plat application by the Commission within one (1) year after action by the Board shall cause all approvals of said preliminary plat to be null and void, unless an extension of time is applied for by the subdivider and granted by the Commission.
- b. In the event the development of the preliminary plat is made in successive contiguous segments in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of one (1) year may be considered for final approval with resubmission for preliminary plat approval.

13. ACTION ON COMBINED PRELIMINARY AND FINAL PLAT: If after a public hearing the Commission's conclusion is favorable to the subdivider's request for the subdivision to be considered as both a preliminary plat and final subdivision, then a recommendation shall be forwarded to the Board in the same manner as herein specified for a final plat. The Commission may recommend that the combined application be approved, approved conditionally or disapproved.

SECTION D. FINAL PLAT:

1. APPLICATION: After the approval or conditional approval of the preliminary plat, the subdivider may cause the total parcel, or any part thereof, to be surveyed and a final plat prepared in accordance with the approved preliminary plat. The subdivider shall submit to the Commission the following:

- a. Eight (8) copies of the final plat.
- b. Eight (8) copies of the final engineering construction drawings for streets, water, sewer, sidewalks and other improvements.

2. CONTENTS OF FINAL PLAT: The final plat shall include and be in compliance with all items required hereunder and Title 50, Chapter 13 of the Idaho Code. The required dedications, acknowledgments and certifications shall appear on one (1) of the serially numbered sheets. The final plat shall be accompanied by and include the following:

- a. A written application for approval of such final plat as stipulated by the Commission.
- b. Proof of current ownership of the real property included in the proposed final plat.
- c. Conformance with the approved preliminary plat and meeting all requirements or conditions thereof.
- d. Conformance with all requirements and provisions of this ordinance.

- e. Acceptable engineering practices and local standards.
- f. A title which includes the name of the subdivision and its location by number of section, township, range and county.
- g. Name, address, and registration number of seal of the registered professional engineer or registered land surveyor preparing the plat.
- h. Scale, north arrow, and date of plat preparation.
- i. Boundaries of the tract to be subdivided 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.
- j. Any excepted parcel(s) 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.
- k. Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat shall be referenced; each of two (2) corners of the subdivision traverse shall be tied by course and distance to separate section corners or quarter-section corners.
- 1. Location of all physical encroachments upon the boundaries of the tract.
- m. Name, right-of-way lines, courses; lengths, width of all public streets, alleys, crosswalks and utility easements, radii points of tangency and central angles of all curvilinear streets and alleys, radii of all rounded street line intersections.
- n. All drainage ways shall be shown on the plat. The rights-of-way of all major drainage ways, as designated by the County Engineer, shall be dedicated to the public.
- o. All easements for rights-of-way provided public services or utilities and any limitations of the easements. Construction within the easements shall be limited to utilities; and wood, wire or removable section type fencing.
- p. Location and all dimensions of all residential lots.
- q. All residential lots shall be numbered by consecutive numbers throughout the plat. "Exceptions", "tracts", and "private parks" shall be so designated, lettered, or named and clearly dimensioned.
- r. Location, dimensions, bearings, radii, arcs, and central angles of all sites to be dedicated to the public, will be clearly indicated and intended use specified.
- s. Location of all adjoining subdivisions with date, book, and page number of recordation noted, or if unrecorded, so marked.

- t. Any proposed private deed restrictions to be imposed upon the plat or any part or parts thereof pertaining to the intended use of the land shall be typewritten and attached to the plat and to each copy submitted.
- u. Dedication: Statement of dedication of all streets, alleys, crosswalks, drainage ways, pedestrian ways; and other easements for public use by the person holding title of record, by persons holding title as venders under land contract, and by wives of said parties. If lands dedicated are mortgaged the mortgagee shall also sign the plat.

Dedication shall include a written location by section, township, and range, of the tract. If the plat contains private streets, public utilities shall reserve the right to install and maintain utilities in the street rights-of-way.
- v. Acknowledgment of Dedication: Execution of dedication acknowledged and certified by a notary public.
- w. Certification by the registered professional engineer or registered land surveyor making the plat, that the plat is correct and accurate, and that the monuments described in it have been located as described.
- x. Certificate of plat approval by the Commission.

3. FEE: Fees shall be set by resolution of the Board.

4. COMMISSION REVIEW:

- a. HEARING BY COMMISSION: The final plat, prepared in accordance with Title 50, Chapter 13, Idaho Code, and the provisions set forth herein, shall be filed with the Commission.

In the event the final plat does not conform to the approved preliminary plat, the Commission shall so inform the subdivider and proceed to review the plat as if were a preliminary plat.

- b. ACTION OF COMMISSION ON FINAL PLAT: The Commission at its next available regular meeting following receipt of the final plat by the county, shall consider the plat, and following said meeting shall approve, approve conditionally, disapprove or table the final plat for additional information within a reasonable time period from the date of the regular meeting at which the plat is first considered.

5. BOARD ACTION: The final plat, following Commission action and recommendations thereon, shall be submitted to the Board at its next available regular meeting following completion of review by the Commission. The Board shall consider the Commission's findings comments from concerned persons and agencies to arrive at a decision on the final plat. The Board shall approve, approve conditionally, or table the final plat for additional information within a reasonable time period from the date of the meeting at which the plat is first considered.

6. **APPROVAL PERIOD:** Final plat shall be filed with the County Recorder within one (1) year after written approval by the Board, otherwise such approval shall become null and void unless prior to said expiration date an extension of time is applied for by the subdivider and granted by the Board.

7. **METHOD OF RECORDING:** Upon approval of the final plat by the Board, the subdivider's prepayment of recording fees for construction of off-site improvements or posting of surety bond, and the inclusion of the following signatures on the final plat, the Commission shall submit the final plat to the County Recorder for recording:

- a. Certification and signature of the Board verifying the subdivision has been approved.
- b. Certification and signature of the County Clerk, if required, and the County Engineer verifying that the subdivision meets the County requirements and has been approved by the Board.
- c. Certification of the sanitation restrictions on the face of the plat as per Section 50-1326, Idaho Code and by the proper representative of the District Health Department or other authorized state agency.

8. **SALE OF LOTS:** All lots within a subdivision must be sold and developed as platted, approved and recorded.

ARTICLE IV DESIGN STANDARDS

SECTION A. MINIMUM DESIGN STANDARDS REQUIRED

All subdivisions shall conform to the standards of the County Comprehensive Plan, the Zoning Ordinance of the County, Subdivision Ordinance, any standard specifications and drawings for the construction of improvements of the County including the Manual for Highway and Street Standards (Local Highway Technical Assistance Council), and other ordinances and regulations of the County.

SECTION B. STREETS

1. The arrangement, character, extent, width, grade, and location of all streets shall conform to the County Comprehensive Plan, Subdivision Ordinance, and any standard specifications and drawings adopted by the County, transportation plan and Lost Rivers Highway District, and shall be constructed in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their relation to the proposed uses of the land to be served by such streets.

2. Local or minor residential streets shall be designed as to discourage their use by through traffic.

3. Where a subdivision abuts or contains an existing or proposed arterial street, railroad, or limited access highway, the County may require frontage streets, reverse frontage streets, or such other treatment for the appropriate use of the tract.

4. There shall be provided rights-of-way of such width and as provided for in the County

Comprehensive Plan, Subdivision Ordinance, and standard specifications and drawings adopted by the Board, provided, however, that the width of said right-of-way shall in no case be less than set forth in standard specifications and drawings adopted by the County and/or the Lost Rivers Highway District.

5. Cul-de-sac streets shall terminate in a circular turnaround with a right-of-way radius of at least one hundred (100) feet. The Board may approve an equally convenient form of turning space where extreme conditions justify. The maximum length shall be four hundred (400) feet from the entrance to the center of a turn-around or as determined by the Commission based upon topography, lot size or other conditions affecting the proposed subdivision.

6. Dead-end streets will not be approved except in locations designated by the Board as necessary to future extensions in development of adjacent lands. In any case, a dead-end street serving more than four (4) lots shall provide, by easement, a temporary turning circle with a one hundred (100) foot radius or other acceptable design to accomplish adequate access.

7. Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy (70) degrees. Streets intersecting an arterial shall do so at a ninety (90) degree angle.

8. Where any street deflects at an angle of ten (10) degrees or more, a connecting curve shall be required having a minimum center line radius of three hundred (300) feet for arterial and collector streets and one hundred twenty-five (125) feet for local streets.

9. Streets with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

10. A tangent at least one hundred (100) feet long shall be provided between reverse curves for collector and arterial streets.

11. At street intersections, property line centers shall be rounded by a circular arc, said arc having a minimum tangent length of twenty (20) feet.

12. Street intersections with more than four (4) legs and Y-type intersections where legs meet at acute angles shall be avoided.

13. Maximum grades of seven percent (7%) for all streets and roads

SECTION C. BLOCKS

1. Block lengths shall not exceed fifteen hundred (1500) feet nor shall they be less than four hundred (400) feet; except where the average lot size is one-half (1/2) acre or more, in which case the maximum block length may be exceeded.

2. Block designs shall provide for two (2) tiers of lots except under special conditions where this is not feasible or practical.

SECTION D. PEDESTRIAN WALKWAYS

Pedestrian ways with right-of-way widths of eight (8) feet or greater may be required where essential for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

SECTION E. LOTS

1. The lot size, width, depth, shape and orientation and minimum setback lines shall comply with the minimum requirements of the zoning ordinance.
2. The size and shape of lots shall be in conformance to any zoning regulations effective in the area of the proposed subdivision and shall be not less than seventy-five (75) feet in width.
3. Each lot shall contain a. satisfactory building site that is related to topography and conforms to the State Department of Health and Welfare or Eastern Idaho Health District rules and regulations and this Ordinance.

ARTICLE V IMPROVEMENT STANDARDS

SECTION A. RESPONSIBILITY FOR PLANS

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer, a complete set of construction plans, including profiles, cross-section, specifications, and other supporting data, for all required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans that have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with any standards, specifications or drawings adopted by the Board.

SECTION B. REQUIRED IMPROVEMENTS

Every subdivider shall be required to install the following improvements in accordance with the conditions and specifications as follows:

1. **MONUMENTS:** Monuments shall be set in accordance with Section 50-1303, Idaho Code, and pursuant to the standards specifications or drawings as adopted by the Board.
2. **STREETS:** All streets shall be constructed in accordance with the access and construction standards and specifications adopted by the Board.
3. **PUBLIC UTILITIES:** The subdivider shall cause to be constructed public utility lines to the boundaries of all lots within a proposed subdivision, said utilities to include at a minimum, electricity and telephone. Underground utilities are encouraged and may be required by the Commission and the Board.
4. **STORM DRAINAGE:** An adequate storm drainage system shall be required in all subdivisions. The type, extent, location and capacity of said drainage facilities shall be recommended by a registered engineer employed by the subdivider, and approved by the Board. Construction shall follow the specifications and drawings as may be adopted by the Board for storm water drainage.

5. MAINTENANCE AND OPERATION OF PUBLIC WATER SUPPLY AND SEWER SYSTEMS: The subdivider shall provide for a perpetual method of maintenance and operation of the public water supply or sewer system (serving two (2) or more separate premises or households) to insure the continued usefulness of the system.

6. FIRE HYDRANTS AND WATER MAINS: Adequate fire protection shall be required in accordance with the appropriate fire district standards.

7. STREET NAME SIGNS: Street name sign, design, and placement shall be at each street intersection in accordance with county ordinances and rural addressing as set by the county and cities.

8. STREET LIGHTING: Street lights may be required to be installed at intersections throughout the subdivision. A subdivider shall conform to the requirements of the County's Night Sky ordinance and the public utility providing such lighting. Such utilities may be placed underground.

SECTION C. FINANCIAL GUARANTEE ARRANGEMENTS:

1. IMPROVEMENTS REQUIRED: At the time of recording the final plat, the subdivider shall have previously constructed all required improvements before filing of the final plat, the Board may permit the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements.

2. FINANCIAL GUARANTEE ARRANGEMENTS: In lieu of the actual installation of the required public improvements before filing of the final plat, the Board may permit the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements.

3. SURETY BOND:

- a. Accrual: The bond shall accrue to the Board covering construction, operation and maintenance of the specific public improvement.
- b. Amount: The bond shall be in an amount equal to one hundred fifty percent (150%) of the total estimated cost for completing construction of the specific public improvement, as estimated by the County Engineer and approved by the Board.
- c. Term Length: The term length in which the bond is in force shall be for a period to be specified by the Board for the specific public improvement.
- d. Bonding for Surety Company: The bond shall be with a surety company authorized to do business in the State of Idaho, acceptable to the Board.

4. CASH DEPOSIT, CERTIFIED CHECK, CASHIER'S CHECK, OR IRREVOCABLE BANK LETTER OF CREDIT:

- a. Treasurer, Escrow Agent or Trust Company: A cash deposit, certified check, cashier's check, or an irrevocable bank letter of credit, such surety acceptable by the Board shall be deposited with an escrow agent or trust company.
- b. Escrow Time: The escrow time for the cash deposit, certified check, cashier's check, or irrevocable bank letter of credit, shall be for a period to be specified by the Board.

- c. Progressive Payment: In this case of cash deposits or certified checks, an agreement between the board and subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, cashier's check or irrevocable bank letter of credit, to the extent of the cost of the contemplated portion of the public improvement, in accordance with a previously entered into agreement.

5. CONDITIONAL APPROVAL OF FINAL PLAT: With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

- a. The construction of improvements to current standards and required by this ordinance shall have been completed by the subdivider and approved by the Board.
- b. Surety acceptable to the Board shall have been filed in the form of a cash deposit, certified check, cashier's check, irrevocable bank letter of credit or surety bond, in an amount equal to one hundred fifty percent (150%) of the estimated cost of the improvements as determined by the County Engineer or Board.

6. INSPECTION OF PUBLIC IMPROVEMENTS UNDER CONSTRUCTION: Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and Board shall be made to provide for checking or inspecting the construction and its conformity to the submitted plans. Within a reasonable time period after completion of improvements, the Board shall certify the completion acceptance or non-acceptance of the construction and shall transmit a copy of said certification to the subdivider.

No zoning permits will be issued until such improvements are made and accepted or the financial guarantee as specified by the Ordinance is received.

7. PENALTY IN CASE OF FAILURE TO COMPLETE THE CONSTRUCTION OF A PUBLIC IMPROVEMENT:

In the event the subdivider shall, in any case, fail to complete such work within the period of time as required by the conditions of the guarantee for the completion of public improvements, the Board may use any proceeds of the surety bond or other financial guarantee posted by the subdivider for the completion of said public improvements. In order to accomplish this, the Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit or cashier's check which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the Board and the subdivider.

In the event the subdivider fails to construct said improvements as required, and the Board finds it necessary to use the financial guarantee funds for completion of said improvement, the same shall not relieve the subdivider, his agents, officers or employees from liability for completion of the same or for restitution to the Board and County for costs of construction of said improvements.

ARTICLE VI SPECIAL DEVELOPMENT

SECTION A. PLANNED UNIT DEVELOPMENT SUBDIVISIONS

1. GENERAL: Planned unit developments shall be subject to requirements set forth in the zoning ordinance and also subject to all provisions within this ordinance.

2. MINIMUM AREA: A planned unit development for the following principal uses shall contain an area of not less than:

- a. Three (3) acres for residential use.
- b. Five (5) acres for residential use with subordinate commercial use.
- c. Ten (10) acres for commercial use.
- d. Ten (10) acres for industrial use.

3. SITE DEVELOPMENT PLAN: The developer shall provide the Commission with a colored rendering of adequate scale to show the completed development that will include at least the following:

- a. Architectural style and building design
- b. Building materials and color
- c. Landscaping
- d. Screening
- e. Garbage areas
- f. Parking
- g. Open space

4. PRIVATE STREETS: Private street construction standards shall be the same as those required for public streets dedicated to the County.

5. HOMEOWNERS' ASSOCIATION: The Homeowners' Association by-laws and other similar deed restrictions, which provide for the control and maintenance of all common areas, recreation facilities or open space shall be filed with the County.

6. STORAGE AREAS: Storage areas shall be provided for the anticipated needs of boats, campers and trailers. For typical residential development, one adequate space shall be provided every two (2) living units. This may be reduced by the Board if there is a showing that the needs of a particular development are less.

7. MAINTENANCE BUILDING: A maintenance building shall be provided, size and location to be suitable for the service needs that are necessary for the repair and maintenance of all common areas.

8. OPEN SPACE: The location of open space shall be appropriate to the development and shall be of such shape and area to be usable and convenient to the residents of the development.

9. 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.

SECTION B. SUBDIVISION WITHIN A FLOOD PLAIN

1. Any subdivision proposed within a floodplain shall meet all requirements of the “Flood Damage Prevention Ordinance” adopted by Custer County.

SECTION C: HILLSIDE SUBDIVISION

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

- a. Skyline and ridge tops.
- b. Rolling grassy land forms, including knolls, ridges and meadows.
- c. Tree and shrub masses, grass, wildflowers and topsoil.
- d. Rock outcroppings.
- e. Streambeds, draws and drainage swales, especially where tree and plant formations occur.
- e. Characteristic vistas and scenic panoramas.

2. Hillside Development Evaluation

a.. All development proposals shall take into account and shall be judged by the way in which land use planning, soil mechanics, engineering geology, hydrology, civil engineering, environmental and civic design, architectural and landscape design are applied in hillside areas, including but not limited to:

- i. Planning of development to fit the topography soils, geology, hydrology and other conditions existing on the proposed site.
- ii. Orientation of development on the site so that grading and other site preparation is kept to an absolute minimum.
- iii. Shaping of essential grading to blend with natural land forms and to minimize the necessity of padding and/or terracing of building sites.
- iv. Division of large tracts into smaller workable units on which construction can be completed within one construction season so that large areas are not left bare and exposed during the winter-spring runoff period.
- v. Completion of roads built to county standards-
- vi. Allocation of areas not well suited for development because of soil, geology or hydrology limitations for open space and recreation uses.
- vii. Minimizing disruption of existing plant and animal life.
- viii. Consideration of the view from and of the hills.

- b. 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, that the safety, use or stability of a public way or drainage channel is not jeopardized and that the natural environment is not subjected to undue impact.
- 3. Engineering Plans: The developer shall retain a professional engineer to obtain the following information:
 - a. Soils Report: For any proposed hillside development, a soils engineering 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.
 - b. Geology Report:
 - i. 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 remedies.
 - ii. The investigation and subsequent report shall be completed by a professional geologist registered in the State.
 - c. Hydrology Report:
 - d. 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.
 - e. Flood frequency curves shall be provided for the area proposed for development.
- 4. Grading Plan:
 - a. A preliminary grading plan shall be submitted with each hillside preliminary plat proposal and shall include the following information:
 - i. 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.
 - ii. Preliminary plans and approximate locations of all surface and subsurface drainage devices, walks, dams, sediment basins, storage reservoirs and other protective devices to be constructed.
 - iii. A description of methods to be employed in disposing of soils and other material that is removed from the grading site, including the location of the disposal site.
 - b. A final grading plan shall be submitted with each final plat and shall include the following information:

- i. 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.
 - ii. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed.
 - iii. A schedule showing when each stage of the project will be completed, including the total area of soils surface which is to be disturbed during each stage together with estimated starting and completion dates. In no event shall the existing (natural) vegetative ground cover be destroyed, removed or disturbed more than fifteen (15) days prior to grading.
- 5. Development Standards.
 - a. Soils:
 - i. 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; no rock or similar irreducible material with a maximum dimension greater than eight inches (8") shall be used as fill material in fills that are intended to provide structural strength.
 - ii. Fills shall be compacted to at least ninety five percent (95%) of maximum density, as determined by the County Engineer.
 - iii. Cut slopes shall be no steeper than two horizontal to one vertical (2:1); subsurface drainage shall be provided as necessary for stability.
 - iv. Fill slopes shall be no steeper than two horizontal to one vertical (2:1); fill slopes shall not be located on natural slopes two to one (2:1) or steeper or where fill slope toes out within twelve feet (12') horizontally of the top of an existing or planned cut slope.
 - v. Top and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3') plus one-fifth (1/5) of the height of the cut or fill but need not exceed a horizontal distance of ten feet (10'); tops and toes of cut and fill slopes shall be set back from structures a distance of six feet (6') plus one-fifth (1/5) the height of the cut or fill, but need not exceed ten feet (10').
 - vi. The maximum horizontal distance of disturbed soil surface shall not exceed seventy-five feet (75').
 - b. Roadways:
 - i. Road alignments should follow natural terrain, and no unnecessary cuts or fills shall be allowed in order to create additional lots or building sites.
 - ii. One-way streets shall be permitted and encouraged, where appropriate, for the terrain and where public safety would not be jeopardized. Maximum width shall be seventeen feet (17').

- iii. The width of the graded section shall extend three feet (3') beyond the curb back or edge of pavement on both the cut and fill sides of the roadway.
- iv. Standard vertical curb (6 inches) and gutter may be required along both sides of all paved roadways.

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

6. Vegetation and Revegetation:

- a. 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 on slope stability, soil, erosion, water quality and fish and wildlife.
- b. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas as each state of grading is completed. Areas not contained within lot boundaries shall be protected with perennial vegetal cover after all construction 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.
- c. The developer shall be fully responsible for any destruction of native vegetation proposed for restoration. 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.

7. Maintenance: The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved for a zoning permit granted under the provisions of this Title shall continuously maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures or means and other protective devices, plantings and ground cover installed or completed.

8. Utilities: It is encouraged that all new service utilities be placed underground.

SECTION D: CEMETERY SUBDIVISION:

- 1. Function: The developer may provide the Commission with written documentation that will sufficiently explain the functions of the proposed cemetery for either human or animal remains.
- 2. Compliance with Idaho Code: 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 management requirements that are outlined in Title 27, Idaho Code, as amended.

SECTION E: SUBDIVISION WITHIN AN AREA OF CRITICAL CONCERN:

1. General: Hazardous or unique areas may be designated as an area of critical concern by the County Commissioners or by the State. Special consideration shall be given to any proposed development within an area of critical concern to assure that the development is necessary and desirable and in the public interest in view of the existing unique conditions. Hazardous or unique areas that may be designated as areas of critical concern are as follows:

- a. Avalanche paths.
- b. Earthquake locations.
- c. Unstable soils.
- d. Unique animal life.
- e. Unique plant life.
- f. Scenic areas.
- f. Historical significance.
- g. Flood plain.
- h. Other areas of critical concern.

2. Plan Submission: The developer may be required to prepare and submit an environmental assessment or impact statement along with the preliminary plat application for any development that is proposed within an area of critical concern.

3. Content of Environmental Impact Statement: The content of the environmental impact statement shall usually be prepared by an interdisciplinary team of professionals that shall provide answers to the following questions:

- a. What changes will occur to the area of environmental concern as a result of the proposed development?
- b. What corrective action or alternative development plans could occur so as not to significantly change the area of environmental concern?
- c. What changes in the area of environmental concern are unavoidable?
- d. What beneficial or detrimental affect would the development have on the environment (i.e.: animal life, plant life, social concerns, economic noise, visual, and other)?

ARTICLE VII VACATIONS AND DEDICATIONS

SECTION A. APPLICATION PROCEDURE

1. APPLICATION: Any property owner desiring to vacate an existing subdivision, public right-of-way or easement, or desiring to dedicate a street right-of-way or easement shall complete and file an application with the Commission. These provisions shall not apply to the widening of any street that is

shown in the Comprehensive Development Plan, or the dedication of streets, rights-of-ways, or easements to be shown on a recorded subdivision.

ARTICLE IX ENFORCEMENT AND PENALTIES

SECTION A. ENFORCEMENT

No subdivision plat required by this ordinance or the Idaho Code shall be admitted to the public land records of the county or recorded by the County Recorder, until such subdivision plat has received final approval by the Board. The Prosecuting Attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this ordinance.

SECTION B. PENALTIES

Any person, firm, or corporation using an unimproved and unrecorded plat in the sale of subdivided land or violating any of the terms or provisions of this Ordinance or ~~failure~~ **failing** to comply with any of its requirements may be punished by a fine of ~~not more than \$100.00 per lot.~~ **Not less than \$300.00 nor more than \$1,000.00. These fines may be imposed per lot in violation, or per day in violation, or both per day and per lot in violation. (Ordinance 2011-02)**

ARTICLE X REPEAL OF EXISTING ORDINANCES

All ordinances in conflict with this Ordinance are hereby repealed.

ARTICLE XI EFFECTIVE DATE

This ordinance shall take effect after its passage, approval, and publication according to law.

PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, Idaho, this 15th day of May, 2007.

PUBLISHED: 05/24/2007

Wayne F. Butts, Chairman

Attest:

County Clerk