

**Final Draft**  
**Bear Lake County Large Scale Planned Unit Developments**

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**Title:**

This ordinance together with amendments thereto, shall be known and may be cited as the Bear Lake large scale planned unit development (PUD) ordinance.

**Authority and Purpose:**

The ordinance is adopted pursuant to authority granted by Idaho Code Section 67-6501, et seq, and Article 12, Section 2 of the Idaho Constitution. It is enacted for the purpose of protecting and promoting the public health, safety and welfare; to secure the most appropriate use of lands, to encourage flexibility and creativity in the development of land in order to improve the design, character, and quality of new development, and to provide useable open space; to preserve the scenic and aesthetic qualities of lands; to protect property rights and enhance property values; to ensure that adequate public facilities and services are provided; to ensure that the local economy is protected and enhanced; to encourage and promote the development of affordable housing; to ensure that the important environmental features are protected and enhanced; to avoid undue concentration of population and overcrowding of land; to ensure that the development on land is commensurate with the physical characteristics of the land; to protect life and property in areas subject to natural hazards; to protect fish, wildlife, and recreation resources; to avoid undue water and air pollution; and, to protect the quality of life offered by the County and surrounding resources enjoyed by residents and visitors alike.

The provisions for planned unit developments contained herein are intended to encourage the total planning of developments. In order to provide the flexibility necessary to achieve the purposes of this ordinance, specified uses may be permitted subject to the granting of a PUD permit. Because of their unusual or special characteristics, PUD permits require review and evaluation so that they may be located properly with respect to the purposes of this ordinance, the comprehensive plan, and all other applicable ordinances, and with respect to their effects on surrounding properties and the community at large. In the event of conflict between this PUD ordinance and any other ordinance of the county, this PUD ordinance shall control. The review process prescribed in this ordinance is intended to assure compatibility and harmonious development between uses and surrounding properties and the county at large.

**Definitions:**

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

All of the definitions set forth in the Bear Lake Subdivision Ordinance, including subsequent amendments thereto, and Bear Lake Zoning Ordinance, including subsequent amendments thereto, are hereby each adopted by reference as if fully set forth herein, except for the following definitions:

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

**"Adjacent"** means properties which are separated only by intervening rights-of-way, easements or waterways.

**"Adjoining" and "Contiguous"** means properties which share a common boundary.

**"Administrator"** means the planning and zoning administrator of the county of Bear Lake, Idaho.

**"Bear Lake County Area Median Income (AMI)"** means the income categories provided on an annual basis by the U.S. Department of Housing and Urban Development. The AMI is the category that represents households making one hundred (100) percent of the AMI. These figures are compiled and distributed by the Idaho Housing and Finance Association (IHFA).

**“Building Code”** means the current version of the International Building Code, the International Residential Code and the International Energy Conservation Code as adopted by the State of Idaho.

“**Commercial**” means the purchase, sale or other transaction involving the handling or disposition of any article, substance or commodity for livelihood or profit, or the ownership or management of office buildings, offices, recreational or amusement enterprises or the maintenance and use of offices by professions and trades rendering services. Commercial shall not include any transactions of substances or commodities normally associated with industrial uses such as chemicals, food processing, mining, etc.

“**Community Housing**” means that portion of housing within a planned unit development that meets the following minimum requirements:

1. Affordability requirements for ownership and rental units:
  - a. “**Ownership Community or Employee Housing Unit**” means that a unit's selling price shall not exceed the maximum sales prices in which the costs of ownership as set forth below do not exceed 30% of AMI. The costs of an ownership unit include mortgage principal and interest payments, insurance costs, and property taxes. Income Categories 1-4, as set forth in IHFA guidelines, shall be considered appropriate categories for the provision of community or employee housing.
  - b. “**Rental Community or Employee Housing Unit**” means no more than thirty (30) percent of a household's gross monthly income shall go toward housing costs. For a rental dwelling unit, housing costs include a utility allowance (telephone excluded) and monthly rental payments. To be considered affordable, rental units should be made available and priced for households making eighty (80) percent or less of the Bear Lake County AMI.
2. Community housing units must be deed restricted to ensure appropriate income levels served, corresponding sales prices, and long-term affordability.
3. The following combinations may qualify as Community Housing units:
  - Studio Unit = 1/3 of a Community Housing Unit
  - 1 Bedroom Unit = 1/2 of a Community Housing Unit
  - 2 Bedroom Unit = 1 Community Housing Unit
  - 3 Bedroom Unit = 1 1/2 Community Housing Units
  - 4 Bedroom Unit = 2 Community Housing Units

“**Dwelling Unit**” means a room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

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

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

“**Parking Area**” means the entire parking and vehicular circulation area(s) associated with a given project, including parking spaces, access drives, and aisles.

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

**“Residential Density”** means the number of dwelling units allowed in a planned development which is calculated by dividing the gross area, less the land area set aside for nonresidential uses (commercial or public) by the number of dwelling units. The use of land area will be determined by the predominate use of the building. In the event a building does not have a predominate use (i.e. half commercial and half residential), two thousand (2,000) square feet of commercial use shall equal one residential dwelling unit. **“Large Scale Planned Unit Development”** means development of land of not less than five hundred (500) acres in which the standard land use regulations may be modified or waived in order to promote beneficial development of an entire tract of land in conformance with an approved planned unit development permit accentuating useable open space, recreational uses, public amenities, community housing, and harmonious development with surrounding properties and the county at large. For purposes of this ordinance, a large scale planned unit development may be and hereinafter is referred to as a "PUD" or planned unit development.

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

**“Uses”** means those land use classifications as set forth in the Bear Lake comprehensive plan.

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

#### **Applicable Regulations:**

Any person wishing to develop a large planned unit development shall comply with the requirements of this ordinance in addition to the zoning, subdivision and other applicable laws, ordinances, regulations and rules, subject to any modification or waiver granted as part of the planned unit development (PUD) permit. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements.

#### **Planned Unit Development Permit and Zone Change Required:**

Any person wishing to develop a large scale PUD shall obtain a zone change to a PUD zone and shall obtain a PUD permit, as herein provided, prior to any construction, subdivision, or sale of any units, structures or land within the proposed project. A large scale planned unit development shall be considered a separate zoning district within the county. Development shall be permitted only upon issuance of a zone change to a PUD zone and a PUD permit in accordance with this ordinance. The procedure for a zone change is set forth in the Bear Lake County Land Use Ordinances. The zone change may be approved prior to the submittal of the PUD permit application or may be approved in conjunction with a PUD permit application.

#### **Application and Information:**

**A.** An application for approval of a proposed PUD shall be made to the administrator upon forms furnished by the county, and as part thereof shall include thirty copies of the development plan and large block plat. An application shall not be deemed filed until complete and all required review fees paid. The administrator shall declare the date when an application is deemed complete for the purpose of beginning the review process and the time limitations set forth herein.

**B. Application.** The application form shall contain the following information and exhibits:

1. The name, address, mailing address and telephone number of each owner of record of the property, the developer, and the engineer, surveyor, and/or other person preparing the development plan and/or accompanying information or documents. A parcel of property shall be under single ownership or the application shall be consented to in writing acknowledged by all property owners within the development;

2. Legal description of the area;

3. A copy of the proposed articles of incorporation, by-laws of homeowner's association, condominium declarations, and all other agreements, covenants and other provisions which will govern the use, maintenance and assure continued protection of the development;

4. A current title report together with a copy of the owner's recorded deed to said property. A copy of the applicant's option to purchase or unrecorded contract of sale for said property together with the written notarized consent of the owner(s) of record to said PUD shall be sufficient evidence of ownership to allow processing of said application. Withdrawal of consent of an owner of record shall be deemed withdrawal of the application;

5. Development schedule for construction and/or phasing;

6. A list of the owners of the properties within three hundred (300) feet of the exterior boundaries of the proposed project. The owners list shall include the name of all owners, their addresses, and a general description of the property owned by each.

7. Additional information as reasonably required at the discretion of the administrator.

**Conceptual Plan Conference.**

**A.** Prior to filing an application, the applicant shall confer with the administrator to allow the applicant and the staff to informally review the proposal. The conceptual plan conference shall not confer any vested rights upon the developer.

**B.** The topics of discussion may include, but not be limited to:

1. Characteristics of the site and surrounding area; significant natural and man-made features; natural hazards, resource, or other special considerations of the site, services and accessibility of the site; surrounding development and land use; and existing zoning.
2. The nature of the development proposed, including proposed land use, coverages and densities; the placement of proposed buildings and other improvements; the location, type and method of maintenance of common open space or treatment of public use areas; the preservation of natural features; proposed parking areas and internal circulation system, including easements; types of water and sewage treatment systems proposed.
3. Community policy considerations including the review process and likely conformity of the proposed development with the policies and regulations of applicable ordinances.
4. Applicable regulations, review procedures, and submission requirements.

**C. Development Plan.** The development plan and large block plat shall contain the following:

1. The scale, northpoint and date;
2. The name of the proposed development, which shall not be the same or confusing with the name of any subdivision or planned unit development in Bear Lake County;
3. The name, address, mailing address and telephone number of each engineer, surveyor, or other person preparing the development plan and/or accompanying information or documents;
4. The scaled location of existing buildings, water bodies and courses, adjacent streets, alleys, and easements, public and private;
5. Location of zoning districts within the immediate vicinity thereof;
6. The location of existing and proposed street right-of-ways, including dimensions and proposed street names, lots and lot lines, and easements (public and private);
7. The location, size, and proposed use of all land.
8. The location, size, and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed development;
9. The location, size, and type of sanitary and storm sewers, water mains and facilities, culverts, utilities, street improvements, street lighting, curbs, gutters, sidewalk and all other existing and proposed utilities and other surface or subsurface structures within, immediately adjacent to, or proposed to serve the development;

10. The boundaries of the floodplain and floodway areas affecting the development;
11. Building envelopes of proposed structures shall be drawn to scale. If the applicant elects to seek design review approval for the project or a portion thereon under subsection D of this section, the applicant shall comply with the additional requirements of that subsection;
12. Lot area of each lot;
13. A surveyed contour map of the existing topography of the property and a contour map of the proposed development with contour lines at a maximum interval of five feet to show the existing and proposed configuration of the land together with the documentation upon which said contour maps were prepared;
14. A survey plat of the property;
15. A drainage plan showing the location, size and direction of all water courses and drainage flows, all drainage canals and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements relating thereto, whether they are located within or outside of the proposed development;
16. A landscaping plan showing the location and size of existing mature trees, and established shrub masses, and showing the location, size and type of proposed landscaping of the project with particularity;
17. Exterior boundary lines of the property together with dimensions;
18. Location of on-site parking spaces and access thereto, including the dimensions of the spaces and the width and length of access;
19. Tabulation of the percentage of the lot coverage by proposed building, percentage of lot coverage by proposed parking areas and floor area broken down by uses together with the total square footage of the parcel of property;
20. Tabulation of the percentage of passive open space and active open space;
21. Location of existing structures on adjacent properties;
22. Studies may be reasonably required prior to or during the review process by the administrator, Commission or Board of the social, economic, geological, hydrological, fiscal and/or environmental effects of the proposed development;
23. Description of proposed sewer treatment system.
24. A water mitigation plan.

25. Large block plat shall conform to the requirement of subsection E of this section;
26. Additional information as reasonably required at the discretion of the administrator, Commission or Board prior to or during the review process.

**D. Design Review Application.**

An applicant may elect to request design review approval for the structures within the project or the first phase thereof, and in such instances, the applicant shall submit the application, information and fees and receive approval required by the appropriate design review regulations and criteria. Any design review approval issued by the Commission pursuant to this section shall be subject to issuance of a PUD permit by the Board. Any PUD permit granted without design review approval shall apply for and receive subsequent design review approval pursuant to this ordinance. The Board may approve a waiver of the design review process provided that the CC&Rs are detailed enough to allow the Commission and the Board to ensure that a comprehensive design is required for the planned unit development and that design is acceptable. The County may refer any design to a design review professional for review and recommendation, with such fees to be paid by the developer.

**E. Large Block Plat.**

A large block plat shall be prepared in the manner required for subdivision preliminary plats under the applicable ordinance(s). Said large block plat shall include, but not be limited to, maximum allowable densities, types and uses of structures, location of building envelopes, location and dedication of streets, alleys, easements, parks and other public lands. Prior to or as a condition of PUD approval, the applicant shall prepare a final large block plat in the manner required for final subdivision plats under the applicable ordinance(s). Said final large lot plat shall be filed with the office of the Bear Lake County recorder.

**F. Waiver or Deferral of Requirements.**

Waiver or deferral of any of the requirements may be granted by the Board on a case-by-case basis. Application for such waiver or deferral must be in writing and submitted as part of the application for a PUD permit. Such application for waiver or deferral must state with particularity the matters on which the applicant seeks waiver or deferral and that the waiver or deferral would not be detrimental to the public welfare, health and safety nor injurious to property owners in the immediate area. The planning and zoning Commission shall consider the project and make their recommendations to the Board based upon and subject to the waivers they deem appropriate to recommend the Board grant. If the Board grants a waiver or deferral, the PUD permit shall state when, if ever, the requirement that was waived or deferred must be met and what entity or agency has the power to review the requirements. Said PUD permit shall state any such conditions deemed appropriate or necessary by the Board to promote, further, or enforce the applicant's method of guaranteeing the use, rental cost, resale cost for the employee or low-cost housing.

**G. Fees.**



The developer shall pay to the County by depositing with the County administrator certain fees and costs. There shall be a PUD application fee. At the time of submission of an application for a plat, the applicant shall pay a processing fee in accordance with the fee schedule established by the County Commissioners. The County Commissioners shall establish the amount of the preliminary plat fee and shall include pertinent engineering, legal, planning, postage, publication, copying fees and all other costs incurred by the County in processing the application. Such cost reimbursement may exceed the initial estimate. All outstanding fees and cost must be paid before a plat application will be approved. Fees shall be set by resolution. In the event a Housing Authority exists in the PUD area, the fees for community or employee housing units shall be fifty dollars (\$50.00) for units serving Income Categories 1-4 and one hundred dollars (\$100.00) for units serving Income Category 5. The fees shall be paid at the time of and as part of the application and shall not be refundable.

**Standards.**

**A.** The standards set forth in this section shall apply to review of all PUD permit applications. The standards shall be used to review and evaluate the proposal in comparison to the manner of development and effects of permitted uses and standard development allowed on the property in question. Modification or waiver from certain standard zoning and subdivision requirements may be permitted subject to such conditions, limitations and/or additional development standards as provided herein as the Board may prescribe to mitigate adverse impact at the proposed planned unit development, or to further the land use policies of the county, or to ensure that the benefits derived from the development justify a departure from such regulations. Where the Board determines that conditions cannot be devised to achieve the objectives, and/or the standards contained herein are not met, applications for PUD permits shall be denied. The Board shall make findings that each of the following evaluation standards has been met. The evaluation standards are as follows:

1. Minimum lot size of one acre. All land within the development shall be contiguous except for intervening waterways and streets. The Commission may recommend waiver or deferral of the minimum lot size and the Board may grant said waiver or deferral only for projects which:

- a. Provide a minimum of ten (10) percent of community or employee housing, as defined herein;
- b. Guarantee the use, rental prices, or maximum resale prices thereof for community or employee based upon a method proposed by the applicant and approved by the Bear Lake Board; and,
- c. Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof; or,
- d. Include a minimum of twenty-five (25) percent “planned” open space, as defined herein.
- e. Provide dedicated infrastructure for police protection, fire protection and/or medical services.

- f. The creation of a sewer and/or water district that includes the PUD.
  - g. The creation of a grant program to offset increased property taxes to vulnerable populations.
2. That the proposed project will not be detrimental to the present and permitted uses of surrounding areas;
3. That the proposed project will have a beneficial effect not normally achieved by standard subdivision development;
4. The development shall be in harmony with the surrounding area;
5. The aggregate overall allowable residential density of units and uses shall be no greater than one unit per acre. Notwithstanding the above, the Commission may recommend waiver or deferral of the maximum density and the Board may grant additional density above the aggregate overall allowable density only for projects which construct community or employee housing; and which:
- a. Provide a minimum of ten (10) percent of community or employee housing, as herein defined; and,
  - b. Guarantee the use, rental prices, or maximum resale prices thereof based upon a method proposed by the applicant and approved by the Bear Lake County housing authority and/or the Bear Lake Board. Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof, or
  - c. Application for waiver or deferral of this criteria shall include a description of the proposed community or employee housing and the proposed guarantee for the use, rental cost, or resale cost thereof; or,
  - d. Provide a minimum of twenty-five (25) percent "planned" open space, as defined herein.
  - e. Provide dedicated infrastructure for police protection, fire protection and/or medical services.
  - f. The creation of a sewer and/or water district that includes the PUD.
  - g. The creation of a grant program to offset increased property taxes to vulnerable populations.
6. That the proposed vehicular and nonmotorized transportation system:
- a. Is adequate to carry anticipated traffic consistent with existing and future development of surrounding properties;
  - b. Will not generate vehicular traffic to cause "undue congestion" of the public street network within or outside the PUD;
  - c. Is designed to provide automotive and pedestrian safety and convenience;
  - d. Is designed to provide adequate removal, storage and deposition of snow;
  - e. Is designed so that traffic ingress and egress will have the least impact possible on adjacent residential uses. This includes design of roadways and access to connect to

arterial streets wherever possible, and design of ingress, egress and parking areas to have the least impact on surrounding uses.

f. Includes the use of buffers or other physical separations to buffer vehicular movement from adjacent uses;

g. Is designed so that roads are placed so that disturbance of natural features and existing vegetation is minimized;

h. Includes trails and sidewalks that creates an internal circulation system and connect to surrounding trails and walkways.

7. That the plan is in conformance with and promotes the purposes and goals of the comprehensive plan and other applicable ordinances of the county, and not in conflict with the public interest;

a. All of the design review standards shall be carefully analyzed and considered. This includes detailed analysis of building bulk, undulation and other design elements. The site plan should be sensitive to the architecture and scale of the surrounding neighborhood.

b. The influence of the site design on the surrounding neighborhood, including relationship of the site plan with existing structures, streets, traffic flow and adjacent open spaces shall be considered.

c. The site design should cluster units on the most developable and least visually sensitive portion of the site.

8. That the development plan incorporates the site's significant natural features;

9. Substantial buffer planting strips or other barriers are provided where no natural buffers exist;

10. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner;

11. Adequate and useable open space shall be provided. The applicant shall dedicate to the common use of the homeowners or to the public adequate open space in a configuration useable and convenient to the residents of the project. Provision shall be made for adequate and continuing management of all open spaces and common facilities to ensure proper maintenance thereof;

12. Location of buildings, parking areas and common areas shall maximize privacy within the project and in relationship to adjacent properties and protect solar access to adjacent properties;

13. Adequate recreational facilities and/or daycare shall be provided. On-site daycare may be considered to satisfy the adequate recreational facility requirement or may be required in addition to the recreational facilities requirement;

14. There shall be special development objectives and special characteristics of the site or physical conditions that justify the granting of the PUD permit;
15. That no more than fifteen (15%) percent of the gross land area is directed to commercial uses.
16. Important wildlife corridors will be preserved or relocated. If wildlife corridors are relocated, evidence will be submitted that the relocation will not significantly impair wildlife.
17. Adequate provisions are made for solid waste handling, storage and disposal.
18. The development will be completed within a reasonable time;
19. That public services, facilities and utilities are adequate to serve the proposed project and anticipated development within the appropriate service areas;
20. That a plan is provided to ensure that open space areas are adequately maintained.
21. That the project complies with all applicable ordinances, rules and regulations of the County of Bear Lake, Idaho except as modified or waived pursuant to this subsection A.
22. That all structures within the PUD will comply with the International Building Code, the International Residential Code, and the International Energy Conservation Code as set forth in Idaho Code 39-4116. Building code inspections, permitting, and fees shall be imposed as set forth in the International Building Code or as set by resolution of the Board.

**Administrative Review.**

The administrator upon receiving a planned unit development application and fees shall have thirty (30) days to declare same as complete or submit in writing to the applicant all deficiencies that exist with regard to said application not being so declared as complete. The applicant shall have thirty (30) days to cure said deficiencies. If said deficiencies are not cured within said time period, the application shall be deemed denied on the basis of an incomplete application subject to appeal of that administrative decision as provided by the laws of the state of Idaho. Upon declaring that an application is complete, the administrator shall contact the developer to establish a reasonable time schedule for review and determination of the PUD application.

**Planning and Zoning Commission Action.**

Upon receipt of a complete PUD permit application, the administrator shall refer the application and information to the appropriate county departments and other governmental agencies for their review and comment. Said departments and agencies shall have thirty (30) days to review and respond with written comments. Thereafter, the administrator shall have thirty (30) days to review said application and prepare for the first public hearing thereon, including publishing of notice of said public hearing. The

administrator shall place said application on the agenda of the planning and zoning Commission for consideration and at least one public hearing with lawfully required hearing notice. The application shall be reviewed and recommendations made by the Commission to the Board with regard to said application within sixty (60) days from date of the first public hearing unless the Commission makes a finding that due to the complexity of the project, or changes in the proposed project, or the need for additional information or due to weather conditions, adequate review of the project is not possible additional review time is necessary, the length of the extension shall be determined by the Commission based upon relevant factors and evidence before the Commission. The Commission shall make recommended findings together with recommendations, including, but not limited to, recommendation with appropriate conditions or non-recommendation of the application. Thereafter, the permit application together with the record and recommendations of the Commission shall be forwarded to the Board for final action.

### **Board Action.**

**A.** Upon receiving the recommendations of the Commission, the PUD permit application shall be placed upon the agenda of a regular Board meeting. The Board shall review the entire record before the Commission together with their findings and recommendations. The Board may require additional information, including, but not limited to matters not addressed by the Commission. The Board may approve the application and development plan with appropriate conditions, or deny said application within sixty (60) days from the date of the Board meeting at which the Commission's recommendations are received, unless the Board makes a finding that due to the complexity of the project, or changes in the proposed project, or the need for additional information or due to weather conditions adequate review of the project is not possible, additional review time is necessary. The length of the extension shall be determined by the Board based upon relevant factors and evidence before the Board.

**B.** If the Board finds a substantial error in the information presented to the Commission or new information is presented which may make a material difference in the recommendation made by the Commission, the Board may remand the application to the Commission for further review and recommendations.

**C.** Prior to final approval of a PUD permit, the Board may require, but not limited to, the following:

1. Such written agreements executed by the developer to secure performance of any requirement or condition to be imposed as part of the approval, including, but not limited to development, services and/or annexation agreements;
2. Submission of a revised development plan to incorporate changes made therein during the review process;
3. Dedication of lands, personal property or improvements to the county;

4. Require recordation of documents with the Bear Lake County recorder including, but not limited to, declarations of covenants and restrictions, easements, restrictive covenants, management agreements and similar documents establishing and guaranteeing the creation, operation and maintenance of the project, including, but not limited to provisions that such documents may not be amended without the prior written consent of the Board.

**Conditions of Approval.**

**A.** As part of the PUD permit, the Board may impose conditions, including, but not limited to, the following:

1. Minimizing adverse impact on surrounding properties, developments and/or public services, facilities or utilities;
2. Controlling the sequence and timing of development;
3. Controlling the duration of development;
4. Assuring that development is maintained properly;
5. Designating the exact location and nature of development;
6. Requiring the provision for on-site or off-site public improvements, facilities or services when the proposed development is found to create impact on off-site public streets, facilities, utilities and/or services, including, but not limited to, bridges, intersections, roads, traffic control devices, water mains, sewer mains, fire equipment, transit system, recreational facilities and similar items;
7. Requiring more restrictive development standards than those generally required in applicable ordinances;
8. Require methods or manner of construction to minimize impact on adjacent properties or to prevent erosion or runoff and similar environmental impacts;
9. Any of the infrastructure required in the Bear Lake County Subdivision Ordinance for subdivisions of twenty lots or more;
10. Restrictions on the future use of the proposed development. This includes appropriate mechanisms to guarantee the affordability of community housing units (for example, deed restrictions);
11. Require dedications of land or cash in lieu thereof for street, park, transit and/or similar uses;

12. Require additional plans or engineering revisions to any aspect of the development plan;

13. Require that the CC&Rs are enforced.

14. Require provision of adequate employee housing.

15. Such other reasonable conditions as the Board may deem appropriate with regard to the proposed PUD.

**B.** A PUD permit shall be issued in writing. The issuance thereof shall not be considered a binding precedent for the issuance of any other PUD permits. A PUD permit is not transferable from one parcel of land to another.

**C.** Failure to comply with any condition or term of said permit shall cause said permit to be void ab initio. A PUD permit may be revoked at any time for violation of the permit or any condition thereof by motion of the Board after a due process hearing upon ten (10) days written notice to the holder of the PUD permit.

**D.** All projects receiving a PUD permit, as a condition of said permit, shall be required to submit and receive design review approval for each structure to be constructed within the project prior to making application for a building permit.

#### **Changes in Development Plan.**

Minor changes in the location, siting, or character of buildings and structures may be authorized by the administrator, if required by engineering or other circumstances not foreseen at the time the PUD permit was approved. All such requests shall be in writing supported by such documentation as reasonably required by the administrator. No change shall be authorized by the administrator except in writing and shall not increase the size of any building or structure, building envelope concept, nor change the location of any building or structure outside of an approved building envelope; provided, notwithstanding the foregoing, if the administrator determines any proposed change may be a material change or may have a significant impact on the approved project, the administrator may decline to administratively approve such change and shall forward same to the Board for consideration.

#### **Design Review**

##### **Construction Requiring Design Review Approval.**

The Commission and Administrator are hereby empowered and shall review proposals for construction, alteration or placement of buildings or structures upon real property within a large scale PUD. No application for the building permit for such construction shall be accepted by the County Building Inspector unless said project has made application for and received design review approval.

##### **Procedures for Obtaining Design Review Approval.**

The Commission and Administrator are hereby empowered to review all proposals for construction within the PUD. The Commission and Administrator shall review each proposed project and approve or deny the same according to the procedures, standards and criteria set forth in this Ordinance. A person desiring to obtain design review approval shall file at least twenty (20) days prior to a regularly scheduled meeting of the Commission with the Administrator a completed application form together with all of the information and materials required by this section. Complete applications will be scheduled for the next available Commission meeting based on the order received. At the Commission meeting, each application shall be presented to the Commission together with the required materials and information. The applicant and all other interested persons shall have the opportunity to comment on the proposed project.

**Materials and Information.**

A completed design review application form and appropriate fees along with the required technical information and plans, as published by the County, shall constitute a complete application for design review and shall be filed by the applicant. All design review plans and drawings for public commercial projects, residential buildings containing more than four dwelling units and development projects containing more than four dwelling units shall be prepared by an Idaho licensed architect or an Idaho licensed engineer.

**A. Project Staking.**

Building corners for all proposed buildings and additions shall be staked on the site and all trees proposed to be removed shall be flagged at least one week prior to the Commission meeting.

**B.** Any other such materials as may be reasonably requested by the Commission or Administrator;

**C.** For projects requiring preapplication design review, drawings, or a model or computer simulation renderings, to be submitted at least one week prior to the design review meeting.

**D.** The Administrator may waive some submittal requirements if he determines the information is not relevant to the design review;

**E.** Design review fee.

**Criteria and Standards.**

The following list of design review criteria must be considered and addressed by each applicant seeking design review approval of construction. The Commission and/or Administrator will use this list of design criteria as a basis to determine whether a project is to be approved or denied. A majority vote of the Commission shall be necessary for approval or denial. The Commission and/or Administrator may suggest changes and/or place conditions of approval based upon these design criteria. Building bulk may be reduced by the Commission if found necessary to maintain the public safety and/or



welfare. If a development project is to be built in phases, each phase shall be subject to the design standards and criteria described in this Section.

**Preapplication Design Review.**

1. Preapplication review required for all new commercial construction, major additions and new residential construction of four or more units,
2. The purpose of preapplication review is to allow the Commission to exchange ideas and give direction to the applicant on the "design concept," keeping in mind the intent of this Ordinance and the application of the evaluation standards,
3. Preapplication review materials to be submitted shall include, but not be limited to, site plan, elevations, site sections, topography and photographs. The site plan shall indicate structures located on surrounding properties. The Commission may choose to conduct a second preapplication design review meeting if the materials submitted are inadequate, or if the direction given to the applicant would result in significant changes to the proposal,
4. The Commission will require a model of the project or computer simulation renderings showing the proposal from one or more key vantage points, as determined at the preapplication design review meeting, for presentation at regular design review meetings in order to assist in the understanding of the project. Models and computer renderings must include surrounding properties in sufficient detail for the proposal to be viewed in context,
5. The Planning and Zoning Administrator may waive the requirement for preapplication review if the project is found to have no significant impact;

**B. Evaluation Standards.**

1. Site Design. The site's significant natural features such as hillsides, mature trees and landscaping shall be preserved. Cuts and fills shall be minimized and shall be concealed with landscaping, revegetation and/or natural stone material.
2. Compatibility.
  - a. The structure shall be compatible with surrounding areas,
  - b. The project's materials, colors and signing shall be compatible with surrounding areas and adjoining structures,
  - c. Consideration shall be given to significant view corridors from surrounding properties, and
  - d. Preservation of significant landmarks shall be encouraged and protected, where applicable. A significant landmark is one which gives historical and/or cultural importance to the neighborhood and/or community.
3. Architectural Quality.

- a. Consideration shall be given to natural light reaching public streets, sidewalks and open spaces,
- b. The building character shall be clearly defined by use of sloped roofs, parapets, cornices or other architectural features,
- c. There shall be continuity of materials, colors and signing within the project,
- d. There shall be continuity among accessory structures, fences, walls and landscape features within the project,
- e. Building walls which are exposed to the street shall be in scale with the pedestrian,
- f. Building walls shall provide undulation/relief thus reducing the appearance of bulk and flatness,
- g. Exterior lighting shall not have an adverse impact upon other properties and/or public streets,
- h. Garbage storage areas and satellite receivers shall be screened from public view,
- i. Utility, power and communication lines within the development site are concealed from public view where feasible,
- j. Door swings shall not obstruct or conflict with pedestrian traffic,
- k. Building design should include weather protection which prevents water to drip or snow to slide on areas where pedestrians gather and circulate or onto adjacent properties, and
- l. Exterior siding materials shall be of natural wood or masonry origin or similar quality. Metal siding is discouraged.

#### 4. Circulation Design.

- a. Pedestrian, equestrian and bicycle access which is adequate to satisfy demands relative to development size shall be provided. These accesses shall be located to connect with existing and anticipated easements and pathways,
- b. The building(s) is primarily accessed from the public sidewalk for the majority of the individual uses proposed. It is the intent to promote exterior circulation with numerous connections to the public sidewalk and exposure to the street. This includes utilizing arcades, courtyards and through block connections (commercial buildings only),
- c. The required five foot street side setback is primarily used as an extension and part of the public sidewalk in areas with high pedestrian volume. This setback is encouraged to be covered by awnings, arcades or other canopies for weather protection and may extend out over the public sidewalk,
- d. Traffic shall flow safely within the project and onto adjacent streets. Traffic includes vehicle, bicycle, pedestrian and equestrian use. Consideration shall be given to adequate sight distances and proper signage,
- e. Parking areas have functional aisle dimensions, backup space and turning radius,
- f. Location of parking areas is designed for minimum adverse impact upon living areas within the proposed development and minimizes adverse impact upon adjacent properties with regard to noise, lights and visual impact,
- g. Curb cuts are located away from major intersections and off high volume roadways where possible,

- h. Adequate unobstructed access shall be provided for emergency vehicles, snow plows, garbage trucks and similar service vehicles to all necessary locations within the proposed project, and
- i. The project is designed so as to provide adequate snow storage areas or removal for snow cleared from the parking areas and roadways within the project.

## 5. Landscape Quality.

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

6. Energy Design. Consideration shall be given to proper solar orientation within the project. Recognition shall be given to the solar benefits of adjoining properties (a sun chart as a means of understanding the solar possibilities and limitations shall be encouraged).

7. Public Amenities. Pedestrian amenities are encouraged for all projects and shall be required for commercial uses. Amenities may include, but are not limited to, benches and other seating, kiosks, telephone booths, bus shelters, trash receptacles, restrooms, fountains, art, etc.

8. Green Building. Consideration shall be given to green building features within the project. Recognition shall be given to projects that achieve the United States Green Building Board's LEED Certification or earn the Environmental Protection Agency's Energy Star Label. Projects are encouraged to consider energy conservation, indoor air quality, water use, location, waste reduction, recycling, and use of sustainable construction materials.

### **Review of Proposals.**

Design review proposals shall be reviewed by the Commission or Administrator as outlined in this Section.

**A. Authority of the Administrator.**

1. The Administrator is empowered to approve minor modifications to projects that have received design review approval by the Commission for the duration of a valid building permit. Minor modifications under the authority of the Administrator may include, but are not limited to, the following: changes to approved colors and/or siding materials, landscape plans, window changes that do not significantly affect project design, appearance or function, changes to Dumpster enclosures or changes to lighting.

The Administrator shall make the determination as to what constitutes minor modifications. All approved modifications must be documented on the approved set of plans on file with the Planning Department.

2. The Administrator is empowered to exempt from the design review process projects determined to be so minor as to not conflict with the design review standards of this ordinance, nor to impact any adjacent properties. Examples include, but are not limited to: minor deck additions, additions of a window or door, minor landscape changes. Said exemption must be issued in writing by the Administrator prior to issuance of a building permit, and shall be approved by the Chair of the Planning and Zoning Commission, or his/her designee. Should the Administrator or the Commission Chair determine that the proposal cannot be exempted, said proposal shall receive design review approval prior to issuance of a building permit.

**B. Authority of the Commission.**

The Commission is hereby empowered to approve all other design review application proposals. The Commission may elect to approve applications for design review by consent agenda. Consent agenda shall be that portion of the Commission's agenda where agenda items are not discussed individually and Commission members vote on the package of applications in its entirety. All application and notice requirements, criteria and standards established in this design review district or this Ordinance shall apply to consent agenda applications. The Planning and Zoning Administrator shall determine, in consultation with the Commission Chair, which applications are to be placed on the consent agenda. The Commission, at their discretion, may delegate their authority for detailed review of design review criteria and standards, and other relevant County ordinances, regulations and policies to the Commission Chair and the Administrator by placing applications on the consent agenda. A Commissioner, County Department Head, Board member or affected party may request any application on the consent agenda to be moved to the regular agenda in order to have a full discussion of potential impacts of the application. Applications placed on the consent agenda may include, but are not limited to: deck renovations or extensions, deck enclosures or additions under two hundred (200) square feet, hot tubs, addition of doors and/or windows, dormers or other roof pop-outs, material or color changes to building facades and awnings which do not encroach on public rights-of-way.

**Notice.**

All property owners adjacent to properties under application for design review shall be notified by mail ten (10) days prior to the meeting of the date at which said design review is to be considered by the Commission.

**Completion of Improvements.**

Upon application for a building permit, including a single family residence, an applicant shall follow the procedures set forth below to ensure substantial completion of the proposed project and improvements according to the plans and specifications as approved by the County:

**A.** The applicant shall execute an agreement with the County committing the applicant to complete the construction of the improvements according to the approved plans and specifications;

**B.** The applicant shall execute a lien as security for the applicant's performance of the agreement on a form provided by the County;

**C.** The County shall be entitled to record said lien at the time it issues the building permit to the applicant, which lien shall encumber the property until released as provided hereunder;

**D.** The improvements shall be completed in compliance with the approved plans and specifications within eighteen (18) months from the date of the issuance of the building permit. The Administrator may extend the date of completion an additional six (6) months with the concurrence of the Building Official. The County shall have the authority to enforce the agreement and lien according to its terms. Upon good cause shown, the Administrator may extend the period of time within which completion of the improvements is to be completed;

**E.** All landscape improvements as approved by the Planning and Zoning Commission or Administrator shall be completed within sixty (60) days of occupancy. In the event of partial installation due to seasonable hardship, the completion date may be adjusted into the following planting season, but shall not exceed more than twelve (12) months after occupancy without prior written approval from the Administrator; and,

**F.** The applicant shall have the right, after final inspection and issuance of a certificate of occupancy, to request in writing that the lien be released by the County upon posting with the County an irrevocable letter of credit, or other such security as is acceptable to the County at its sole discretion, for one hundred twenty-five (125%) percent of the bona fide estimated cost to complete the required improvements from that time forward. In the event that the estimated time to construct such required improvement is more than two years, the security shall be for one hundred fifty (150%) percent of the bona fide estimate cost. The Administrator may waive the consensual lien and completion agreement upon a determination that the site improvements required by the applicant's building permit is not substantial enough in nature to warrant a consensual lien and completion agreement.

**Terms of Approval.**

The term of design review approval shall be six months from the date that findings of fact, conclusions of law and decision are adopted by the Commission or upon appeal, the date the approval is granted by the Board. Application must be made for a building permit with the Bear Lake Building Department during the six month term. Once a building permit has been issued, the design review approval shall be valid for the duration of the building permit. Failure to file a complete building permit application for a project in accordance with these provisions shall cause said approval to be void.

**Time Limitations for Action upon Application.**

The Commission shall have sixty (60) days to consider and approve or deny an application for design review approval pursuant to this Ordinance. The time for action upon an application may be extended by either the Commission or the Board at the request of the applicant or in cases where the complexity of the project or changes made by the applicant during the review process require additional time to properly review and consider the application.

**Fees and Costs.**

Each applicant for design review approval shall pay to the County by depositing with the Administrator certain fees and costs to reimburse the County the reasonable costs of administering and regulating this Ordinance, including reimbursement for County Engineer fees. Said fees and refunds, if any, shall be set by resolution of the Board and shall be paid prior to scheduling of an application before the Commission for design review consideration. Said fees shall be nonrefundable unless the proposal is withdrawn at least ten (10) days prior to its initial review by the Commission.

**Appeals.**

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

1. Action Required by the Planning and Zoning Administrator. The planning and zoning administrator shall verify that all procedural requirements have been satisfied and fees paid and transit to the Commission the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the planning and zoning administrator.

2. Hearing and Notice. The Commission shall, following receipt of the planning and zoning administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a

copy of the decision thereon, to appellant, the planning and zoning administrator, and to any other affected person, as defined in Idaho Code Section 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code Section 67-6501 et seq., as it may be amended from time to time.

3. Authority of Commission. Upon hearing the appeal, the Commission shall consider the record, the order, requirement, decision or determination of the planning and zoning administrator and the notice of appeal together with oral presentation by the appellant and the planning and zoning administrator. The Commission may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the planning and zoning administrator.

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

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

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

1. Action Required by the Planning and Zoning Administrator. The planning and zoning administrator shall verify that all procedural requirements have been satisfied and fees paid and transmit to the Board the original of all papers constituting the record in the case, together with the order, requirement, decision or determination of the Commission. Upon written request of the appellant or any affected person, as defined in Idaho Code Section 67-6521, as that section may be amended from time to time, and the advance payment of the cost thereof, a verbatim transcript of the Commission proceedings shall be prepared and transmitted to the Board.

2. Hearing and Notice. The Board shall, following receipt of the planning and zoning administrator's certificate and the record of the case, set the matter for hearing and give notice of the date, time, place and purpose thereof and of the right to request a copy of the decision thereon, to appellant, the Commission, and to any other affected person, as defined in Idaho Code Section 67-6521, as that section may be amended from time to time, all in accordance with Idaho Code Section 67-6501 et seq., as it may be amended from time to time.

3. Authority of Board. Upon hearing the appeal, the Board shall consider only matters which were previously considered by the Commission as evidenced by the record, the

order, requirement, decision, or determination of the Commission and the notice of appeal together with oral presentation by the appellant and the Commission. The Board may affirm, reverse, or modify, in whole or in part, the order, requirement, decision or determination of the Commission. Furthermore, the Board may remand the application to the Commission for further consideration with regard to specific criteria stated by the Board.

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

### **C. Time for Filing Appeals.**

All appeals permitted or authorized by this ordinance shall be taken and made in the manner and within the time limits as follows:

1. The written notice of appeal shall be filed before 5:00 o'clock p.m. of the tenth (10) calendar day after the order, requirement, decision or determination of the planning and zoning administrator has been made or after findings of fact have been approved by the Commission, whichever is applicable. The failure to physically file a notice of appeal with the planning and zoning administrator of the county within the time limits prescribed by this section shall be jurisdictional and shall cause automatic dismissal of such appeal.

### **D. Fee for Appeals.**

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

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

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

### **Preliminary and Final Plat Approvals.**

After issuance of a PUD permit, the applicant shall file a preliminary plat and final plat for each stage of the development in conformance with the approved PUD permit and development plan pursuant to the subdivision and other applicable ordinances.

### **Time Limitations.**

**A.** Upon receiving a PUD permit, an applicant shall have one year from the date of issuance thereof to submit an application for design review of the entire project or the first phase of the project, whichever is in accordance with the construction schedule, or in the case of a lot subdivision PUD, to file a preliminary plat application. Failure to file the appropriate application within said one year period shall cause the PUD permit to be null and void ab initio.



**B.** For good cause shown by the applicant in writing filed with the administrator prior to the expiration of said one year period, the Board, without a public hearing, may grant an extension of the time limitations set forth in subsection A of this section or may grant an extension of the time limits imposed by the development schedule.

**Bonding Requirements.**

The Board may require the applicant, as a condition of the PUD permit approval, to construct certain improvements, private and/or public utilities, services, facilities, recreation or other amenities, and landscaping to be installed in the project, or in lieu thereof, to post a performance bond which conforms to the requirements of performance bonds in the Bear Lake County Subdivision Ordinance.

**Criminal Violation and Penalty and Civil Enforcement.**

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

**B.** Appropriate actions and proceedings at law or in equity may be instituted by the county attorney to restrain or abate violations of this ordinance, or compel compliance with the PUD permit, or to prevent illegal occupancy of any buildings, structures, or premises in violation of this ordinance together with appropriate damages therefore. These remedies shall be accumulative and in addition to all other legal remedies and penalties herein set forth in this section and/or provided by law.