

Bear Lake County
Rural Conservation Subdivision Ordinance
As Adopted by the County Commission on December 14, 2009

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Section 1 General Provisions

A. General Provisions

This ordinance shall be known and may be cited as the Bear Lake County Rural Conservation Subdivision Ordinance.

B. Purposes

Conservation subdivisions are characterized by common open space and clustered compact lots. The purpose of a conservation subdivision is to protect farmland and/or natural resources. Generally, this tool is used for parcels 40 acres or larger.

The primary difference between conservation subdivisions and conventional ones involves the location of the homes on one part of the parcel, i.e., the homes are clustered. Other changes involve management and ownership of the land that has been left for preservation.

The intent of the conservation option is to specially encourage preservation of the high value agricultural lands, land rich in natural resources, and areas which contain environmental hazards such as wet lands and floodplains. The governing factor for the application of this ordinance is the preservation of open space.

C. Jurisdiction.

The regulations and procedures as set forth in this ordinance shall apply as designated to the creation of a Rural Conservation Subdivision within the jurisdictional limits of the County of Bear Lake, Idaho.

D. Scope.

The regulations and procedures contained in this ordinance shall be complied concurrent with those applicable regulations in the Bear Lake County Subdivision Ordinance.

E. Exceptions.

These regulations shall not apply to the following:

1. The subdivision of land into parcels of forty 40 acres or more.
2. The unwilling sale of land by legal condemnation;
3. The enlargement of municipal Roads, facilities and easements;
4. The acquisition of collector or arterial street right of way by any public agency in conformance with the comprehensive plan.
5. An adjustment of lot lines 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.
6. Widening of existing Roads to conform to the Comprehensive Plan.
7. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage.
8. The dividing of the original lot, tract, or parcel of land for the purpose of transfer of ownership as an addition to and contiguous with adjoining land for the purpose of

enlarging the adjoining parcel size and not for increasing the number of dwellings that can be built on the lot or parcel.

9. The land owned, purchased, or sold by a municipality, body politic, local improvement district owning a community water system, or other public agency, for the furtherance of any public purpose of such entity.

F. Interpretation.

All proposed subdivisions of land, to create a Rural Conservation Subdivision are defined herein, shall comply with the regulations of this ordinance. Density and availability of building permits is determined by the design and management of open space. The regulations contained in this ordinance shall be considered minimum standards. The regulations of this ordinance are in addition to all other regulations and where at variance with other laws, regulations, ordinances, or resolutions of the County of Bear Lake, or any other governmental body having jurisdiction; there over, the more restrictive requirements shall apply. Furthermore, where appropriate for the protection of the public health, safety, convenience or welfare, more stringent standards may be imposed by the Board.

G. Administration.

The Board shall appoint an administrator to receive and process all subdivision applications and make recommendations to the commission and the Board with regard thereto. The administrator shall serve at the will of the Board.

Section 2 Definitions

Access A legally and physically defined area available and practical for motor vehicle ingress and egress to parcels, lots, areas or tracts of land from an adjoining public road. In determining practicality, safety, topography, drainage, potential for erosion, flooding and other factors shall be considered.

Buildable area is the minimum contiguous area remaining on a lot or parcel of land after all setback requirements, areas with slopes greater than twenty-five (25) percent, all easements and rights-of-way, historic sites, wetlands, and land below the ordinary high water level of public waters are subtracted for the purpose of placement of structures.

Clustering or clustered means a development pattern and technique whereby structures or building sites are arranged in close proximity to one another in non-linear groups, adjacent to permanently preserved common open space, so as to make efficient and visually aesthetic use of the natural features of the landscape and maximize visualization of permanently preserved open space.

Common open space means a portion of a development site that is set aside in perpetuity for public or private use, is held in common ownership by all individual owners within a development, and will not be developed. Common open space shall include wetlands, upland recreational areas, wildlife areas, historic sites, and areas unsuitable for development in their natural state. Common open space is not the space between buildings of a cluster in a conservation subdivision and planned unit development, and it does not include an area of twenty-five (25) feet around each structure or any impervious surface.

Conventional subdivision means a pattern of subdivision development that permits the division of land in the standard form where lots are spread evenly throughout a parcel with little regard for natural features or common open space as compared to a conservation subdivision where lots are clustered and common open space is provided.

Dwelling site means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit means any structure or portion of a structure, or other shelter designed as short or long term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Height of building The vertical distance as measured from the highest point of the roof or the building not including chimney or vane down to the point representative of the average finished grade of the land around the perimeter of the building.

Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas, and concrete, asphalt compacted road base gravel, or gravel driveways.

1. **Large impervious area** An area of impervious surface including, but not limited to, a parking lot of any size, large building, street, cul-de-sac, large amenities complex and other similar impervious area.
2. **Small impervious area.** An area of impervious surface such as a small swimming pool, or one small basketball court, or one tennis court, or a small maintenance building, or an historic home site, or an existing or new trail system, or some other similar impervious area.

Improvements means any alteration to the land or construction associated with the construction or installation of roads, easements, drainage facilities, curbs, gutters, sidewalks, water system, sewage system, storm sewers, gas, electric or telephone lines, lot pin monuments and other such items associated with the subdivision and/or development of land, including grading or fill of land.

Infiltration The process of percolating storm water runoff into the subsoil.

Lot means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Lot, area means the area within the boundaries of a lot, exclusive of any of the area contained within a public or private street, alley, fire lane, or private driveway easement. Also, exclusive of any narrow strip of land connecting a lot set back from any public street for the purpose of providing driveway access with that street.

Lot, buildable means a lot that contains land outside of the floodway which conforms to all ordinance requirements and where the slope is less than twenty-five (25) percent.

Lot width "Lot width" means the shortest distance between lot lines measured at the midpoint of the building line for riparian lots. For nonriparian lots, the lot width is the shortest distance between side lot lines as measured at the midpoint of the longest axis of the lot.

Nonstructural Storm water Management Practice Any natural or planted vegetation or other nonstructural component of the storm water management plan that provides for or enhances storm water quantity and/or quality control or other storm water management benefits, and includes, but is not limited to, riparian buffers, open and green space areas, overland flow filtration areas, natural depression, and vegetated channels.

Open Space The portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.

Ordinary high water level (OHW) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Package plant for sewage treatment Any plant which: (a) consists of units or modules designed for construction, assembly, connection and installation at the site for treatment of sewage; and (b) is privately owned and will be operated to treat wastewater and sewage for a limited area. The term does not include septic systems comprised of single or multiple septic tanks and leach fields.

Plat means a map or drawing which graphically delineates the boundaries and dimensions of land parcels for the purpose of identification and record or title.

Rural Conservation subdivision is a method of subdivision characterized by common open space and clustered compact lots, with the purpose of creating greater community value through open space amenities for homeowners and protection of natural resources, while allowing for the residential densities consistent with prevailing densities. Site designs incorporate standards of low impact development, such as looped roadways versus cul-de-sacs, maximum road setbacks for structures, and preservation of trees, shoreline, unique resources, and scenic vistas, and these developments use storm water designs that emphasize onsite retention and infiltration through the preservation of native vegetation within the shore impact zone, use of pervious surfaces, rain gardens, and swales.

Safe Legal Access means access through a roadway that meets all requirements set forth in Chapter 5 of the Bear Lake County Land Use Ordinances.

Setback means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, natural resource feature (e.g., wetlands or heritage elements), road, highway, property line, or other facility.

Sewage treatment system means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as approved and permitted by the Southeastern Idaho Public Health District.

Sewer system means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Significant historic site means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery.

Stream Any stream, beginning at:

1. The location of a spring, seep, or groundwater outflow that sustains stream flow; or
2. A point in the stream channel with a drainage area of 25 acres or more; or

3. Where evidence indicates the presence of a stream in a drainage area of less than 25 acres, the Idaho Department of Water Resources or the US Army Corp of Engineering may require field studies to verify the existence of a stream.

Steep slope means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over twenty five percent (25%), as measured over horizontal distances of fifty (50) feet or more.

Structure means any building or appurtenance, including decks, platforms, carports, and roof overhangs, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision means land that is divided including planned unit developments.

Suitable Area is the area remaining on a lot or parcel of land, where areas with slopes greater than twenty-five (25) percent, all easements and rights-of-way, historic sites, wetlands, land below the ordinary high water level of public waters, and all setback requirements, except the ordinary high water level structure setback, are subtracted.

Wetland means any lands as defined by the U. S. Corp of Engineers. These lands are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation.

Section 3 General Regulations

- A. Applicability of Regulations.** The Rural Conservation Subdivision options are available in the Agricultural Zone as an separate district. They are not allowed in any other zones within the County. The applicant shall comply with all other provisions of the zoning code and all other applicable laws, except those that are incompatible with the provisions contained herein.

Any person wishing to develop a conservation subdivision shall obtain a zone change to a Rural Conservation overlay district prior to any construction, subdivision, or sale of any units, structures or land within the proposed project. A rural conservation district shall be considered a separate zoning district within the County. Development shall be permitted only upon issuance of a zone change 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 preliminary plat application or may be approved in conjunction with a preliminary plat application.

- B. Ownership of Development Site.** The tract of land to be subdivided may be held in single and separate ownership, or in multiple-ownership. If held in multiple- ownership however, the site shall be developed according to a single plan with common authority and common responsibility.

- C. Housing Density Determination.** The maximum number of lots in the Rural Conservation Subdivision shall be as follows:

Rural Conservation – Total acreage times .3 or 30% divided by .5 or ½ acre. For example, for a 40 acre parcel the density would be 30% or 12 acres divided by ½ acre or 24 lots.

D. Minimum Lot Size. The minimum area shall be ½ acre.

Section 4 Application Requirements

A. Conceptual Plan Conference

1. Prior to filing an application, the applicant shall confer in a conceptual plan conference with the administrator and the Planning and Zoning Commission to allow the applicant and the County to informally review the proposal. The conceptual plan conference shall not confer any vested rights upon the developer.

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

- a. 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.
- b. The nature of the development proposed, including proposed land use, coverage and densities; the placement of proposed buildings and other improvements; the location, type and method of management and 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.
- c. Community policy considerations including the review process and likely conformity of the proposed development with the policies and regulations of applicable ordinances.
- d. Applicable regulations, review procedures, and submission requirements

B. Application. The application form for preliminary plat 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. An outline for 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 Rural Conservation Subdivision 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.

C. Site Analysis Map Required. Concurrent with the submission of a preliminary plat application, the Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this article. The preliminary site plan shall include the following features:

1. Property boundaries;
2. Relationship of the subject property to natural and man-made features existing within 1,000 feet of the site, noting whether surrounding property is slated for protection as greenspace;
3. All streams, rivers, lakes, wetlands and other hydrologic features;
4. Topographic contours of no less than 10-foot intervals;
5. All Primary and Secondary Conservation Areas labeled by type, as described in Section 5 of this Article;
6. General vegetation characteristics;
7. General soil types;
8. The planned location of protected Open Space;
9. Existing roads and structures;
10. Potential connections of protected Open Space with existing greenspace and trails, including adjacent protected areas or adjacent non-protected natural lands that are possible candidates for inclusion as part of a future area of protected greenspace.
11. Floodplains and Floodways;

B. Open Space Management Plan Required. An open space management plan, as described in Section 1.4, shall be prepared and submitted prior to the issuance of a land disturbance permit.

C. Instrument of Permanent Protection Required. An instrument of protection in perpetuity, such as a conservation easement or deed restriction and as described in Section 1.4, shall be placed on the Common Open Space concurrent with the issuance of a land disturbance permit.

D. Four Step Design Review Process. All sketch plans or conceptual design plans for conservation subdivisions shall include documentation of a four-step design review process in determining the layout of proposed Open Space lands, house sites, Roads and lot lines, as described below.

Rural Conservation Subdivision

Step 1: Delineation of Common Open Space Lands

1. The minimum percentage and acreage of required Common Open Space lands shall be calculated by the applicant and submitted as part of the preliminary plat plan in accordance with the provisions of this ordinance. Common Open Space lands shall include all Primary Conservation Areas and those parts of the Secondary Conservation Areas with the highest resource significance, as described in parts 3 and 4 of Step 1 below. (see Section 5)
2. Proposed Common Open Space lands shall be designated using the Site Analysis Map as a base map and complying with Section 5.A herein, dealing with Open Space design standards.
3. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed Common Open Space.
4. On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, Secondary Conservation Areas shall be delineated so that, together with all Primary Conservation Areas, they meet at least the minimum area percentage requirements for Common Open Space lands. Secondary Conservation Areas should also be delineated in a manner clearly indicating their boundaries as well as the types of resources included within them.

Step 2: Location of House Sites

Potential house sites shall be tentatively located, using the proposed Common Open Space lands as a base map as well as other relevant data on the Site Analysis Map such as topography and soils. House sites should generally be located not closer than 100 feet from Primary Conservation Areas and 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.

Step 3: Alignment of Roads and Trails

Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house, and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed Common Open Space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs when reasonable based upon the site features, and to facilitate access to and from homes in different parts of the tract (and adjoining parcels).

Step 4: Drawing in the Lot Lines

Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.

E. Other Requirements. The Applicant shall adhere to all other applicable requirements of the Bear Lake Subdivision Ordinance.

Section 5 Open Space Requirements

Rural Conversation Subdivision

A. Standards to Determine Open Space.

1. The minimum restricted Common Open Space shall comprise at least 70% of the gross tract area.
2. The following are considered Primary Conservation Areas and are required to be included within the Common Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
 - a. The regulatory 100-year floodplain;
 - b. Buffer zones of at least 75 ft width along all perennial and intermittent streams;
 - c. Slopes above 25% of at least 5,000 square feet contiguous area;
 - d. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
 - e. Populations of endangered or threatened species, or habitat for such species; and,
 - f. Archaeological sites, cemeteries and burial grounds.
 - g. At least 60 percent of the Open Space shall be in a contiguous tract. The Open Space should adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.
 - h. The Open Space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.
3. The following are considered Secondary Conservation Areas and should be included within the Common Open Space to the maximum extent feasible.
 - a. Important historic sites;
 - b. Existing healthy, native forests of at least one acre contiguous area;
 - c. Individual existing healthy trees greater than 8 inches caliper dbh, as measured from their outermost drip line;
 - d. Other significant natural features and scenic view sheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
 - e. Prime agricultural lands of at least five acres contiguous area; and,
 - f. Existing trails that connect the tract to neighboring areas.
4. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Open Space. Large areas of impervious surface shall be excluded from the Open Space.

B. Permitted Uses of Open Space. Uses of Common Open Space may include the following:

1. Conservation of natural, archeological or historical resources;

2. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
3. Walking, bicycle, ATV or snow machine trails, provided they are constructed of pervious materials;
4. Passive recreation areas, such as open fields;
5. Active recreation areas, provided that they are limited to no more than 10 percent of the total Common Open Space and are not located within Primary Conservation Areas. Active recreation areas in excess of this limit must be located outside of the protected Common Open Space. Active recreation areas may include small impervious areas. These small impervious areas shall not count towards the minimum open space requirement. Active recreation areas shall not include large impervious areas.
6. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, such activities are not conducted within Primary Conservation Areas, and no existing healthy, native forests of more than one contiguous acre in size are removed to allow for such activities.
7. Nonstructural storm water management practices and structural storm water management practices that allow for infiltration, such as bio-retention areas;
8. Septic systems comprised of single or multiple septic tanks and leach fields located on soils particularly suited to such uses;
9. Easements for drainage, access, and underground utility lines; or
10. Other conservation-oriented uses compatible with the purposes of this ordinance.

C. Prohibited uses of Common Open Space.

1. Golf courses;
2. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
3. Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,
4. Impoundments;
5. Package plants for sewage treatment;
6. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.

D. Ownership and Management of Common Open Space.

1. Ownership of Open Space. The applicant must identify the owner of the Common Open Space who is responsible for maintaining the Common Open Space and facilities located thereon. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Common Open Space and any facilities located thereon shall be borne by the owner.

The Common Open Space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the Common Open Space. At least 75% of the Common Open Space shall be in a contiguous tract. The Common Open Space shall adjoin any neighboring areas of Common Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Common Open Space

2. Management Plan. Applicant shall submit a Plan for Management of the Common Open Space and Common Facilities that:
 - a. Allocates responsibility and guidelines for the maintenance and operation of the Common Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
 - b. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Common Open Space and outlines the means by which such funding will be obtained or provided;
 - c. Provides that any changes to the Plan be approved by the Bear Lake County Board of Commissioners; and,
 - d. Provides for enforcement of the Plan.
3. In the event the party responsible for maintenance of the Common Open Space fails to maintain all or any portion in reasonable order and condition, Bear Lake County may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.
4. Tax Assessment of Common Open Space - Once a legal instrument for permanent protection has been placed upon the Common Open Space; the Bear Lake County Assessor shall reassess the Common Open Space at a lower value to reflect its more limited use. If the Common Open Space is used purely for passive recreational purposes and the terms of the instrument for permanent protection effectively prohibit any type of significant economic activity, then the assessment shall be at a value of equal to non-producing agricultural lands.

E. Legal Instrument for Permanent Protection.

1. The Common Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
 - a. A permanent conservation easement in favor of either:
 - (i) A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
 - (ii) A governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance.

- If the entity accepting the easement is not Bear Lake County then a third right of enforcement favoring Bear Lake County shall be included in the easement;
- b. A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or
 - c. An equivalent legal tool that provides permanent protection, if approved by Bear Lake County Board of Commissioners.
2. The instrument for permanent protection shall include clear restrictions on the use of the Common Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

Section 6 Procedure for Subdivision Approval:

A. Administration

The administrator shall have the duty of administering the regulations contained in this ordinance, and shall prepare and require the use of such forms as are necessary for the reasonable administration of these regulations.

B. Waiver or Deferral of Requirements

Waiver or deferral of any of the requirements may be granted by the Board of County Commissioners on a case-by-case basis. Application for such waiver or deferral must be in writing and submitted as part of the application. 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 may 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 final plat 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. Such waiver must be minor in scope and not affect the overall intent of this ordinance. Waiver of the open space requirement cannot exceed a 50/50% split. All waivers of the open space requirements shall be made directly to the Board of County Commissioners.

C. Fees

The developer shall pay to the County, by depositing \$3,000 into a revolving fund with the County administrator, certain fees and costs associated with the review of the Application, Preliminary Plat, Open Space Management Plan, the Final Plat and other documentation and services. The deposit shall be maintained at the \$3,000 level until the Final Plat is recorded.

There shall also be an 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 as described above. All outstanding fees and cost must be paid before a plat application will be approved. Fees shall be set by resolution.

D. Plat Approval Required.

Any person desiring to create a conservation subdivision shall submit an application therefore to the administrator. No final plat shall be filed with the County recorder until the same has been acted upon by the commission and approved by the Board as a preliminary plat and as a final plat. No lots or parcels of land described by metes and bounds or otherwise shall be sold until a final plat thereof has been recorded in the office of the Bear Lake County recorder.

E. Preliminary Plat Procedure.

Prior to the submission of an application, the applicant shall attend a conference with the Administrator to discuss the application and procedures. The applicant may also request to be placed on the Commission's agenda to discuss general concepts but no approvals shall be given prior to the submission of an application.

1. Application. The subdivider shall file with the administrator copies of the completed conservation subdivision application form and preliminary plat data as required by this ordinance.
2. Acceptance by Administrator. Upon receipt of the completed preliminary plat application and data, the administrator shall declare the application as complete and affix the date of acceptance thereon. Thereafter, the administrator shall place said preliminary plat on the commission agenda for consideration at a regular meeting of the commission.
3. Review by Departments and Agencies. After receipt of a completed preliminary plat application, the administrator shall transmit one copy of the application and preliminary plat to other County departments and to such other government agencies as have jurisdiction over, or interest in, the proposed subdivision for their recommendation and review. If no written recommendation or request for extension of time is received from any such department or agency within thirty (30) days from date of transmittal, the approval of the preliminary plat by such department or agency will be considered granted. The departments and agencies to which preliminary plats may be referred include all pertinent County departments, district health department, Idaho Department of Environmental Quality, commissions of other governing bodies having joint jurisdiction, appropriate utility companies, soil conservation district, and such other departments or agencies as the administrator deems necessary in order to carry out the full intent of this Ordinance.
4. Review by Administrator. The administrator shall review the preliminary plat application and data as well as the recommendations received from the various departments and agencies to insure that said application and plat are in conformance with all applicable rules and regulations. The administrator shall report and make recommendations to the commission.

F. Commission Action on Preliminary Plat.

Consideration by the commission of a subdivision application and data shall take place at a regularly scheduled commission meeting, unless a special meeting of the commission is requested by the subdivider and granted by the commission. At that meeting, the commission shall do the following:

1. Public Hearing. The commission shall hold a public hearing on all subdivision applications with public hearing notice, except applications to convert existing structure(s) containing eight dwelling units or less into condominiums shall not

- require a public hearing be held; and except applications to subdivide property and structure(s) thereon into a maximum of two townhouse sublots shall not require a public hearing be held.
2. After the public hearing, the commission shall review the preliminary plat and supporting data, recommendations of administrator, testimony of the subdivider, and the public. The commission shall recommend, with specific conditions, or not recommend the preliminary plat. If the preliminary plat is not recommended, the reasons for such action shall be stated in writing, and a copy signed by the administrator attached to one copy of the preliminary plat shall be returned to the applicant.
 3. Upon review by the commission of a preliminary plat, the administrator shall transmit to the Board the subdivision application, preliminary plat and other data and a copy of the commission findings and report.

G. Board Action on Preliminary Plat.

Submission of a preliminary plat upon review by the commission to the Board shall be mandatory. The Board shall consider the subdivision application at its next available regular meeting. The subdivider, at his request, shall be entitled to at least one continuance. The Board shall consider the preliminary plat, conservation subdivision application and data, the report and recommendations of the commission, along with the commission's report of testimony from the subdivider, witnesses, interested citizens and representatives of the commission. At its discretion, the Board may hold an additional public hearing. If an additional hearing is held, procedure outlined in the land use ordinance shall be adhered to. Upon conclusion of its consideration of the preliminary plat, the Board shall approve, conditionally approve, or disapprove the plat and make findings consistent with law and this Ordinance. Upon approval of the preliminary plat by the Board, the subdivider shall prepare required improvement design plans in accordance with this ordinance and additional condition(s) imposed by the Board. Upon approval of the improvement designs by the County engineer, the subdivider shall commence construction on the required improvements.

H. Final Plat Procedures.

After approval of the preliminary plat, the subdivider shall cause the subdivision to be surveyed and a final plat to be prepared in conformance with the preliminary plat as approved, and Title 50, Ordinance 13, Idaho Code. Upon completion of said final plat, the subdivider shall file same and all other documents required, with the administrator. Then the administrator shall place said final plat upon the Commissioner's next available regular meeting agenda. In the event that the Board finds that final plat does not substantially conform to the approved preliminary plat, the Board shall consider said plat a revised preliminary plat and remand the revised preliminary plat to the commission for an additional public hearing and review. The subdivider shall submit the final plat and plan specifications of all required improvements together with a current title report showing proof of ownership in the land to be subdivided. When submitted to the administrator, the final plat shall bear all required certificates, acknowledgments and signatures. Upon receipt of a final plat in compliance with all requirements and all conditions placed upon the preliminary plat, the Board shall approve the final plat and the Chairman of the Board shall affix the date of acceptance and his signature thereon.

I. Acceptance of Dedications.

Approval of the final plat by the Board shall constitute acceptance of all dedications for public roads, rights-of-way, easements, and other lands dedicated for public purpose or use as shown thereon. As a condition precedent to the acceptance of any roads or required improvements, the Board shall require that the subdivider install said improvements in accordance with the construction standards, and that condition shall be noted on the final plat.

J. Time Limitations.

The failure to obtain final plat approval by the Board of an approved preliminary plat within eighteen months after approval by the Board shall cause all approvals of said preliminary plat to be null and void unless the subdivider applies for, and is granted, a written extension by the Board. The final plat shall be filed with the Bear Lake County recorder within one year after final plat approval by the Board. Failure to file said final plat within that time shall cause all approvals of said final plat to be null and void. No lots shall be sold and no building permit shall be issued with regard to any parcel of land within a proposed subdivision until the final plat has been recorded.

K. Contents of Preliminary Plat.

The preliminary plat, together with all application forms, title insurance report, deeds, maps, and other documents reasonably required, shall constitute a complete subdivision application. The preliminary plat shall show the following (unless otherwise indicated):

1. The plat shall have dimensions of not less than twenty four inches by thirty six inches (24" x 36"), shall be drawn to a scale of not less than one inch to one hundred feet (1" = 100'), and shall show the drafting date and north arrow.
2. Four (4) sets of preliminary engineering plans (not meant to be cross sections or detailed designs) for roads, water, sewers, sidewalks and other required public improvements.
3. Two (2) electronic copies of the preliminary plat and preliminary engineering plans.
4. The name of the proposed subdivision, which shall not be the same or confusing with the name of any other subdivision in Bear Lake County, Idaho,
5. The name and address of the owner of record, the subdivider, and the engineer, surveyor, or other person preparing the plat,
6. Legal description of the area platted,
7. The names and the intersection boundary lines of adjoining subdivisions and parcels of property,
8. A contour map of the subdivision with contour lines and a maximum interval of five feet to show the configuration of the land based upon the United States Geodetic Survey data, or other data approved by the County engineer,
9. The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated roads, roadways, and easements, public and private,
10. Boundary description and the area of the tract,
11. Existing zoning of the tract,

12. A statement of the intended use of the proposed subdivision;
13. The proposed location of street right-of-ways, lots, and lot lines, easements, including all approximate dimensions and including all proposed lot and block numbering and proposed street names,
14. The boundaries of record of the tract, area of the tract, the proposed location, approximate grade, right-of-way width and pavement width of roads and alleys, locations of sidewalks; the proposed location and width of easements and setback lines, proposed lot lines, the radii of all curves, lot size and approximate lot dimensions;
15. The location, approximate 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 subdivision,
16. The approximate location of existing buildings with approximate distances shown to proposed property lines, water bodies or courses,
17. The location, size, and type of sanitary and storm sewers, water mains, culverts and other surface or subsurface structures existing within or immediately adjacent to the proposed sanitary or storm sewers (a minimum distance of 100 feet), water mains, and storage facilities, street improvements, street lighting, curbs, and gutters, and all proposed utilities (may be shown only on the engineering plans)
18. The direction of drainage, flow, and approximate grade of all roads (may be shown only on the engineering plans),
19. The location of 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 plat, The approximate location, size and type of all irrigation ditches, channels, pipes, structures within and immediately adjacent, a minimum distance of 100 feet, to the proposed subdivision (may be shown only on the engineering plans);
20. All percolation tests and/or exploratory pit excavations required by Southeastern Idaho Public Health authorities,
21. A copy of the provisions of the articles of incorporation and by-laws of homeowner's association and/or condominium declarations to be filed with the final plat of the subdivision,
22. Verification that all outstanding taxes and assessments levied by political subdivisions have been paid on the property included in the application.
23. Vicinity Map. An 8-1/2" x 11" vicinity map, suitable for public presentation drawn to a scale of 1" = 300' or larger (i.e., 1" = 200', etc.) which includes the proposed development and sufficient area around it to provide adequate orientation and landmark identification for someone unfamiliar with the vicinity. All the following elements are to be included:
 - a. A minimum distance of 600' beyond all boundaries of the proposed development.
 - b. A north point.
 - c. Location and names of all roads and roadways, including the nearest collector or arterial in both north/south and east/west directions.

- d. Clear identification of the boundary of the proposed development and its proposed roadway alignments labeled with proposed street names.
24. The boundaries of the floodplain, and floodway shall also be clearly delineated and marked on the preliminary plat,
25. Building envelopes shall be shown on each lot, all or part of which is within a floodway and floodplain; or any lot that is adjacent to a waterway; or any lot a portion of which has a slope of twenty-five (25) percent or greater; or upon any lot which will be created adjacent to the intersection of two or more Roads,
26. Lot area of each lot,
27. Existing mature trees and established shrub masses,
28. A current title report shall be provided at the time that the preliminary plat is filed with the administrator together with a copy of the owner's recorded deed to said property,
29. For multi-phase developments, the proposed boundaries of each phase and the sequence of phases to be developed. The phasing sequence used should utilize consistent lot and block numbering patterns.
30. Approximate location and identification of known (to either the applicant or his representatives or the reviewing agency) potentially dangerous areas, including geologically hazardous areas, areas subject to inundations, or flood hazard, and areas of high groundwater.
31. A plan that ensures that open space areas are adequately maintained.
32. Any other information determined by the County to be necessary for review of the preliminary plat application.
33. 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.
34. Thirty copies of the preliminary plat and all required information shall be filed with the administrator. Five copies shall be 24" x 36". The remaining copies may be 11" x 17".
35. The location and turnout area for solid waste pickup meeting the approval of the County road and bridge superintendent.
36. The location and turnout area for mail cluster boxes meeting the approval of the County road and bridge superintendent and postal service.

L. Contents of Final Plat.

The final plat shall be drawn at such a scale and contain such lettering as to enable same to be placed upon sheets of eighteen (18) inch by twenty-four (24) inch Mylar paper with no part of the drawing nearer to the edge than one-half inch, and shall be in conformance with the provisions of Title 50, Ordinance 13, Idaho Code.

The reverse side of said sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certificates, signatures, and other information.

The contents of the final plat shall include all items required under Title 50, Ordinance 13, Idaho Code and also shall include the following:

1. Point of beginning of subdivision description tied to at least two governmental survey corners,
2. Location and description of monuments set,
3. Tract boundary lines, property lines, lot lines, street right-of-way and center lines, other rights-of-way and easement lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of floodplain and floodway, all with bearings, accurate dimensions in feet and decimals thereof, in degrees and minutes and radii, arcs, central angles, tangents, and chord lengths of all curves to the above accuracy,
4. Names and locations of all adjoining subdivisions,
5. Name and right-of-way width of each street and other public rights-of-way,
6. Location, dimension, and purpose of all easements, public or private,
7. The lots numbered consecutively throughout each block,
8. The outline of any property other than a street, alley, or easement which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the County of Bear Lake for Public Use", together with any other descriptive language with regard to the precise nature of the use of the land so dedicated,
9. The title which shall include the name of the subdivision, the name of the County and State, and the location and description of the subdivision referenced to section, township, range,
10. Scale, north arrow and date,
11. Location, width, names of all existing or dedicated roads, and other public ways within or adjacent to the proposed subdivision,
12. A provision in the owner's certificate referencing the County recorder's instrument number where the condominium declaration(s) and/or articles of incorporation of homeowner's association governing the subdivision are recorded,
13. Certificate by registered surveyor preparing the map certifying to the accuracy of surveying plat,
14. A current title report of all property contained within the plat,
15. Certification of owner(s) of record, and all holders of security interest(s) of record with regard to said property,
16. Certification and signature of reviewing surveyor verifying that the subdivision meets all County requirements,
17. Certification and signature of the County engineer verifying that the subdivision and design standards meet all County requirements,
18. Certification and signature of the County clerk of the County of Bear Lake verifying that the subdivision has been approved by the Board,
19. Certification and signature of the County treasurer of the County of Bear Lake verifying that all County taxes are paid on the property.
20. Notation of any additional restrictions imposed by the Board on the development of said subdivision to provide for the public health, safety, and welfare.

21. Addresses shall be provided for each lot on the final plat, calculated per the Bear Lake County Addressing System.

M. Final Plat Copies.

Ten copies of the final plat shall be filed with the administrator prior to being placed upon the Board's agenda. Three copies shall be 24" x 36". The remaining copies may be 11" x 17". One copy of the final plat as approved by the Board and signed by the County clerk shall be filed with the administrator and retained by the County.

Development and Design:

A. Required Improvements.

The improvements set forth in this section shall be shown on the preliminary plat and installed prior to approval of the final plat unless the conditions of Section C Guarantee of Completion of Improvements are met. Construction design plans thereof shall be submitted and approved by the County engineer. All such improvements shall be in accordance with the comprehensive plan and constructed in compliance with construction standard specifications adopted by the County. Existing natural features which enhance the attractiveness of the subdivision and community, such as mature trees, water courses, rock outcroppings, established shrub masses, and historic areas shall be preserved through design of the subdivision.

B. Improvement Plans.

Prior to approval of final plat by the commission, the subdivider shall file two copies and the County engineer shall approve construction plans for all improvements required in the proposed subdivision. Said plans shall be prepared by a civil engineer licensed in the state of Idaho.

C. Guarantee of Completion of Improvements

1. Financial Guarantee Arrangements: In lieu of the actual installation of required infrastructure public improvements before filing of the final plat, the Board may require the subdivider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement.
2. Cash deposit, certified check, or irrevocable bank letter of credit:
 - a. One hundred twenty five percent (125%) of the estimated cost of construction for the specific non-critical infrastructure public improvement, as estimated by the Bear Lake County Engineer and approved by the board. A cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit for time periods of more than two years shall be equal one hundred fifty percent (150%) of the total estimated cost for completing construction of the specific public improvement.
 - b. Treasurer, escrow agent or trust company: a cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable by the board shall be deposited with an escrow agent or trust company.
 - c. Dollar value: the dollar value of the cash deposit, certified check, or an irrevocable bank letter of credit, shall be equal to one hundred twenty five percent (125%) of the estimated cost of construction for the specific public improvement, as estimated the Bear Lake County Engineer and approved by the board. For time periods of more than two years

shall be equal one hundred fifty percent (150%) of the total estimated cost for completing construction of the specific public improvement.

- d. Escrow time: the escrow time for the cash deposit, certified check, or irrevocable bank letter of credit, shall be for a period to be specified by the board.
 - e. Progressive payment: in the case of cash deposits or certified checks, an agreement between the board and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.
3. Condition 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 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, a negotiable, irrevocable bank letter of credit or surety bond.
 4. 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, in order to proceed, may have such work completed. In order to accomplish this, the Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, or irrevocable bank letter of credit that the subdivider may have deposited as included in a written agreement between the Board and the subdivider.

D. As-Built Drawing.

Prior to acceptance by the Board of any improvements installed by the subdivider, two sets of "as-built" plans and specifications certified by the subdivider's engineer shall be filed with the County engineer. Within ten (10) days after completion of improvements and submission of "as-built" drawings, the County engineer shall certify the completion of the improvements and the acceptance thereof, and shall submit a copy of said certification to the administrator and the subdivider. If a performance bond has been filed, the administrator shall forward a copy of the certification to the County clerk. Thereafter, the County clerk shall release the performance bond upon application by the subdivider.

E. Monumentation.

Following completion of construction of the required improvements and prior to certification of completion by the County engineer, certain land survey monuments shall be reset or verified by the subdivider's engineer or surveyor to still be in place. These monuments shall have the size, shape, type of material as shown on the subdivision plat. The monuments shall be located as follows:

1. All angle points in the exterior boundary of the plat,
2. All street intersections, points within and adjacent to the final plat,
3. All street corner lines ending at boundary line of final plat,
4. The point of beginning of the subdivision plat description.

F. Lot and Block Requirements.

1. Lot size, width, depth, shape, orientation, and minimum building setback lines,

2. The building envelopes shall be located in a manner designed to promote harmonious development of structures, minimize congestion of structures, and provide open space and solar access for each lot and structure. Also, building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, water courses and topographical features. Structures may only be built on buildable lots. Lots shall only be created that meet the definition of "buildable lot." Building envelopes shall be established outside of hillsides of 25% and greater and outside of the floodway.
3. Corner lots shall have a property line curve or corner of a minimum radius of twenty-five (25) feet unless a longer radius is required to serve an existing or future use,
4. Side lot lines shall be within twenty (20) degrees to a right angle or radial line to the street line,
5. Double frontage lots shall not be created.
6. Every lot in a subdivision shall have a minimum of twenty (20) feet of frontage on a dedicated public street unless the Board approves a private street.

G. Block Requirements.

The length, width, and shape of blocks within proposed subdivisions shall conform to the following requirements:

1. No block shall be longer than one thousand five hundred (1,500) feet, nor less than four hundred (400) feet between the street intersections, and shall have sufficient depth to provide for two tiers of lots;
2. The layout of blocks shall take into consideration the natural topography of the land to promote access within the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, water courses and topographical features;
3. Corner lots shall contain a building envelope outside of a seventy-five (75) foot radius from the intersection of the roads.

H. Street Improvement Requirements

1. The arrangement, character, extent, width, grade, and location of all roads put in the proposed conservation subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned roads, topography, public convenience and safety, and the proposed uses of the land,
2. All new roads and roadways shall have a minimum sixty foot easement. At final plat a legal description, dedicating the easement to Bear Lake County must be recorded with the County Clerk Recorder. For developments that face out onto, and existing Bear Lake County owned and/or maintained roadway, a thirty foot easement, measured from the street or roadway centerline, shall be established. At final plat a legal description, dedicating the easement to Bear Lake County, must be recorded with the County Clerk Recorder,
3. All roads shall be constructed to meet or exceed the criteria and standards set by the County of Bear Lake Land Use Ordinances Chapter 5 or any other governmental entity having jurisdiction thereover, now existing or hereafter adopted, amended or codified,

4. The drivable surface width of roads or roadways shall be a minimum of 24 feet:
Where fire hydrants are located along the roadway, the minimum width of the travelway shall be 28 feet. This may be accomplished by construction of a turnout providing an overall travelway width of 28 feet and 40 feet in length at the hydrant location.
5. Where a subdivision abuts or contains an existing or proposed arterial street, railroad, or limited access highway right-of-way, the Board may require a frontage street, planting strip or similar design features,
6. Roads may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods, where an easement for a future street for these purposes is allowed, it shall be recorded on the plat and property deed as an irreversible easement.
7. Road grades shall not be less than three-tenths percent and not more than eight (8%) percent so as to provide a safe movement of traffic and emergency vehicles in all weather and to provide for adequate drainage and snow plowing; a grade up to ten percent may be permitted in special circumstances where the Board determines that such increased grade is beneficial,
8. In general, partial dedications shall not be permitted
9. Dead-end Roads may be permitted only when such street terminates at the boundary of a subdivision and is necessary for the development of the subdivision or the future development of the adjacent property. When such a dead-end street serves more than two lots, a temporary turn-around easement shall be provided which easement shall revert to the adjacent lots when the street is extended,
10. A cul de sac, court, or similar type street shall be permitted only when necessary to the development of the subdivision and provided that no such street shall have a maximum length greater than five hundred (500) feet from entrance to center of turn-around, and all cul de sacs shall have a minimum turn-around radius of sixty (60) feet at the property line and not less than forty-five (45) feet at the curb line; provided that larger cul-de-sacs may be allowed or required by the Board in extenuating circumstances,
11. Roads shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy (70) degrees,
12. Where any street deflects 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 Roads, and one hundred twenty-five (125) feet for minor roads,
13. Roads with center line off-sets of less than one hundred twenty-five (125) feet shall be prohibited,
14. A tangent of at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector roads,
15. Proposed Roads which are a continuation of an existing street shall be given the same names as the existing street. All new street names shall not duplicate or be confusing with the names of existing roads within Bear Lake County, Idaho. The subdivider shall obtain approval of all street names within the proposed subdivision from the commission before submitting same to Board for preliminary plat approval,

16. Street alignment design shall follow natural terrain contours to result in safe roads, useable lots, and minimum cuts and fills. All cuts and fills shall be revegetated,
17. Street patterns of residential areas shall be designed to create areas free of through traffic, but readily accessible to adjacent collector and arterial Roads,
18. Reserve planting strips controlling access to public roads shall be permitted under conditions specified and shown on the final plat and all landscaping and irrigation systems shall be installed as required improvements by the subdivider,
19. In general, the center line of street shall coincide with the center line of the street right-of-way and all crosswalk markings shall be installed by the subdivider as a required improvement,
20. Street lighting may be required by the commission or Board where appropriate, and shall be installed by the subdivider as a required improvement,
21. Private Roads may be allowed upon recommendation by the commission and approval by the Board. Private Roads shall be constructed to meet the design standards of public roads as specified in this Ordinance and other applicable standards,
22. Road signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the County,
23. Bridges. Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge, or improvement of an existing bridge, said construction or improvement shall be a required improvement by the subdivider. Said construction or improvement shall be in accordance with adopted standard specifications therefore,
24. Sidewalks, curbs, and gutters may be a required improvement installed by the subdivider.

I. Required Easements.

Easements, as set forth hereinafter, shall be required for location of the utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands.

1. A public utility easement at least ten (10) feet in width shall be required within the street right-of-way boundaries of all private roads. A public utility easement at least five feet in width shall be required within any property boundary as determined by the County engineer to be necessary for the provision of adequate public utilities.
2. Where a subdivision contains or borders on a water course, drainage way, channel or stream, an easement shall be required of sufficient width to contain said water course and provide access for private maintenance and/or reconstruction of said water course.
3. All subdivisions which border a watercourse shall dedicate a ten (10) foot scenic easement upon which no permanent structure shall be built in order to protect the natural vegetation and wildlife along the river bank and to protect structures from damage or loss due to river bank erosion.
4. No ditch, pipe, or structure for irrigation water or irrigation waste water shall be constructed, re-routed, or changed in the course of planning for or constructing

required improvements within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights thereto. A written copy of such approval shall be filed as part of required improvement construction plans.

5. No subdivision shall eliminate any historic public access to public lands that is still in current use. A ten (10) foot easement shall be provided to allow the public to access such public lands. The Board may approve a relocation of the historic access point provided that the relocated access does not significantly impair public access.

J. Sanitary Sewage Disposal Improvements.

Central sanitary sewer and treatment systems shall be installed in all conservation subdivisions within one (1) mile of the historic high water mark for Bear Lake. All sewer systems within a city area of impact shall be connected to a public sewer system. The use of private septic or packaged sewer plants is permitted providing the minimum lot size meets the requirements set forth by the Southeastern Idaho Public Health Districts' sewer permit. Construction plans and specifications for central sanitary sewer extension shall be prepared by the subdivider and approved by the County engineer, Board, and Southeastern Idaho Public Health District prior to final plat approval.

K. Water System Improvements.

Private domestic wells, as allowed by IDWR are permissible.

L. Cuts, Fills, and Grading Improvements.

Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:

1. A preliminary soil report prepared by a qualified engineer may be required by the commission and/or Board as part of the preliminary plat application.
2. Preliminary grading plan prepared by a civil engineer shall be submitted as part of all preliminary plat applications. Said plan shall contain the following information:
 - a. Proposed contours at a maximum of five (5) foot contour intervals;
 - b. Cut and fill banks in pad elevations;
 - c. Drainage patterns;
 - d. Areas where trees and/or natural vegetation will be preserved;
 - e. Location of all street and utility improvements including driveways to building envelopes. Any other information which may reasonably be required by the administrator, commission, or Board to adequately review the affect of the proposed improvements.
3. Grading shall be designed to blend with natural land forms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for roads and driveways.
4. Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision.

5. Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as said revegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion.
6. Where cuts, fills, or other excavation are necessary, the following development standards shall apply:
 - a. Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil stability.
 - b. Fills shall be compacted to at least ninety-five (95) percent of maximum density as determined by AASHO T99 (Am. Assoc. State Highway Officials) and ASTM D 698 (Am. Std. Testing Methods).
 - c. Cut slopes shall be no steeper than two horizontal to one vertical. Subsurface drainage shall be provided as necessary for stability.
 - d. Fill slopes shall be no steeper than two horizontal to one vertical. Neither cut nor fill slopes shall be located on natural slopes of three to one or steeper, or where fill slope toes out within twelve (12) feet horizontally of the top and existing or planned cut slope.
 - e. Toes of cut and fill slopes shall be set back from property boundaries a distance of three feet plus one-fifth of the height of the cut or the fill, but may not exceed a horizontal distance of ten (10) feet; tops and toes of cut and fill slopes shall be set back from structures at a distance of at least six feet plus one-fifth of the height of the cut or the fill. Cuts and slopes shall be revegetated. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.

M. Drainage Improvements.

The subdivider shall submit with the preliminary plat application, such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement common to all owners within the subdivision and the County on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all major subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with roads, driveways, or improved public easements and shall extend across and under the entire improved width thereof including shoulders.

1. Culverts to be a minimum of 12" in diameter with a crush resistance as defined by AASHTO T99 Standards.
2. Natural drainage channels should be used when available.
3. Catchment basins to be designed to contain runoff during one (1) hour of a 25 year storm event.
4. All runoff to be contained on site.
5. Measures should be taken to prevent storm water from entering irrigation canals.

6. Easements shall be provided along drainages adequate to contain that watercourse and any further width necessary for maintenance or reconstruction.

N. Fencing. Fencing shall be installed around the entire border of the Rural Conservation Subdivision Developments. Fencing shall be designed such that animals are fenced out of the development and shall follow Idaho Code Title 25 Chapter 24 and Title 35 Chapter 1.

O. Utilities.

In addition to the terms mentioned hereinabove, all utilities including but not limited to, electricity, natural gas, telephone, and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath roads shall be installed by the subdivider prior to construction of street improvements.

P. Off-Site Improvements.

Where the off-site impact of a proposed subdivision is found by the commission or Board to create substantial additional traffic, improvements to alleviate that impact may be required of the subdivider prior to final plat approval, including; but not limited to, bridges, intersections, roads, traffic control devices, water mains and facilities, and sewer mains and facilities. Such off-site improvements must be roughly proportional to the impacts of the proposed subdivision and must have a rational nexus to the impacts of the proposed subdivision.

Q. Fire Protection

In areas where Impact Fees have not been established the subdivider shall also be required to locate and install an adequate means of fire suppression within the proposed subdivision according to specifications and requirements of the County, under the supervision of the Bear Lake Fire District and other regulatory agencies having jurisdiction thereover. The fire suppression system may include a pressurized hydrant system, water storage in ponds or tanks, structures with permanent sprinklers, or a combination of systems. Fire water system shall have sufficient storage or flow for fire protection according to the International Fire Code. All such permanent fire water piping systems installed shall be engineered to provide sufficient water flow at each hydrant location as described in #5 below.

Fire protection facilities, hydrants, storage, or other appurtenances shall be included in the preliminary plat and delineated thereon, adequate provision for access by firefighting personnel and equipment to and from all such fire protection facilities, including, but not limited to hydrants, storage, structure sprinklers, and appurtenances. Such access shall be approved by the fire chief and the owner may be required to dedicate to the County as a condition of approval of the preliminary plat, an easement sufficient for access by firefighting equipment to such fire protection facilities. All such access easements shall be maintained in such a manner as to provide clear and unobstructed ingress and egress by firefighting personnel and equipment at all times.

1. On-site fire protection facilities may be altered or repaired with the written consent of the fire chief subject to the provisions of this ordinance.
2. Fire hydrants shall comply with NFPA Standards and be a two (2) butt hydrant, minimum of 6" piping,
3. Water mains shall be a minimum 6",
4. Fire hydrant spacing: No dwelling more than 400' from a hydrant. Hydrants shall have equal spacing of 700'.

5. Storage capacity on site shall be designed such that it provides 1,000 gallons per minute (gpm) for 2 hours at 20 P.S.I. for dwellings less than 3,600 square feet and 1,500 gallons gpm for dwellings greater than 3,600 square feet. Storage capacity alternatives may be approved with the concurrent approval of the Fire District provided that such alternatives provide equivalent fire protection.
6. The subdivider shall encourage xeriscaping and/or firewise landscaping in conditions, covenants, and restrictions when development is within close proximity of the wildland urban interface

R. Emergency Services

1. All direction and location signs to be constructed of non-flammable material.
2. Lettering and numbering of location and direction signs to be of sufficient size to be easily read from 75' and constructed of light reflecting material.
3. Signs shall be located in the dedicated County right of way or in the case of private roads signs shall be placed 15 feet from travel surface

S. Building/Structure Height

No building or structure shall exceed thirty-five feet.

Phased Development Projects:

A. Development Phases.

Any subdivider wishing to develop a conservation subdivision over a series of years shall comply with the additional requirements and regulations set forth in this section. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future states in a stable manner and shall comply with all applicable zoning regulations.

B. Development Plan.

In addition to the subdivision application and data, the subdivider shall submit to the administrator a development plan and development schedule for the entire project, containing all of the information required in the development plan, if approved:

1. Shall be the master plan for the entire project subject to modification by the subdivider through same procedures as required for approval of original plan; and,
2. Subject to additional regulations of subsequently adopted or amended ordinances and statutes; and subject to additional requirements imposed by the commission or Board due to changes in the development plan or as a result of subsequent subdivision or development of neighboring properties.
3. After approval of the development plan, the subdivider shall submit to the County a preliminary plat and final plat of each phase of the project built or to be built. The time limitations set forth herein shall apply to each phase of phased developments.

C. Planning Commission Action.

Upon receipt of the application and development plan and schedule, the administrator shall place the same on the agenda of the next regular meeting of the planning commission. The planning commission shall review the application, development plan, and development schedule and make such recommendations on the proposed project as required by any applicable ordinance(s) and all other applicable ordinances or portions thereof. After the

planning commission has made its findings and recommendations, the administrator shall give notice of a public hearing before the zoning commission. At the regular commission meeting where the public hearing is held, the commission shall take public comment, testimony from the subdivider and any interested parties, and review all information and data available to it. After review of the development plan and schedule, the commission shall make findings and recommendations with regard thereto.

D. Board Action.

The administrator upon receiving the findings and recommendation of the commission shall place the subdivision application, development plan and schedule on the agenda of the next regular Board meeting. The Board shall review the recommendations of the planning commission, the commission, and all information and data contained in the file and shall approve or deny the application and development plan.

E. Preliminary Plats.

Upon approval of a development plan, the subdivider shall file a preliminary plat for each stage of his development in conformance with the approved development plan. Upon approval of the preliminary plat, the subdivider may commence construction of the required improvements as herein provided.

F. Required Improvements.

The Board may require that the subdivider install all or a portion of the required improvements for the entire project as set forth in the development plan. Such required improvements shall be constructed prior to approval of the final plat for any phase of the development.

Impact Statement:

A. Impact Statement Required.

The subdivider proposing a conservation subdivision may be required by the commission or Board to prepare an impact statement prior to approval of a preliminary plat. The statement shall discuss the potential effects of the proposed development upon the County in terms of impact upon economics, public facilities, or environment as set forth herein.

B. Requirements.

The impact statement shall include a study of the potential impact upon:

1. Sewer facilities,
2. Domestic water facilities,
3. Fire protection, including fire protection water supply,
4. Police protection,
5. Emergency Services,
6. Utilities,
7. Schools,
8. Roads and traffic,
9. Other public facilities,
10. Noise, water, and air pollution,

11. Environmental impact, including impact upon vegetation, wildlife, and wildlife habitat, ground and surface water, and soil erosion,
12. Public transportation,
13. Public easements, created or threatened, and recreational availability,
14. Avalanche hazard and flood hazard,
15. Drainage,
16. Grading of slopes,
17. Adjacent properties and the neighborhoods,
18. Snow removal areas and services,
19. Designating and defining impact upon areas of historical significance,
20. Effects upon agriculture.

Additional Design impacts may be provided for Conservation Subdivision based on the proposed design and open space requirements and restrictions.

C. Additional Requirements.

The commission or Board may reasonably require the impact statement to be extended to include other factors and criteria not listed above due to unusual characteristics of the land or character of the proposed development or improvements thereon. Furthermore, the subdivider may be required to provide additional information and studies with regard to any of the factors or criteria required in the impact statement.

When an owner or subdivider owns or controls contiguous or adjacent land, to that which he proposes to subdivide under the terms of this ordinance, the commission or Board will require that the contiguous or adjacent property be included in the subdivision or that a development plan for the entire tract be presented. Furthermore, the commission or Board may require that the entire parcel or parcels of land be platted.

Waiver and Appeal:

A. Waiver.

Waiver or deferral of any of the requirements may be granted by the Board of County Commissioners on a case-by-case basis. Application for such waiver or deferral must be in writing and submitted as part of the application. 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 may 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 final plat 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. Such waiver must be minor in scope and not affect the overall intent of this ordinance. Waiver of the open space requirement cannot exceed a 50/50% split. All waivers of the open space requirements shall be made directly to the Board of County Commissioners.

B. Application for Waiver.

Applications shall be made to the administrator in writing at the time of subdivision application. Said waiver, together with such related data and maps as are necessary to fully illustrate the relief sought shall be filed at that time. Such applications shall be processed and considered with the preliminary plat application.

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 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 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.
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: 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.

Time Periods for Approval:

1. The planning commission shall each have sixty (60) days to examine and consider all applications made pursuant to this ordinance and to make its recommendations with regard thereto. Said sixty (60) day period shall commence upon the first meeting at

which said commission considers such an application. If no recommendation is made within said period, the application shall be placed upon the appropriate agenda without recommendation.

2. The Board shall have sixty (60) days to examine and consider all applications made pursuant to this ordinance and make its finding(s) and/or decision(s) with regard thereto.
3. The time periods set forth above may be extended for a reasonable period of time by the planning commission or Board upon a finding that due to the complexity of an application, or changes made in an application during the review process additional time to examine or consider same is reasonably required.

Enforcement, Violations and Penalties:

1. It shall be the duty of the administrator and building inspector to investigate compliance with these regulations and to bring to the attention of the Board and the County attorney any violations of this ordinance.
2. No owner, or agent of the owner, shall transfer, sell, encumber by mortgage or deed of trust an unsubdivided parcel of real property before a final plat thereof has been approved by the Commissioners and filed with the office of the Bear Lake County recorder as required by law.
3. The subdivision of any lot or of any parcel of land by the use of a metes and bounds description for the purpose of sale, transfer, encumbrance by mortgage or deed of trust, or lease shall not be permitted, without the filing of a final plat as herein required. All such divisions of land shall not be recognized by the County nor shall building permits be issued for any improvements thereon until such subdivisions have received final plat approval and met all requirements of this Ordinance.

Violations and Penalties

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

Civil Enforcement

Appropriate actions and proceedings at law or in equity may be instituted by the County attorney to prevent or rectify illegal subdivisions, to recover damages, to restrain, correct, or abate any violation, or to prevent illegal occupancy of a building, structure or premises. These remedies shall be accumulative and in addition to the penalties described herein above.

Conditions

Regulation of the subdivision of land and the attachment of reasonable conditions thereto are a proper exercise of valid police power granted to the County by Article XII, Section 2 of the Idaho Constitution. The subdivider has the duty of compliance with reasonable conditions laid down by the Board and commission for design, dedication, improvement, and restrictive use of land so as to conform to the physical and economic development of the County and the safety and general welfare of future plat owners in said subdivision and the public at large.