## CHAPTER I

PURPOSE, AUTHORITY AND GENERAL PROVISIONS

**What This Chapter Does.** This chapter establishes the purpose of this Code, identifies the enabling statute pursuant to which it is adopted, repeals conflicting ordinances, establishes vested rights for certain developments initiated prior to its adoptions, and establishes rules for its interpretation.

1. **Purpose.** The purpose of this Code is to Promote the health, safety, and general welfare of the people of the City by fulfilling the purposes and requirements of the Local Planning Act of 1975, as amended, and implementing the Comprehensive Plan for the City of Irwin.
2. **Authority.** This Code is adopted pursuant to the authority granted by the Local Planning Act of 1975, as amended. It includes the zoning ordinance required by IC 67-6511 and the subdivision ordinance required by IC 67-6513. It also fulfills the other requirements of the Local Planning Act, including the provision for variances required by IC 67-6516, the adoption of procedures for processing permits required by IC 6519, and the adoption of a hearing procedure required **by IC 67-6534.**
3. **Conflicting Ordinances Repealed.** All prior ordinances are repealed to the full extent of their inconsistency with this Code.

### Vested Rights.

* 1. Vested rights to proceed with development initiated prior to the adoption of this Code shall be established only by:
     1. having initiated and diligently continued construction of the development, or;
     2. having recorded a final plat in compliance with state law.

Platted lots in separate ownership at the time of the adoption of this Code are "vested" building sites, but development of such lots shall be subject to all relevant performance standards of this code except those setting lot size.

* 1. Vested rights to proceed with development under the provisions of this

Code shall be established only by:

* + 1. recording a final plat in compliance with the provisions of this Code;
    2. executing a development agreement in compliance with this Code; or
    3. obtaining a building permit in compliance with the provisions of this Code. Such vested rights expire with the permit.

1. **Relationship to Other Laws.** When future city ordinances, or state or federal law, impose additional standards on the activities regulated by this code, the most restrictive standard shall apply.
2. **Private Agreements.** This code does not nullify easements, covenants, deed restrictions, or similar private agreements, but where any such private agreement imposes standards that are less restrictive than those of this Code, the Code shall apply.
3. **Burden of Proof.** The burden of proof in all proceedings pursuant to this Code rests with the developer.
4. · **Interpretation.** All Code provisions shall be interpreted as being the minimum requirements necessary to protect the public health, safety, and general welfare, and to implement the Local Planning Act and Comprehensive Plan. This Code is designed to be consistent with the Comprehensive Plan and should be liberally construed to achieve its purposes and intent.
5. **Severability.** If any provision of the Code is held to be invalid, the remainder shall continue in full force.

## CHAPTER II

PLANNING AND ZONING COMMISSION/ZONING ADMINISTRATOR

**What This Chapter Does.** This chapter establishes a planning and zoning commission and provides for the appointment of a zoning administrator.

1. **Planning and Zoning Commission. A** planning and zoning commission is established, as authorized by IC 67-6504.
   1. The commission shall consist of the council and four members appointed by the mayor and confirmed by majority vote of the council.
   2. As required by IC 67-6504(a), all appointed commission members shall have resided in Bonneville County, Idaho for at least two years prior to their appointment.
   3. Appointed commission members shall serve terms of three years, except those member initially appointed, who shall serve terms, as set by lottery, of one, two, and three years, in order to provide for annual appointment of at least one member.
2. **Duties of Commission.** The comm1ss1on shall, as required by IC 67-6508, "conduct a Comprehensive planning process designed to prepare, implement, and review and update a Comprehensive Plan" for the City. The commission shall exercise all powers granted to it by the Local Planning Act and fulfill all duties imposed by the Code.
3. **Zoning Administrator.** The mayor may, subject to confirmation by a majority vote of the council, appoint an administrator. The administrator shall have the following duties:
   1. Assist the public in understanding the requirement of this Code;
   2. Accept applications for permits required by this Code ( consideration of any application may be delayed when inclement weather or snow cover prevents a proper on-site inspection);
   3. Review, or provide for the review of, building permit and lot split applications for compliance with the Code;
   4. Arrange for professional review of permit applications, as necessary;
   5. Prepare the commission's agenda, scheduling hearings and other matters so as to limit meetings to reasonable lengths, while still providing timely processing of applications;
   6. Issue, or provide for the issuance of, certificates of occupancy based on on­ site inspections;
   7. Investigate possible violations of this Code;
   8. Properly account for all fees collected in the administration of this Code and prepare monthly and annual reports of building activity; and
   9. Perform all other duties assigned by this Code, including the additional duties required for the administration of the National Flood Insurance Program (NFIP) outlined in Appendix A.
4. **Liability.** No individual (including council and commission members, the administrator, or other city employees) who acts in good faith and without malice in the performance of duties assigned by the Code shall be held liable for errors or omissions in its administration. A suit brought against such an individual shall be defended by the City and any.judgment resulting from such a suit shall be the liability of the City.

### CHAPTER Ill

ADMINISTRATIVE PROCEDURES

**What This Chapter Does.** This chapter requires a permit for all land development and building activity in the City and establishes procedures for the administration of this Code, including the procedures for processing permit application required by IC 67-6519 and the hearing procedures required by IC 67-6534.

Division 1 - Permit Procedures

1. **Permit. A** permit is required for any division of land, grading, construction, reconstruction, or any land development or building activity, except as specifically exempted by III.B. Applications for permits shall be processed as described in this Chapter.
2. **Exemptions.** Activities listed here are not exempt from any requirement of this Code, except the requirement for a permit. No permit shall be required for:
   1. Minor lot splits, in which no new lot is created, but property lines are adjusted in compliance with VII.N.3.
   2. Excavation or grading which involves the disturbance of 1,000 square feet or less or the movement of 50 cubic yards of earth or less, and which will create no unsupported earthen walls or embankments more than five feet in height, except within stream corridors, where all grading is subject to permit;
   3. Remodels that do not alter the exterior dimensions of the building involved;
   4. Accessory building of less than 120 square feet in floor area and less than 10 feet in height, except where such accessory buildings or outbuildings are located within a stream corridor;
   5. Fences of eight feet or less in height (note that all fences must be in compliance with Appendix B.9);
   6. Minor utility installations, except where such installations are in a stream corridor; and
   7. Certain signs, as provided in Chapter X and Appendix C.
3. **Application Forms.** Applications shall be submitted on forms provided by the City. Multiple copies of applications and supporting materials may be required by the administrator. No incomplete application will be accepted.
4. **Application Fees.** Application fees for each type of permit established by the Code shall be established by resolution of the council.
5. **Lot Split Permits.** The lot split permit procedure is designed to ensure that the creation of new parcels of land does not result in violation of this Code or unnecessary application for variances. City review of proposed lot splits also protects utility easements and road rights-of-way from encroachment. It also protects consumers from purchasing inaccurately described property. Applications for lot split permits shall follow the procedure described here.
   1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
   2. At the next regular meeting, the commission shall determine whether the proposed lot split is in compliance with the Comprehensive Plan and this Code. If the proposed lot split complies, the application for a permit shall be approved. If the proposed lot split does not comply, the application for a permit shall be disapproved. Conditions may be attached to approval of the permit, as provided in III.I.
   3. The commission's decision may be appealed to the council using the appeals procedure in 111.L. Any person wishing to appeal a decision shall file a Notice of Appeal with the administrator. This must be done within 10 days after notice of the decision to be appealed is received. Developers proceed at their own risk during the appeal period.
   4. Approval of a lot split does not constitute or imply approval of a permit for any prospective use of the created lot.
6. **Subdivision Permits.** The subdivision permit procedure is designed to ensure that land development is accompanied by installation of the necessary on-site public facilities; and that it is compatible with the neighboring land uses, landscape setting, and the capacity of the off-site public facilities and services. City review of subdivisions protects utility easement and road rights-of way from encroachment. It also protects consumers from purchasing inaccurately described property. Applications for subdivision permits shall follow the procedure described here.
   1. The developer shall file a request for a sketch plan review with the administrator.
   2. The administrator shall place the sketch plan review on the agenda of the next regular commission meeting, and will allow time for its proper consideration.
   3. The commission shall review the sketch plan. Sketch plan review is not a regulatory proceeding, but an opportunity for the commission to be made

aware of the proposal, and for the applicant to be made aware of possible questions and applicable requirement of this Code.

* 1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
  2. The administrator shall place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements of

7. below can be met, and at which time will allow proper consideration of the proposed subdivision.

* 1. The administrator may contract for professions review of the application, with the cost of that review being covered by the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
  2. The developer shall provide notice of the hearing, as follows:
     1. by certified mail to all adjoining property owners and all owners of property within 300 feet of the outer boundaries of the site at least 15 days before the hearing, except as provided in d., below;
     2. by newspaper publication: one legal notice in the official newspaper, appearing at least 15 days prior to the hearing; and
     3. by first class mail to other media and interested agencies on a list maintained by the administrator.
     4. When more than 200 certified mail notices are required, certified maii notice may be limited to adjoining property owners, while still providing all other required forms of notice.
     5. All notices shall comply with the requirement of III.J.
     6. The actual costs of providing the required notice shall be added to the application fee required by III.D.
  3. The commission shall conduct a hearing on the proposed subdivision following the procedure established in III.N. No application for a subdivision shall be reviewed if the developer or

a representative is not present.

* 1. The comm1ss1on shall determine whether the proposed subdivision is in compliance with the Comprehensive Plan and all requirements of this Code. If it finds the proposed subdivision complies, it shall approve the application. If it finds that proposed subdivision is not in compliance, it shall disapprove the application. Conditions may be attached to approval of the permit, as provided

in III.I.

* 1. The administrator shall notify the developer and interested parties of the commission's decision within 10 days.
  2. The commission's decision may be appealed to the council using the appeals procedure of III.L. Any person wishing to appeal a decision shall file a notice of appeal with the administrator within 10 day after notice of the decision being appealed is received. Developers proceed at their own risk during the appeal period.
  3. The developer may file a final plat with the administrator at any time after the subdivision permit is approved. Phased final platting is permitted by IX.D.
  4. The administrator shall place the final plat on the agenda for the next regular council meeting will allow for proper review of the proposed final plat.
  5. No public notice or public hearing is required for final plats, but no final plat shall be reviewed if the developer or a representative is not present.
  6. The council shall review the final plat and determine whether it is in compliance with the subdivision permit, the Comprehensive Plan, and this Code. If it finds that the final plat complies, it shall approve that plat. If it finds that the final plat is not in compliance, it shall disapprove that plat. Conditions may be attached to approval of final plat, a provided in III.I.
  7. The administrator shall notify the developer and interested parties of the council's decision within 10 days.
  8. Approval of a subdivision permit or plat does not constitute or imply approval of a permit for any prospective use of any lot created.

1. **Building Permits.** The purpose of the building permit procedure is to ensure that routine land development and building activity complies with this Code. Applications for building permits shall follow the procedure described here.
   1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
   2. The administrator shall determine whether the proposed building or use is in compliance with the Comprehensive Plan and this Code. If the administrator finds that the proposed building or use complies, the application for a permit shall be approved. If the administrator finds that the proposed building or use does not comply the application for a permit shall be disapproved.
   3. The administrator shall notify the developer of the decision within 10 days, except as provided in 4 below.
   4. The administrator may refer any building permit application to the commission for confirmation of its compliance or lack of compliance with the comprehensive Plan and this Code. All such referrals shall be placed on the agenda of the next regular commission meeting.
   5. The administration's decision may be appealed to the council using the appeals procedure of III.L. Any person wishing to appeal a decision shall file a notice of appeal with the administrator within 10 day after notice of the decision being appealed is received. Developers proceed at their own risk during the appeal period.
2. **Special Use Permits.** The purpose of the special use permit procedure authorized by IC 67-6512 is to implement the Comprehensive Plan by requiring intensive public review of certain developments, and by requiring that such developments comply with performance standards designed to ensure their compatibility with neighboring uses, the landscape setting, and the capacity of public facilities and services. Applications for special use permits shall follow the procedure described here.
   1. The developer shall file a request for a sketch plan review with the administrator.
   2. The administrator shall place the sketch plan review on the agenda for the next regular commission meeting and will allow its proper consideration.
   3. The commission shall conduct a sketch plan review. Sketch plan review is not a regulatory proceeding, but an optional opportunity for the commission to be made aware of the proposal, and for the applicant to be made aware of possible question and the requirements of this Code.
   4. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
   5. The administrator shall place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements of 7 below can be met and at which time will allow proper consideration of the proposed special use.
   6. The administrator may contract for professional review of the application, with the cost of that review being covered by the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
   7. The developer shall provide notice of the hearing, as follows:
      1. by certified mail to all adjoining property owners and all owners of property within 300 feet of the site at least 15 days before the hearing, except as provided in d., below;
      2. by newspaper publication: one legal notice in the official newspaper, appearing at least 15 days prior to the hearing; and
      3. by first class mail to other media and interested agencies on a list maintained by the administrator.
      4. When more than 200 certified mail notices are required, the administrator may limit certified mail notice to adjoining property owners, while still providing all other required forms of notice.
      5. At least seven days before the hearing a sign conveying the required notice shall be placed on the site. Such signs shall be prominently visible from the nearest public street.
      6. All notices shall comply with the requirements of III.J.
      7. The actual costs of providing the required notice shall be added to the application fee required by III.D.
   8. The commission shall conduct a hearing on the proposed special use following the procedure established in III.N. No application for a special use shall be reviewed if the developer or a representative is not present.
   9. The commission shall determine whether the proposed special use is in compliance with the comprehensive Plan and this ordinance. If it finds that the proposed special use complies, it shall approve the application. If it finds that the proposed special use is not in compliance,

it shall disapprove the application. Conditions may be attached to the approval of the permit, as provided in III.I.

* 1. The administrator shall notify the developer and interested parties of the commission's decision within 10 days.
  2. The commission's decision may be appealed to the council using the appeals procedure of III.L. Any person wishing to appeal a decision shall file a notice of appeal with the administrator within 10 days after notice of the decision being appealed is received. Developers proceed at their own risk during the appeal period.

1. **Conditions.** Conditions may be imposed on any lot split, subdivision, or special use permit approval, or variance, if:
   1. Such conditions are clearly designed to ensure compliance with one or more specific requirements of this Code; and
   2. A list of all conditions imposed is provided to the developer with notification of the commission or council decision. That list shall specifically identify the provision of this ordinance the condition is designed to implement.
2. **Hearing Notices.** All required notices shall provide the following information (for model notice see Appendix D):
   1. The name and address of the developer;
   2. A legal description of the development site;
   3. The address of the development site, or another general description by which the public can identify the site;
   4. The present land use at the site;
   5. The proposed use and, for subdivisions, the proposed number of lots and average proposed lot size;
   6. The body (commission or council) that will conduct the hearing;
   7. The date, time, and place of the hearing;
   8. A statement of the availability of application materials for public review, and
   9. A statement that *"Public comment is encouraged."*
3. **Approvals Valid For One Year.** Permits shall be valid for one year from the date of approval, unless extended by a development agreement, as provided in

IX.D.

Division 2 - Appeals and Variances

1. **Appeals.** Any decision of the administrator or commission may be appealed to the council using the procedure described here.
   1. The appellant shall file a properly completed notice of appeal and the required appeals fee with the administrator. If a notice of appeal alleges that a decision constitutes a taking of property without just compensation, the administrator shall direct the appeal to the City attorney.
   2. The administrator shall place an appeal hearing on the agenda of the next regular council meeting for which the notice requirements can be met and, if necessary, by which the City attorney's review can be completed. Notice requirements for an appeal shall be the same as for the permit application. It shall be the duty of the appellants to provide the required notice.
   3. The City attorney shall review all allegations that a decision of the administrator or commission constitutes a taking of property without just compensation. This review shall be based on the Idaho Attorney General's checklist and other information the City attorney deems appropriate, including the property rights policy of the Plan.
   4. The council shall conduct a hearing on the appeal following the procedure established in 111.N. No appeal shall be heard if the appellant or a representative and, when the appellant is not the developer, the developer or a representative is not present. Where a taking of property without just compensation is alleged, the council shall also consider the county attorney's review of the decision, as provided by III.L.3.
   5. The council shall determine whether the decision being appealed is in compliance with the Comprehensive Plan and this ordinance, and affirm, modify, or overturn that decision accordingly.
   6. The administrator shall notify the appellant and interested parties of the council's decision within 10 days.
2. **Variances.** Variances are intended to provide relief for landowners who, due to some unique physical characteristic of their property that is beyond their control, would have not beneficial use of the property if the ordinance is strictly enforced. Applications for variances shall follow the procedure described here.
   1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
   2. The administrator shall place a hearing on the variance on the agenda of the next regular commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements for a variance shall be the same as for a subdivision.
   3. The commission shall conduct a hearing on the proposed variance following the procedure established in III.N. No application for a variance shall be reviewed if the developer or a representative is not present.
   4. The commission shall approve a variance only upon finding that:
      1. the need for a variance results from physical limitations unique to the lot on which the variance is requested.
      2. failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot is possible without a variance;
      3. the alleged hardship has not been created by action of the lot's owner or occupants;
      4. approval of the variance will not create a nuisance or result in potential harm to adjoining properties of the neighborhood;
      5. approval of the variance will not have an adverse affect on the implementation of the comprehensive Plan, and,
      6. the variance is the minimum relief from the requirements of this ordinance necessary to permit a reasonable conforming use.
      7. Additional findings may be required for variances in the South Fork Corridor Overlay Zoning District: see Appendix A.
   5. Conditions may be attached to the approval of a variance, as provided in III.I.

NOTE: Page 14 is missing from original document.

Text jumps from No. 5 to No. 8;

There is no "N" in numbering sequence

1. The presiding officer shall ask for a statement from the developer or his or her representative. Commission members may ask questions following this statement. All questions and replies shall be directed through the presiding officer. ·
2. Following the developer's statement, the presiding officer shall ask for statements from the public. Persons giving statements shall begin by stating their name and mailing address. Commission members may ask questions following any statement. All questions and replies shall be directed through the presiding officer.
3. When all statements have been given, the presiding officer shall ask if any person who gave a statement wished to speak in rebuttal to other statements or to clarify their statement. Neither new statements nor the introduction of new evidence shall be permitted at this time. Questions from commission members may follow each rebuttal or clarification.
4. The presiding officer shall close the public hearing and call for discussion and action by the commission.
5. Written statements, plans, drawings, photographs, or other materials offered in support of statements at a hearing are part of that hearing's record and shall be retained by the city. Supporting materials shall be left with the administrator after each statement is made.
6. **Additional Hearing Procedures.** These procedures may be used without prior notice to assist in the conducting large or controversial hearings.
7. The commission may impose time limits on the statements given in order to ensure completion of the agenda.
8. The commission may require persons who wish to make a statement to register their intention to do so with the administrator before the hearing. The presiding officer shall use the register to all on persons for presentation of their statements.
9. **Taping Hearings.** As Required by IC 67-6536, the administrator shall keep on file a taped record (that can be transcribed) of all hearings for at least six months after the final hearing on the development.
10. **Decision Record.** All decisions of the Commission and Council shall be reported in the form of Findings of Fact and Conclusions of Law, as required by IC 67- 6535. The completed decision record shall include the application materials and any report prepared by or on contact for the administrator.
11. **Decision Deadline.** This section establishes the "reasonable time" for deliberation by the commission on applications, as required by IC 67-6519. The Commission shall make a decision on any application for a permit within 35 days of the hearing, if a hearing is required by this Code, or within 35 days of the meeting at which the application first appeared on the commission agenda, except that: the Commission may table any application for which a large-scale development study (as required by VILT.) for a period of more than 60 days while the required study is conducted. The maximum time permitted for a large scale development study shall be 120 days.

Division 4 - Enforcement

1. **Failure to Obtain a Permit.** Whenever the Administrator becomes aware of an activity for which a permit is required by this Code, but for which a permit has not been approved, the Administrator shall notify the occupant (and owner, if they are not the same) of the site to immediately cease all unpermitted activity. Notice shall be given by posting on the site and by first class mail. If activity does not cease, the administrator shall ask the City Attorney to take prompt action, as authorized by IC 67-6527, to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition. Required restoration shall include restoration of vegetative cover where sites have been graded in violation of this Code.
2. **Certificate of Compliance. A** Certificate of Compliance shall be issued before any building or use is occupied. A Certificate of Compliance indicates that an on­ site inspection has shown that the building or use complies with this Code, including any conditions imposed upon its approval. Occupancy of a building or use without a Certificate of Compliance shall be a violation of this ordinance. The issuance of a Certificate of Compliance shall not be construed as approval of any violation that may have been undiscovered during the inspection.
3. **Temporary Certificate of Compliance. A** temporary Certificate of Compliance may be issued to permit temporary use of a building in cases where weather prevents the prompt completion of such required improvements as landscaping. No temporary Certificate of Compliance shall be issued for more than 120 days.
4. **Enforcement Actions.** The process for enforcement of this Code shall be a described here.
   1. The administrator shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and/or posting on the site. The notice shall describe the violation, cite the sections of this Code being violated, and order the occupant to attain compliance within 30 days.
   2. Any person who receives a notice of violation may request inspection by the Administrator to show the compliance has been attained within the 30 days allowed, or: ·
      1. file a written request with the administrator for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 days and culminated by an inspection to show that compliance has been attained; or,
      2. file an appeal of the Administrator's notice, following the appeals procedure if III.L.
   3. The Administrator shall notify any occupant or owner who fails to attain compliance within the specified time, or to show on appeal that a violation has not occurred, that the Council will hold a hearing to consider legal action on the violation from the original notice, and cite the penalties that may be imposed for violations of this ordinance, established in III.W.
   4. The Council shall hold a hearing to consider action on the violation. The occupant or owner shall be permitted to present evidence that a violation has not occurred. If the council finds that a violation has occurred it may:
      1. specify a time within which compliance shall be attained or the matter automatically pursued by the City Attorney; or,
      2. direct the City Attorney to immediately initiate civil and/or criminal actions to bring the building or use into compliance.
5. **Penalties.** Violations of this Code shall be misdemeanor, punishable by a fine in any amount not exceeding $300.00, or by imprisonment for a period of not longer than 30 days, or by both fine and imprisonment. Each day in which a violation continues shall be considered a separate offense.

Division 5 - Amendments

1. **Code Amendments.** Any person may petition for the amendment of this Code. The amendment procedure shall be as described here and in I.C. 67- 6511. Review of and action on plan amendments, amendments to the official zoning map, and annexations may be processed simultaneously, but all requirements of both procedures III.X. and III.Y.) must be fulfilled.
   1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the Administrator.
   2. The Administrator shall place a hearing of the application on the agenda of the next regular commission meeting for which the notice requirements can be met, and at which time will allow proper consideration of the proposed

amendment.

* 1. The Administrator may contract for professional review of the application, with the cost of that review being covered by the application fee. Such reviews shall be prepared in the form of a written report submitted to the Administrator for use at the hearing. The Administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
  2. The developer shall provide notice of the hearing as follows:
     1. by certified mail to all adjoining property owners and all owners of property within 300 feet or the outer boundaries of the site at least 15 days before the hearing, except as provided ind., below;
     2. by newspaper publication: one legal notice in the official newspaper, appearing at least 15 days prior to the hearing; and,
     3. by first class mail to other media and interested agencies on a list maintained by the administrator.
     4. When more than 200 certified mail notices are required, certified mail notice may be limited to adjoining property owners, while still providing all other required form of notice.
     5. All notices shall comply with the requirement of III.J.,
     6. The actual costs of providing the required notice shall be added to the application fee required by III.D.
  3. The commission shall conduct a hearing on the proposed subdivision following the procedure established in III.N. No application for an amendment shall be reviewed if the developer or a representative is not present.
  4. The Commission shall determine whether the proposed amendment 1s in compliance with the Comprehensive Plan and recommend that the Council approve or disapprove it accordingly.
  5. The Administrator shall convey the Commission's recommendation to the Council in writing and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular council meeting for which the notice requirements can be met. Notice shall be provided in the same manner as for the hearing before the Commission.
  6. The Council shall conduct a hearing on the proposed amendment following the procedure established in 111.N. This hearing shall also constitute the first reading of the ordinance required by IC 50-901. No application for an amendment shall be reviewed if the developer or a representative is not present.
  7. The Council shall determine whether the proposed amendment is consistent with the Comprehensive Plan and approve or disapprove it accordingly.
  8. The Administrator shall notify the developer and interested parties of the Council's decision within 10 days, but no amendment to this Code shall become effective until that amendment has been adopted as an ordinance and published as required by law.

1. **Plan Amendments for Large-Scale Developments. A** large-scale development consists of 50 or more residential lots or units is projected using standard trip generation tables, to generate 500 or more trips on an average day, or includes a commercial or industrial building of 5,000 or more square feet. Large-scale developments shall be permitted only upon amendment of the Comprehensive Plan. The amendment procedures shall be as described here and in IC 67-6509. Review of any action on plan amendments, amendments to the official zoning map, and annexations may be processed simultaneously, but all requirements of both procedures (111.X and III.Y.) must be fulfilled.
   1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
   2. The public facilities needs and other potential impacts of any proposed large­ scale development shall be determined through a fact-finding process conducted by the commission, at the expense of the developer. The Commission may retain professional planners and/or engineers to conduct this study, the propose of which shall be to determine development. The large­ scale development study process shall be conducted as follows:
      1. The Administrator shall determine whether a proposed development is a large-scale development as defined by this Code;
      2. The Administrator shall not schedule a hearing on an application determined to be for a large-scale development, but shall instead place initiation of a large-scale development study on the agenda of the next regular commission meeting; and,
      3. The Commission shall review the application at the meeting. If it confirms the Administrator's determination, the Commission shall require a large­ scale development study.
      4. Where a large-scale development study is required, the developer shall place a deposit with the Administrator in the amount required by the resolution establishing fees for the administration of this ordinance. The Administrator shall retain appropriate professional assistance for the study, drawing against the deposit as necessary. Additional actual costs shall be billed to the developer, with such costs being paid before a hearing on the application is scheduled. Any unused funds shall be returned to the developer upon completion of the study.
      5. An application shall be considered complete and a hearing conducted only after completion of the large-scaled development study, and its distribution to the commission and the public.
   3. The Administrator shall place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirement can be met and at which time will allow proper consideration of the proposed amendment.
   4. The developer shall provide notice of the hearing, as follows:
      1. by certified mail to all adjoining property owner and all owners of property within 300 feet or the outer boundaries of the site at least 15 days before the hearing, except as provided in d., below;
      2. by newspaper publication: one legal notice in the official newspaper, appearing at least 15 days prior to the hearing; and,
      3. by first class mail to other media and interested agencies on a list maintained by the administrator.
      4. When more than 200 certified mail notices are required, certified mail notice may be limited to adjoining property owners, while still providing all other required form of notice.
      5. At least seven days before the hearing a sign conveying the required notice shall be placed on the site. Such signs shall be prominently visible from the nearest public street.
      6. All notices shall comply with the requirement of III.J.
      7. The actual costs of providing the required notice shall be added to the application fee required by III.D.
   5. The commission shall conduct a hearing on the proposed subdivision following the procedure established in III.N. No application for an amendment shall be reviewed if the developer or representative is not present.
   6. The commission shall determine whether the proposed amendment is in compliance with the Comprehensive Plan and recommend that the council approve or disapprove it accordingly.
   7. The administrator shall convey the commission's recommendation to the council in writing and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular council meeting for which the notice requirements can be met. Notice shall be provided in the same manner as for the hearing before the commission.
   8. The council shall conduct a hearing on the proposed amendment following the procedure established in III.N. No application for an amendment shall be reviewed if the developer or a representative is not present.
   9. The council shall determine whether the proposed amendment is consistent with the Comprehensive Plan and approve or disapprove it accordingly.
   10. The administrator shall notify the developer and interested parties of the council's decision within 10 days
2. **Annexation.** Proposals for annexation to the City of Irwin shall be processed proposals for the amendment of the official zoning map, as provided by IC 67- 6525 and III.X. of this Code. Upon approval, a certified copy of the annexation ordinance and a plat of the area annexed shall be filed with the county assessor, auditor, and treasurer, and with the Idaho State Tax Commission.

# CHAPTER IV

ESTABLISHMENT OF ZONING DISTRICTS AND ADOPTION OF ZONING MAP

**What this Chapter Does.** This chapter creates zoning districts nd adopt an o!fic!al map of those districts. It also provides rules for the interpretation of zoning district boundaries and dealing with nonconforming uses and buildings.

1. **Zoning Districts.** The following zoning districts are established to implement the Comprehensive Plan:
   1. The commercial Node zoning District (CN),
   2. The Low Density Residential Zoning District (LDR), and,
   3. The South Fork Corridor Overlay Zoning District (SFC).
2. **Official Zoning Map.** The "Official Zoning Map of the City of Irwin" is adopted, by reference, as part of this Code. A dated copy of that map, certified to be correct by the signatures of the mayor and City clerk, shall be maintained for public inspection at the office of the City Clerk.
3. **Official District Boundaries.** Zoning district boundaries shall be as shown on the "Official Zoning Map of the City of Irwin" or, for the SFC, as defined in V.D. Any person who disputes the location of a zoning district boundary, as interpreted by the administrator, may request review of the administrator's decision using the appeals procedure of III.L.
4. **Nonconforming Uses and Buildings.** Nonconforming uses and building may continue subject to the rules established here. While the purpose of theses rules is to help eliminate nonconforming uses, it is recognized that routine maintenance, repair and, in some cases, a change of occupancy to another nonconforming use, or replacement of a nonconforming building may be necessary to prevent community blight.
   1. Any nonconforming use abandoned for more than 18 months shall be terminated. Abandonment shall not be measured by the owner's intent, but solely by the fact that use ceases for a period of 18 or more months.
   2. There shall be no limit on repair or maintenance activities for nonconforming uses or building, provided that no such activity shall increase the degree of nonconformity, except that a minor increase in nonconformity may be permitted to provide handicapped access to a structure, as required by law.
   3. Changes in occupancy may be permitted in nonconforming commercial building, provided that the new occupancy is no more intense than the

existing (intensity measured by traffic and noise generation, paring requirements, and similar factors). Requests for such changes in nonconforming occupancies shall be processed as applications for a special use permit.

* 1. Nonconforming buildings may be replaced, but only where the effect of the replacement is to lessen the adverse impact of the nonconformity on the City. Requests for replacement of nonconforming buildings shall be processed as applications for special use permits, except that any nonconforming building destroyed by fire or other catastrophe may be replaced without a special use permit if the degree of nonconformity is not in any way increased and if the replacement is completed within 12 months of the buildings construction.

1. Nonconforming Buffers. There shall be no expansion of outdoor storage and materials handling areas, solid waste storage or handling areas, or parking areas with more than four spaces that have nonconforming buffers, except where required buffers are provided for the entire area.
2. Nonconforming Signs. No permit shall be issued for the placement or erection for a new conforming sign on any lot or parcel on which there is a nonconforming sign.

## CHAPTER V

ZONING DISTRICT REGULATIONS

**What this Chapter Does.** This chapter establishes the purpose of each zoning district, lists the uses permitted in each district upon approval of a building permit, and lists the uses, if any, permitted upon approval of special use permit. It also establishes specification standards for each zoning district.

1. **Prohibited Uses.** Any use not explicitly permitted by this Code shall be prohibited.
2. **Commercial Nodes Zoning District (CN).** This zoning district implements the Comprehensive Plan by requiring the concentration of commercial activities in specified locations along U.S. Highway 26, while permitting the continued, harmonious intermingling of residential, small scale commercial, and public uses that currently characterizes those areas.
   1. The permitted uses in this zoning district shall be:
      1. continued agricultural operations, excepting the establishment of new dairies, feedlots, or other confinement feeding operations, or hay cubing or other primary agricultural processing operations;
      2. single-family dwellings with approved on-site sewage disposal systems;
      3. home occupations, in compliance with the performance standards of Appendix E;
      4. the keeping of livestock or residential lots, as permitted by VII.J.;
      5. minor utility installations; and,
      6. minor changes of occupancy in existing commercial or public buildings, A minor change in occupancy in an existing commercial building is a change to any use in SLUC Codes 52 through 72 that does not involve expansion of the build, or creation or expansion of an outdoor sales, work or storage area, or creation or expansion of a parking area. Other changes in commercial occupancy require a special use permit.
   2. The special uses that may be proposed in this zoning district shall be:
      1. major changes of occupancy in existing commercial building, provided that no such expansion results in the creation for a large-scale development;
      2. new commercial uses or building, provided that no such use or building is a large-scale development;
      3. new public uses or building provided that no such use or building is a large­ scale development.
      4. EXCEPTION: Large-scale developments shall only be permitted upon approval of an amendment to the Plan.
   3. Specifications standards for this zoning district are given in Table V.1. Performance standards are established in Chapter VII.
   4. Commercial zoning districts are restricted to a lot depth of 350 feet from Highway 25, and will be a minimum of 2.5 acres.
3. **Low Density Residential Zoning District (LDR).** This zoning district implements the Comprehensive Plan by maintaining spacious residential areas where central utilities are not required. Home occupations are permitted to encourage the development of local cottage industries, but other commercial activities are prohibited.
   1. The permitted uses in this zoning district shall be:
      1. continued agricultural operations, excepting the establishment of new dairies, feedlots, or other confinement feeding operations, or primary agricultural processing operations;
      2. single-family dwellings with approved on-site sewage disposal systems;
      3. home occupations, in compliance with the performance standards of Appendix E;
      4. the keeping of livestock on residential lots, as permitted by VII.J.; and,
      5. minor utility installations.
   2. Specification standards for this zoning district are given in Table V.1. Performance standards are established in Chapter VII.
4. South Fork Corridor Overlay Zoning District (SFC). This overlay zoning district adds additional requirements to those of the underlying CN or LOR zoning District. The purpose of those requirements is to protect the water quality, wildlife habitat, and aesthetic values of the stream corridors within the City, and also to protect the people of the City from flood hazards. The boundaries of this zoning district cannot be precisely shown on the official zoning map

adopted in VI.B., but the stream corridor may be defined as including all that area along the South Fork of the Snake River or its tributaries within the 100 year floodplain, as mapped by the Federal Emergency Management Agency, plus all additional areas outside the floodplain, if any, which are included in adjacent wetlands and/or areas where riparian vegetation was dominant on the effective date of this Code. The additional performance standards that apply within the SFC may be found in appendix Z. Those performance standards are applicable to all applications for permits (lot split, subdivision, building or special use) for development within the SFC.

|  |  |  |
| --- | --- | --- |
| **Table V.1-Specification Standards** | | |
| **STANDARD** | **CN** | **LDR** |
| Maximum building height | 30 feet | 30 feet |
| Minimum front yard setback along U.S. 26 | 50 feet | 50 feet |
| Minimum front yard setback along U.S. 26, except U.S. 26 | 30 feet | 30 feet |
| Minimum rear yard setback | 15 feet | 15 feet |
| Minimum side yard setback | 15 fee | 15 feet |
| Minimum Lot or parcel size  .. | See VII.E | |

*Note. Building height measured from average natural grade. Does not include radio or television antennae, rooftop vents or chimneys. Setbacks measured from base of the point on an exterior wall nearest the property line.*

# CHAPTER VI

COMMERCIAL DEVELOPMENT GUIDE

**Why These Guidelines Were Written.** Change has accelerated in Irwin during the 1990s. The number of visitors continues to increase, and the population is growing. Speculative subdivisions are filling in, and more lots are being surveyed. Existing business are expanding, vacant building are being renovated and soon new stores and motels will appear.

Most recent development has followed the suggested themes described in this document, but is only a matter of time until Irwin attracts franchises, which prefer standardized building designs, and new investors who may not appreciate the local history, climate and character. The small businesses typical of the area today may also be joined by larger enterprises. Irwin's Comprehensive Plan addresses these changes in several policy statements.

1. **Maintaining a Sense of Place.** The purpose of these design guidelines is to help the people of Irwin develop and maintain their sense of place in a changing landscape.
   1. *Assisting Prospective Developers.* These guidelines will help people who plan to build in Irwin learn what site plans and architectural form are will- adapted to the local values, climate and clientele.
   2. *Supporting Local Land Use Decisions.* Adopting these guidelines gives the City of Irwin a fair, defensible basis for reviewing the design of commercial developments.
   3. *Design review will dictate the quality of development in Irwin.* Encouraging developers to respect the Commercial Development patterns will strengthen the area's recreation and tourism-based economy by helping maintain its western appeal.
   4. *Using These Design Guidelines.* The design guidelines presented in this chapter will help the people of Irwin maintain the western heritage they cherish. They will also enhance the local economy by maintaining and expanding commercial areas having special appeal when contrasted with the typical "strip" development occurring throughout the area.
   5. *Development Review.* All commercial developments will be reviewed for compliance with these guidelines, as required by VII.P.
   6. Prospective developers will be prepared to show how their site plan, building designs, and signs will be consistent with these guidelines by submitting detailed site plans and architectural illustrations. They will also be aware of how the other requirements of the *Irwin Development Code* apply to their project.
2. **A Design Principle for Irwin.** The basic principle for site planning and building design in Irwin is to maintain the western character that is valued by the people of Irwin - including seasonal residents - and is an important part of visitors' experience. The reasons for sticking to this principle are:
   1. *Aesthetic Values.* People enjoy the traditional land use patterns and architecture of Irwin. Visitors come for the area's natural attractions, including fishing, boating, hunting and other outdoor activities. Having a meal in a western lodge or spending the night in a cabin (not just another roadside motel) will help make their vacation experience complete.
   2. *A Sense of Place.* Residents also experience Irwin as a unique place. Current and future building and businesses will provide a geographic framework for the area's social life and commercial activity, and some traditional buildings reflect the forms and use of materials found in the local landscape. Traditional rooflines are also well-adapted to the heavy snows of Irwin's winters.
   3. *Continuity.* Maintaining the visible connections with the past by using western themes in new development will help the people of Irwin establish a sense of stability while accommodating change
   4. *Economic Opportunity.* Tourism is based on people's desire to spend time in a place that is different from their everyday surroundings. Travelers find that difference in Irwin, in the area's natural assets-mountains views, lakes, river views and streams, wildlife - and in its future resorts and buildings.
3. **The Organization of These Guidelines.** These design guidelines start with designated commercial locations - the areas where business activity is best concentrated - proceed to the site, and then address the structure and it associated signs. The Site Planning guidelines address building massing and separation by open space, the need for landscaped buffers and outdoor illumination. The Building Design guidelines identify and illustrate the essential elements of the western architecture of Irwin. The following are general design guidelines for the commercial nodes. Creating a sense of entrance, coordinating signage, developing shared parking and pedestrian circulation, and other actions on which business owners and residents may eventually collaborate will require a specific plan and guidelines for each node.
   1. *Commercial Nodes.* Irwin's Comprehensive Plan confines commercial uses to commercial areas along the highway. This helps provide visually sensitive and critical areas, and maintains the pattern of separate businesses and resorts with unique identities as an alternative to the bland, continuous strips of commercial development found in most American cities.
   2. *The Site.* The illustration on this page shows a typical lodge from the air, including the lodge, associated guest cabins, and accessory commercial building. The illustration carries the open space of the surrounding area throughout the entire site by using separate cabins or RV spaces, rather than massive blocks of guest rooms and shops. This combines with the modest size and one or two story heights of the separate cabins and lodges to make open space the dominant element in most view of the development.

**Guideline 1-0pen Space.** Open space will permeate commercial developments in Irwin. Clusters of buildings related by the use of open space and architectural design are appropriate. Massive buildings are not.

A. This guideline is intended to allow some flexibility. For example, a modern version of the historic pattern might place offices, a gift shop, and a cafe in one building, but address maintenance costs and conserve energy by housing guests in detached units of for suites, rather than individual cabins.

Guideline 2 - New commercial Development. New commercial development will be planned with respect for views from adjoining properties and public spaces, including public roads. Development changes views, but compliance with Guideline

1 requires that commercial developments incorporate considerable open space, which can -in most situations-include view corridors. It is especially important to respect any existing visual connections with streams, the river and mountain skylines.

Irwin's past land use pattern has minor visual liabilities. Outdoor storage is often in plain sight and parking dominates many views from the road.

##### **Guideline 3 - Buffering.** *Parking Jots and outdoor storage will be buffered from* public view by leaving any existing vegetation, especially trees, in place or installing landscape buffers.

1. Illustration on page 30 gives a before and after example of how this guideline could be implemented. As the illustration suggests, buffering does not mean that storage yards and parking lots must be rendered invisible. Well-designed buffers use vegetation and, in places, earthwork to blend parking and outdoor storage into the surrounding open space. Note, however, that there is one exception to this guideline. VI.K.5. Requires that commercial solid waste hauling and storage areas be effectively screened from public view.
2. The need to handle large quantities of snow is often cited as the reason for the lack of landscaping around Irwin parking lots, but the plan view of a building on page 32 shows that an effective buffer can still be provided. The illustration of a building shown on page 32 shows the patch of grass between that building and its parking lot. Even such a small lawn helps place the building in an open space context, and sets it apart from many other commercial building in the area.

**Guideline 4 -Landscaped Buffers.** *Landscape buffers will be used to reduce the potential for conflict between different land uses.* VII.S. requires that landscape buffers be installed between potentially incompatible land uses. Well-designed buffers can be used for snow storage, and can be incorporated into the runoff and erosion control plans required by VII.V.

**Guideline 5- Native Vegetation.** *Use native vegetation for all landscaping.* The best way to follow Guideline 4 will sometimes to be leave existing vegetation in place. Where that is not possible, or where the existing vegetation is not tall or dense enough to be an effective buffer, native species will be planted. Care must be taken to protect trees and other existing vegetation during construction. Continuing maintenance of any landscaping used to comply with these guidelines is required.

**Guideline 6 - Outdoor Lighting.** *Outdoor lighting will be designed to limit its nuisance potential and competition with the night sky.* Outdoor lighting is needed for safety and security at most places of business, but will not cast a glare throughout the surrounding area. Uplighting (an upward-directed spotlight highlighting a building or landscape feature) is inappropriate in Irwin. Parking lots, walkways, and similar spaces will be illuminated using full cut-off fixtures that are the minimum height necessary for their purpose.

**Guideline 7 - Commercial Buildings.** *New commercial building will have natural wood colors, steep rooflines and covered porches. Brighter colors may be used in trim*

1. This guideline permits builder to use any material, as long as the three key elements of Irwin's western architecture - natural wood -color, steep rooflines and covered porches -are maintained.
2. *The Building.* The following illustration shows a building that has the four essential elements of the area's western architecture.
3. *Log/Frame Construction.* Logs are the classic building material in Irwin. However, wood siding is equally common, however, as the illustrations indicate. The building shown on page 12 combines log and wood siding.
4. *Natural Wood Color.* Buildings in Irwin will have natural log or wood siding.
5. *Steep Metal Roofs.* The steep roofline of the building shown here is a classic expression the need to shed heavy snows. A-frames have also been used for this purpose. See the illustration below. The three building examples have typical metal roofs.
6. *Covered Porch.* Covered porches are as much a matter of safety as of comfort. Show sliding *off* a roof at the worn time is deadly. Note the burled wood post supporting the porch of the building shown on this page. This is one of the few forms of architectural ornamentation found in Irwin's western buildings.

**metal roof**

There are at least two common variations within the framework of Guideline 7. They include stone facings on building and the use of false storefronts, as shown on this page. Native stone or river rock may be used instead of natural wood colors, when the other design elements are retained. The building with the false front is consistent with Guideline 7.

**Guideline 8-Signs will Complement Western Style.** *Signs will complement the western style of Irwin. They will be kept in scale with the building or use they advertise and be made of natural materials, or at least use natural colors. The number and size of signs will be limited to ensure that each business is able to present a clear message to the traveling public.*

1. *Signs.* Signs are the most important from of advertising for Irwin businesses, but the clutter of signs found in some locations (as shown above) is inconsistent with the simplicity of the area's architectural heritage and is ineffective in communicating a clear, appealing message to potential customers.
   1. The false-fronted store shows above illustrated the effective use of simple wall signs that cover a modes portion of the building facade (-12% and -7% respectively). The freestanding sign shown above illustrates the key features of effective signs that are consistent with the western architecture: modest size and height, coherent design, natural colors and materials, and indirect illumination.

## CHAPTER VII

PERFORMANCE STANDARDS

**What This Chapter Does.** This chapter establishes performance standards for land and building development activity in the City. Certain performance standards apply to all developments, while other applies only to those developments for which a special use permit is required.

1. **Continuing Compliance Required.** All developments shall demonstrate continuing compliance with the applicable performance standards.

*Division 1 -Performance Standards Applicable to All Developments*

1. **Accessibility.** All developments, and all lots or parcels within a development, shall have safe direct access to an existing public road or to a privately maintained road that meets the standards of Appendix B. Provision of access, including construction of new roads and necessary public road extension or improvements shall be the responsibility of the developer.
2. **Access Drives.** All access drives, including residential driveways, shall comply with the standards of Appendices D and E.

### Avoiding Conflict with Agriculture.

* 1. Fence-Out. All developments shall be fenced to prevent conflict with livestock on neighboring pasture or range lands. Providing lawful fencing, as defined by IC 35-101 and 102 shall be the responsibility of the developer.
  2. Resource Management Easement. A resource management easement shall be recorded before any development receives a certificate of compliance and that easement, as recorded, shall be attached, as a condition of compliance, to every application for a building permit within a subdivision. See Table

VII.1. for the resource management easement.

* 1. Weeds. As Required by IC 22-2471, "It shall be the duty and responsibility of all persons and nonfederal agencies to control noxious weeds on land and property they own." Abatement of existing weeds may be required as a condition of approval of any permit provided for by this ordinance, and continuing weed control shall be a requirement for continuing compliance with this ordinance.
  2. Stock Driveways. No development shall be sited or designed so as to interfere with the continuing use of any historically established livestock trail or driveway.

**TABLE VII.I** - RESOURCE MANAGEMENT EASEMENT FORM

are the owners of real property described as follows:

In accordance with the conditions set forth in the decision dated -1 approving a permit for residential development on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

1. The grantors, their heirs, successors, and assigns acknowledge by the granting of this easement that the above described property is situated in a rural area and may be subjected to conditions resulting from commercial, agricultural, logging, and mining operation on adjacent lands. Such operation include: 1.) The cultivation, harvesting, and storage of crops and livestock raising, and the application of chemicals, operation of machinery application of irrigation water, and other accepted and customary agricultural activities; 2.) Exploration for and extraction of minerals; and 3.) Silvicultural activities, including timber harvest, all conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce nose, dust, smoke, heavy truck traffic and other conditions that may conflict with Granters' use of Grantors' property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary resource management activities legally conducted on adjacent lands which may conflict with Grantor' use of Grantors' property for residential purposes and Grantors hereby grant an easement to adjacent property owners for such activities.
2. Nothing in this easement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this easement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.

This easement is appurtenant to all property adjacent to the above described property and shall bind to their heirs, successors, and assigns of Granters and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this easement.

IN WITNESS WHEREOF, the Granters have executed this easement on: \_

Granter

STATE OF IDAHO

County of Bonneville

This instrument was acknowledged before me on by \_

--------------------# Notary Public

My Commission Expires:

1. **Density /Open Space.** The purpose of this performance standard is to implement the open space protection provision of the Comprehensive Plan.
   1. *Development Rights.* Development rights are assigned to all undeveloped lands (unused portions of existing subdivision lots are not undeveloped lands) in the LDR, as shown in Table VII.2. A development right is the right to construct one dwelling unit upon approval of a lot split or plat and a building or special use permit, as provided by this Code. Increases in the number of development rights shall be permitted only by exception, as provided in 2., below, or the result of a density bonus, as provided in 3., below.
   2. *Exception to Development Rights.* One dwelling unit may be constructed on any undeveloped parcel that was in existence on the effective date of this Code, regardless of that parcel's size, if all requirements of the building permit procedure are fulfilled. The acceptable proof of the prior existence of a parcel shall be actual separate ownership, as shown by recorded deeds or other instruments of conveyance, or existence as a separate platted lot. No separate unplanted parcels exist within contiguous lands held by a single owner, regardless of how those lands are or have been described for any other purpose.

|  |  |
| --- | --- |
| **Table V.11** - **Development Right Assignments by Land Type** | |
| **Site Characteristics** | **Acres per Dwelling Unit** |
| Productive Croplands | 40 |
| Sensitive lands = Wetlands, Stream Corridors and  Slopes if 30% or Greater | 25 |
| Sensitive Lands - Slopes of 15.30% | 10 |
| All Other Areas | **�5** |

***Note:*** *Stream corridors follow all perennial streams. Site characteristics may over lap. Where the do, the most restrictive development rights assignment applies*

##### *Transfer of Development Rights.*

* + 1. Development rights from sensitive lands must be transferred to a cluster development that meets the criteria established in VII.E.5.
    2. The development rights for any parcel may be transferred to a development that meets the criteria established in VII.E.S.
    3. Where a transfer of development rights is made, the developer shall provide a complete and accurate legal description of the lands from which the transfer is made. Where the transfer involves multiple ownerships,

copies of the recorded instruments of conveyance involved shall be provided before the permit is valid. No further development shall be permitted on lands from which development rights have been transferred. This includes annexed lands from which development rights were transferred to comply with requirement imposed by Bonneville County.

* 1. *Density Bonus for Cluster Development.* Where developments rights are transferred from sensitive lands to a cluster development that meets the criteria established in VII.E.5, the acreage from which that transfer is made shall be added to the acreage used in the calculation of the number of units permitted in the cluster. The maximum average density attainable will still be one dwelling unit per 2.5 acres.
  2. *Cluster Development Criteria.* In addition to compliance with all other performance standards of this Code, cluster developments must meet the criteria adopted here.

d. Cluster developments do not occur on sensitive lands, although sensitive lands may be included as common or dedicated open space, or, in the case of small or isolated parcels of sensitive land, portions of lots on which no development is permitted, except as permitted by this Code.

e. Cluster developments shall be sited and designed to minimize interference with continuing agricultural operations on neighboring lands, minimize interference with other nearby uses, and maintain water quality and other natural attractions of the area.

1. **Easements.** No building shall be placed in any utility or irrigation easement, public or private. Only wire or rail fences, or solid wood fences with a separable section across the easement may be constructed across utility or irrigation easements. Note that private utilities and irrigation entities may impose more restrictive requirements of fences crossing their easements.
2. **Fences.** Fences shall be a maximum of eight feet in height. The construction of fences that obstruct views at intersections or points of access to public roads is prohibited by Appendix F. See also VII.F.
3. **Gravel Mining.** Gravel mining is not allowed within the City of Irwin.
4. **Hazardous Substances.** Any use that is, or may reasonably be expected to be, subject to the reporting requirement of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) shall demonstrate continuing compliance with state and federal requirements for the storage and handling of hazardous substances.
5. **Livestock.** No livestock shall be kept or maintained within an area of less than one acre. One large animal (horse, cow, llama, sheep, goat, or pig including offspring until weaned) may be kept for each acre and for each additional 20,000 square feet of lot area over one acre. Chickens, geese, rabbits and other small domestic animals are also permitted, but all areas in which any livestock or domestic animals are kept shall be maintained so as not to create a nuisance impacting neighboring properties with noise, odors, insects or dust.
6. **Nuisances.** All potential nuisances and hazards shall be mitigated by appropriate means.
   1. No development shall create excessive levels of noise beyond it property line. Excessive noise, as measured at the property line, is any noise that exceeds the standards of Table VII.3.
   2. No development shall direct light, glare or heat beyond its property line. Welding equipment and other sources of intense light or glare shall be shielded from the view of neighboring properties or public ways by enclosure in a building, location on the property, or construction of a fence, wall or landscape buffer.
   3. No development shall generate dust, smoke, odors or other airborne pollutants that travel beyond it property line, except as permitted by state and federal air quality standards.
   4. Solid waste shall be stored in enclosures or containers in such a manner that will not attract rodents or other vermin, be susceptible to spillage by dogs or cats, generate orders beyond the property line, generate liquid runoff, or permit blowing of paper or other lightweight waste.
   5. All commercial solid waste handling areas and containers shall be effectively screened from the public view by enclosure in a building, location on the property, or construction of a fence, wall or landscaped buffer.
   6. No development shall channel storm or melt water runoff so as to adversely affect neighboring properties, public ways or irrigation systems.

|  |  |
| --- | --- |
| **TABLE Vll.3 - DETAILED PERFORMANCE STANDARDS FOR NOISE** | |
| **Land Use Category** | Exterior Design **Noise** Lever L10 |
| Tracts of land where serenity and quiet serve an important public need | 60 dBA |
| Residences, Motels, meeting rooms, libraries, Hospitals, Parks and similar uses | 70 dBA |
| Other developed land | 75 dBA |

*Note: uo means this noise level my be exceeded 10% of the time, and dBA* = *decibels.*

1. **Off-street Parking and Loading.** All uses shall provide the off-street parking and loading areas required by Appendix F. Snow storage shall not be permitted to reduce the size of required off-street parking or loading areas.

### Outdoor Materials Storage.

* 1. No outdoor materials storage will be allowed on residential lots in the LDR or SFC. Temporary storage of materials required for construction which has been authorized by a building permit in accordance with this Code, the storage of firewood for use on the site, and the storage of hay and other feed for livestock permitted by VII.J are permitted in the LDR.
  2. The expansion of existing, unbuffered outdoor materials storage and handling areas or solid waste storage and handling areas shall be prohibited.

1. **Yards.** Yards created by the required setbacks shall remain unenclosed (open to the sky) except as permitted by this performance standard.
   1. Eaves, rain gutters, bay windows and similar above-grade extensions of a building may extend no more than three feet into a required yard. Unenclosed porches, decks and patios may extend for up to one-third the length of a required side or rear yard, and on-quarter the length of a required front yard.
   2. Accessory building shall be permitted in required rear and side yards where a setback of five feet from all property lines is maintained. No accessory building shall be located in a required front yard. Front yards may be used for driveways and parking (parking includes boats and recreational vehicles that have a current registration), but note that parking shall not be permitted in the clear vision triangles required by Appendix B.
   3. No space required to make up the required yards for any principle building shall be removed from the lot on which that building is sited by sale, lease or other conveyance.

*Division 2 -Performance Standards Applicable to Special Uses and Subdivisions*

1. **Access to Arterial Streets.** The number of points of access to U.S. Highway 26 shall be minimized
   1. Continuous curb cuts are prohibited, and,
   2. Where residential development abuts U.S. Highway 26, reverse frontage, deep lots and other site planning and design techniques shall be used to minimize the conflict between traffic and homes.
2. **Commercial Design Guidelines.** Commercial development shall be consistent with the Irwin Guide to Commercial Development, which is hereby incorporated by reference into this ordinance.
   1. New commercial building in Irwin should use materials, colors, styles and details that reflect the area's rural western heritage and western setting.
   2. The bulk and height of new commercial building should be compatible with neighboring uses and rural western setting.
3. **Connections.** All special uses and subdivisions shall be designed to maximize functional connections with adjoining developments, including shared access to public roads, shared parking and service access, shared buffering and open space, and shared pedestrian circulation.
4. **Irrigation Systems.** All developments including or adjoining irrigated lands, or including or adjoining irrigation works (diversions, head gates, canals, pumps, drains, etc.) shall be reviewed by the responsible irrigation entity, and no development shall be permitted to adversely impact the operation of an irrigation system. Minimum requirements for compliance with this performance standard include:
   1. providing a separable section through all fences across any irrigation right- of­ way or easement; and
   2. placing all ditches, drains, etc, in a pipe or culvert, the design and construction of which is subject to the approval of and inspection by the responsible irrigation entity. The City may waive this requirement where it determines that the proposed development will not create the problems this requirement addresses, including liability, unlawful diversion, and the possibility of flooding or seepage. On-site irrigation systems are subject to all requirements this ordinance imposes on "required improvements." See also VIII.D.
5. **Landscape Buffers.** Landscaped buffers shall be provided as required by Table

###### VII.4.

1. All buffers shall be installed in compliance with the detailed performance standards for effective buffering found in Appendix H.
2. Existing vegetation shall be retained to serve required buffering or screening functions wherever possible.
3. **Land Use Compatibility.** Special uses and subdivisions shall be designed for compatibility with neighboring uses, with compatibility being evaluated using the following factors:
   1. lot coverage and the extent of landscaping, including the effectiveness of proposed buffers;
   2. building bulk, height and scale.
   3. the effect on scenic views from adjoining properties and public spaces; and
   4. activity levels, as measured by traffic and noise generation, parking area requirements, the number and size of signs, hours of operation and similar indications.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **TABLE VII.4.** - **REQUIRED LANDSCAPE BUFFERS** | | | | | |
| **Use** | **Use** | **Basic Buffer** | **Height Factor** | **Security Fence?** | **Headlight Buffer?** |
| Commercial | Residentia I | 20' | 1:1 | No | For parking area |
| Commercial | Public Ways | 12' | 25:1 | No | No |
| Commercial with outdoor sales or storage; solid waste storage | Residentia I | SO' | 1:1 | Yes | Yes |

***Note:*** *Where residential uses are established adjacent to commercial, the residential developer is responsible for buffer installation. The basic buffer width is required, except where a width reduction is permitted for installation of a berm or additional plantings. (See Appendix F). The height adjustment factor is a ration stating how many additional feet of buffer must be added for each foot of building height, after the first 24 feet. A security fence is designed to prevent unauthorized entry to the site. A headlight buffer is a solid fence or wall, sense hedge or berm at least four feet in height placed or planted to block headlight glare originating in parking areas.*

1. **Large-Scale Developments.** Note that a Comprehensive Plan amendment is required to permit a large scale development. Large scale developments shall provide additional public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this ordinance and may include:
   1. off-site runoff and erosion control measures;
   2. central sewage systems;
   3. such off-site road improvements as deceleration or acceleration lanes, left turn lanes, signs or signals, and bridges or culverts;
   4. solid waste transfer stations;
   5. emergency services building and apparatus, including fire engines and ambulances; and,
   6. neighborhood parks (which may include space used for recreational trails and/or boat launch areas) at a rate of two acres per thousand population.
2. **Runoff and Erosion Control. A** professionally prepared runoff and erosion control plan shaH be implemented by all developments where a cumulative total of more than one acre of land with a slope of more than 8% will be disturbed, or where more than 20,000 square feet of contiguous impervious surfaces will be created. That plan shall be based on a detailed topographic map and will:
   1. identify the runoff and erosion hazard areas on the site, and those areas and facilities, both on and downstream from the site, that are vulnerable to damage from accelerated runoff or erosion;
   2. show how existing vegetation will be retained and land disturbance minimized;
   3. show how existing trees that are to be retained will be protected from damage during construction;
   4. show how the area disturbed by construction at any one time will be minimized;
   5. show how disturbed areas will be stabilized during the construction period;
   6. show how disturbed areas will be promptly, permanently stabilized by revegetation or structural techniques;
   7. show how runoff velocities will be minimized and drainage ways will be prepared to handle any acceleration or increase of runoff;
   8. show how any additional runoff generated will be retained on-site and absorbed, evaporated or released from the site at a rate not exceeding the pre­ development rate of release.
   9. show how sediment resulting from accelerated soil erosion will be retained on­ site; and,
   10. show how water quality in adjoining or nearby streams and wetlands will be protected by retention of existing vegetation, installation of vegetative filter strips and similar means.

## CHAPTER VIII

ADDmONAL PERFORMANCE STANDARDS FOR LOT SPLITS AND SUBDIVISIONS

**What This Chapter Does.** This chapter provides additional regulations for the division of land for sale and/or development.

1. **Plat or Record of Survey Required for All Land Divisions. A** record of survey or plat shall be required for all land divisions (except as provided in III.B.I.), and for all areas to be annexed. Records of survey and plats shall meet all requirements of Title SO, Chapter 13 of the Idaho Code "Plats and Vacations" (IC 50-1301-1329), as amended, and all requirements of Appendix H.
2. **Requirements of Lot Splits.** The lot split permit procedure is found in III.E. All lot splits shall comply with the following requirements.
   1. lot splits shall not be used as a means to evade the requirement of this Code for subdivisions;
   2. any lot created shall be capable of accommodating a permitted use allowed by this Code;
   3. any lot created shall have frontage on, and direct access to, an existing public road or a privately maintained road constructed in compliance with the standards of this Code;
   4. any lot created shall have direct access to all private utilities; and,
   5. lot splits shall comply with all applicable standard of this Code.
3. **Subdivision Design.** The subdivision permit procedure is found in III.F. All subdivisions shall comply with all applicable performance standards of this ordinance and the following additional requirement:
   1. Each lot created shall be capable of accommodating a permitted use allowed by this Code.
   2. Subdivisions that are in, or included a portion of the SFC shall comply with the additional requirement of Appendix A.
   3. Subdivision shall be designed using cluster developments to minimize;
      1. the length of street and utility line required;
      2. exposure to natural hazards and damage to natural assets, including soil erosion and the acceleration of storm and melt water runoff; and,
      3. conversion of productive croplands to non-farm use that conflict with adjoining land uses, including continuing farm operations.
4. **Subdivision of Irrigated Lands.** All subdivisions shall demonstrate compliance with the requirements of IC 31-3805, as amended, which provides for approval of subdivisions by irrigation entities.
5. **Subdivision Improvements.** The following improvements shall be provided in all subdivisions:
   1. power and telephone connections for each lot, including any extension of lines or cables required to serve the subdivision, in compliance with the standards established by the utilities involved;
   2. drained and graded gravel roads, as specified in Appendix B; and,
   3. any other improvements required for compliance with this Code.

# CHAPTER IX

REQUIRED IMPROVEMENTS

**What This Chapter Does.** This chapter provides the regulatory tools needed to ensure that the improvements required by this ordinance are installed and maintained.

1. **Required Improvements. A** required improvement is any improvement that must be provided to comply with this Code. See VIII.E. for the improvements required in all subdivisions. Additional improvements may be required for compliance with other performance standards of this Code.
2. **Installation.** The installation of all required improvement shall be at the developer's expense.
3. **Standards for Required Improvements.** All required improvements shall be installed in compliance with the policies of these regulations, and any design and engineering standards separately adopted by the City or other agencies responsible for providing service to the development.

### Time of Installation/Development Agreements.

* 1. Developers may install all required improvements before a final plat is recorded or the development is offered for lease or sale, leased, sold or occupied.
  2. Developers may elect to record final plats of the development in phases and/or offer phases of the development for lease, sale or occupancy before all required improvements are installed. Phasing shall be permitted pursuant to a development agreement that:
     1. incorporates a conceptual site plan of the entire development (the site plan used as a basis for permit approval) and a detailed site plan and construction drawing of the initial phase(s);
     2. identifies all required improvements in the initial phase(s) and establishes their e timated cost;
     3. sets a schedule for the completion of the required improvements in the initial phase(s) and an anticipated schedule for future phases;
     4. guarantees completion, repair and one year's maintenance of all required improvements in the initial phase(s) using one of the methods listed in

IX.F. and provides a process for the submission of detailed plans, cost estimates and the guarantee improvements in future phases

* + 1. provides a process by which the City may, if necessary, complete required improvements using the guarantee(s) provided;
    2. provides a process by which either party by request renegotiation of the development agreement;
    3. provides a process by which the development agreement may be transferred, with City approval, to the developer's successors; and
    4. provides that the development agreement and any vested rights it confers shall be void if the City is required to "call" a guarantee to complete required improvements or if the anticipated schedule required by c., above, is not met or renegotiated. The developer shall have the right to renegotiate the anticipated schedule without losing vested rights, provided that such negotiations are initiated, by the developer, within 90 day after his or her failure to initiate or complete a phase as scheduled.
  1. An "initial" phase is any phase anticipated to begin within 18 months. The anticipated schedule may set time for the initiation or completion of a phase in terms of reasonable ranges of not more than 12 months.

1. **Effect of Development Agreement.** The effect of a development agreement shall be to create vested rights in the conceptual site plan as it was approved. Development agreements do not insulate developments from changes in state or federal regulations or changes in building and fire codes.
2. **Guarantees.** Completion of the improvements identified in a development agreement shall be guaranteed by one of the following methods:
   1. The developer may place an amount equal to 110% of the estimated cost in escrow, with that amount and accumulated interest being released only after the City has inspected and accepted the required improvements. A development agreement may provide for the phased release of a portion of the escrowed funds as work proceeds, but at least 25% of the amount in escrow shall be retained until all required improvements are installed, inspected and accepted. If any required improvements are not completed as provided in the development agreement, the City shall use as much as necessary of the escrow account to complete those improvements, before returning any remaining balance to the developer.
   2. The developer may provide an irrevocable or stand letter of credit for an amount equal to 110% of the estimated cost. The letter of credit shall be released only after the City has inspected and accepted the required improvements. If any required improvements are not completed as provided

in the development agreement, the City shall use as much as is necessary of the credit available to complete those improyements.

* 1. Large development may be completed in phases, with separate final plat for each phase, but only where the development agreement provides for the timely installation of essential improvements, sets a schedule for each phase, provides for financial; assurance by one of the methods listed above for each phase, and specifies a process for renegotiation of the agreement if the schedule is not met.

1. **Inspection Fees.** Fees for the inspection of required improvements shall be set by resolution. Inspection fees shall be paid before any work on required improvements is permitted.
2. **Inspection and Acceptance of Improvements.** Required improvements shall be inspected by the administrator before acceptance. Acceptance of required improvements shall be by action of the- council, following submission of the developer's written request for acceptance and receipt of the administrator's report that all improvements have been inspected and are in compliance with these regulations.
3. **As-Build Drawing.** Reproducible as-built drawing of all subdivision improvements shall be provided to the City at the developer's expense.
4. **Warranty of Improvements.** Required improvements shall be warranted by the developer for both materials and workmanship for one year after their acceptance. Such a warranty provision shall be included in all development agreements. Where all required improvements will be completed before a final plat is approved the development is offered for lease, sale, or occupancy, and warranty agreement shall be submitted for approval. Enforcement of the warranty shall be ensured by:
   1. retention of 10% of an escrow account established to comply with IX. F.;
   2. a continuing letter of credit, as provided in IX.F., but for 10% of the cost of the required improvements; or,
   3. establishment of a new escrow account, in which an amount equal to 10% of the cost of all required improvements is deposited, and which shall be released only upon expiration of the warranty.
5. Continuing Maintenance Required. The continuing maintenance of any private improvement required for compliance with any performance standard of this ordnance shall be required. This provision applies to:
   1. improvements required for the mitigation of potential nuisances;
   2. of-street parking and loading areas;
   3. improvements required for the on-site retention of storm or melt water runoff;
   4. maintenance of landscaped areas including irrigation, maintenance of the irrigation system and weed and pest control;
   5. landscaped areas, including required buffer; and,
   6. any other improvements required for compliance with this Code.
6. **Maintenance Mechanism.** Any development subject to continuing maintenance requirements that results, or may reasonable be expected to result, in the creation of multiple ownerships shall create a community association or other mechanism to ensure continuing maintenance. The developer shall submit the proposed declaration of covenants, articles of incorporation and by-laws for the community association with his or her application for a permit and shall provide evidence that these documents have been recorded before a certificate of occupancy is issued.
7. **Failure to Maintain.** Failure to maintain any required improvements shall be a violation of this Code

## CHAPTERX

SIGN REGULATIONS

1. **Uniform Sign Code.** The permits required by B., below may be combined with permits required by the Uniform Sign Code, compliance with which is required for all signs. Where there is conflict between the Uniform Sign Code and these regulations, these regulations govern.
2. **Permit Required. A** development permit shall be required for the erection, placement or replacement of any sign, except as provided in Appendix Table

C.1. Failure to obtain a permit shall be a violation of these regulations, subject to the enforcement procedure and penalties provided for in Chapter 1, Division 4 of these regulations. Compliance with these regulations is required, even when a permit is not, and any sign that is not expressly permitted by these regulations shall be prohibited.

1. **Master Signage Plan.** No development permit shall be issued for a new or replacement sign for any use displaying more than one sign except upon submission of a master signage plan. A master signage plan consists of one or more scaled drawings showing the location, type and size of all existing signs appurtenant on the lot or parcel, and the proposed sign or signs. A master signage plan must be submitted with any application for a development or special use permit for a new development that proposes to display more than one sign, and with the first application for a development permit for a new or replacement sign to be displayed by an existing use that displays one or more signs.
2. **Signs.** The following kinds of signs are defined for use in the administration of this ordnance. Any kind of sign not defined her is prohibited.
   1. **Address Sign.** Any signs used to display the address of a building use, or to identify points of access, the direction of travel, and similar functions in off­ street parking and loading areas. Such signs include no advertising promotional copy.
   2. **Awning.** Fabric shelter supported by a rigid framework attached to a building.
   3. **Banner Sign. A** building sign made of fabric, plastic or a similar lightweight material and hung from a building or a pole or framework attached to a building. Banners may also be freestanding signs, but are regulated as such.
   4. **Billboard.** Billboards are not allowed in the City of Irwin.
   5. **Building Sign.** Any sign attached to a building.
   6. **Advertising Sign.** Business may only advertise on the property business occupies.
   7. **Canopy Sign. A** building sing that is part of a fabric, plastic or similar shelter supported by a noncombustible rigid framework attached to a building, and sheltering the building's entrance and/or windows. Synonymous with \\awing" for the purposes of these regulations.
   8. **Community Directory Sign. A** free-standing roadside sign displaying information relevant to travelers to the are (emergency and tourist information telephone numbers, location of public campgrounds, boat ramps, trailheads, etc.). It may also include advertising material from area business. Community directory signs are placed at a highway pull-out or rest area where travelers can safely pause. Community directory signs may be the property of a public agency or a not-for-profit group.
   9. **Construction Sign.** Ground or wall signs that identify a building under construction. They include no advertising or promotional copy, but may identify the building's planned use, owners or operators, designers, construction contractors and financiers, and will be a maximum of 64 square feet.
   10. **Cornerstone Sign.** Carved or cast into a building, or is a metal plaque permanently attached to the build. It caries no commercial message, but may include the building's name, the date of its completion, and the names of owners, architects, contractors, etc.
   11. **Directional Sign.** Include not advertising or promotional copy, but may include logo and the following:
       1. On-site directional signs are use to identify points of access, the direction of travel, and handicapped parking spaces, and to perform similar functions in off-street parking and loading areas.
       2. Off-site directions signs identify and provide directions to an off­ highway use.
   12. **Electric Sign.** Electric signs are not allowed in the City of Irwin.
   13. **Freestanding Sign.** Any sign that has its own supporting structure, rather than being attached to and supported by a building.
   14. **Ground Sign.** Freestanding signs that do not exceed eight feet in height above grade. Ground signs must be landscaped.
   15. **Home Occupation Sign.** No outdoor electric or lighted signs are allowed. See Appendix E for more information.
   16. **Logo. A** logo is a simple graphic symbol used to identify a use or product.
   17. **Nameplate.** Discreet wall signs that identify the occupants and adtjress of a residence.
   18. **outdoor Electrical Sign.** Outdoor electrical signs are not allowed in the City of Irwin.
   19. **Pole Sign. A** free-standing sign that exceeds eight feet in height above grade with limits of 100 square feet and only one pole sign per commercial building. This sign will be commercial signage only.
   20. **Portable Sign.** Any sign that is not permanently attached to a building or the ground.
   21. **Projecting Sign.** Attached to the wall of a building and projects away from the wall. Projecting signs extend no more than six feet fro the building wall, and shall be limited to a projection of no more than four feet over a public walkway, will not extend above the roofline of the building to which they are attached, and will be a maximum of 32 square feet.
   22. **Real Estate Sign.** Wall signs or ground signs which indicate that the property on which they are placed is for sale, lease or rent. They are a maximum of six square feet for commercial advertising or 64 square feet at the entrance of subdivisions, commercial property or buildings. These size requirements also apply to wall signs. Residential real estate signs will be no larger than 16 square feet.
   23. **Replacement Sign.** For the purpose of this chapter, the term "replacement" does not include the temporary removal of an existing sign for repair or refurbishment.
   24. **Residential Sign.** Any type of sign (freestanding or building) permitted in the zoning district and appurtenant to a residential building. The maximum allocated area of residential signs may be used for any purpose, including the display of the address or the name of the occupants, advertising a home occupation, advertising space for rent or the sale of property, advertising an approved home occupation, and promoting political candidates. Any dwelling may also display, without a permit, two temporary signs, of not more than six square feet each, announcing the short-term sale of used household goods (i.e. garage or yard sale), provided those signs are placed no more than two days before the sale and removed within one day after the sale, that the sale lasts no longer than three days, and that no more than two such sales are conducted at any one dwelling within any 12 month period.
   25. **Roof Sign.** Any building sign that projects above the building fa<;ade. The only kind of roof sign permitted by these regulations is an integral roof sign, in which the sign is designed into the roof structure, and does not project to extend above the highest point of the roof.
   26. **Sandwich Sign.** Small freestanding sign placed on a sidewalk.
   27. **Sign Face.** The surface and copy of a sign visible from any one location.
   28. **Suspended Sign.** Attached to the ceiling of an arcade or the framework of a canopy and hang over a walkway with a vertical clearance of at least eight feet and a maximum size of 16 square feet.
   29. **Temporary Sign.** Any freestanding or building sign permitted in the zoning district, but displayed for 60 or fewer days.
   30. **Traffic Control Sign.** Standard regulatory signs installed by public agencies, including stop and yield signs, speed limit signs, etc. When installed on private premises, such signs are directional.
   31. **Wall sign. A** building sign painted directly on the wall of a building or attached to the wall of a building, and parallel with the wall to which it is attached. Attached wall signs extend no more than one foot from the building to which they are attached. Wall signs do not extend above the roof line of the building to which they are attached, and must be no larger than 120 square feet.
   32. **Window Sign.** Appears within the frame of and are affixed directly to a window. Window displays of merchandise are not signs, provided that no part of the display is affixed to the window.

## CHAPTER XI

ADOPTION OF THE UNIFORM BUILDING CODE

**What This Chapter Does.** This chapter adopts the 1997 Uniform Building Code (UBC).

1. **Building Code.** The Uniform Building code, 1997 Edition, published by the International Conference of Building Officials, including the generic fire-resistive assemblies listed in the Fire Resistance Design Manual, Thirteenth Edition, dated April 1992, published by the Gypsum Association as referenced in Table 7-A, 7-B and 7-C of the specified UBC, including appendix chapters 11, 12, 12 (as modified by Chapter XII of this ordinance), 31, Division I, and 33, and including the Structural Welding code-Reinforcing Steel, AWS D1.4-92 (UBC Standard 19-2) A117.1-1992 (see UBC Section 1101.2), published by the council of American Building Officials, as modified or amended in the specified UBC, is hereby adopted and made a part of this ordinance.
2. **Applicability.** The UBC applies to the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all building or structures in the city. Compliance with the UBC shall be required and enforced suing the administrative procedures provided in that Code.
3. **Permits Combined.** For administrative purposes, the permits required by the UBC Section 106 may be combined with the permits required by III.A. of this ordinance, and the certificates of compliance required by III.T. of this ordinance. It should be noted that there will be cases where a permit or certificate is required by this ordinance, but not by the UBC, and vice versa.

# CHAPTER XII

ADOPTION OF NORTHWEST ENERGY CODE

**What This Chapter Does.** This chapter adopts the Northhwest Energy Code (NWEC), the purpose of which is to promote energy conservationa dn the more effective use of electric energy.

### Energy Code.

* + 1. The NWEC, Chapter 53 of the UBC format is hereby adopted and made a part of this ordinance in order to regulate the use of electric energy in new buildings, additions and remodels.
    2. The Conversion Standard Equivalent code, Efficiency Standards for Conversion to Electric Space Conditioning, Chapter 53 of the UBC format is hereby adopted and made a part of this ordinance in order to regulate the use of electric energy in existing buildings converting to electric heat from other fuels. The requirements of this Code must be met before an electric utility will connect a new or enlarged electric service to an existing building.
  1. **Bonneville Power Administration.** The provisions of this chapter shall be effective upon execution of a contract with the Bonneville Power Administration for the implementation of the NWEC.

## CHAPTER XIII

DEFINITIONS

**What This Chapter Does.** This chapter provides definitions for important terms used in this Code. Any dispute about the meaning of a term used in this Code shall be resolved using the appeals procedure of III.L.

1. **Defining Rules.** Terms include both singular and plural forms; i.e., building includes buildings, and except where otherwise indicated, terms include their derivatives; i.e., adjacent includes adjoining.
2. **Accessory Buildings and Uses.** Accessory buildings and uses are those customarily associated with the clearly subordinate to a principal building or use.
3. **Adjacent.** As used in this Code, adjacent includes all parcels that directly border a lot and all parcels separated from the lot by only a public or private easement or right-of-way, including roads and irrigation canals.
4. **Administrator.** The Zoning Administrator established by II.C.
5. **Building.** Any structure, except a fence. Includes liquid or gas storage tanks.
6. **Building Bulk.** Building bulk may be measured and compared in terms of floor area ration (the total square footage of all floors as a percent of lot size) or similar measures.
7. **Building Height.** The vertical distance from mean natural grade to the highest point on a building. Building height excludes chimneys, vents and antennae.
8. **City.** The City of Irwin, Idaho.
9. **Clear Vision Triangle.** The area that provides the visibility required for safe access to streets. Clear vision triangles are determined as follows:
   1. at street intersections, the clear vision triangle includes the area defined by extending a line between two points, one on each lot line paralleling the street, each of which is 30 feet from the lot corner at the intersection; and,
   2. at other points of access, the clear vision triangle includes the area defined by extending a line between two points, one on the lot line paralleling the street, and one on the outer edge of the driveway, each of which is 15 feet from the point where the driveway crosses the lot line.
10. **Commercial.** Includes all land uses in SLUC 4923, 52-5\*,61-69,71-79 and 8221, except that any use in SLUC 639, 64, 66, 72-79, or 8221 that includes an outdoor or only partially enclosed work and/or materials handling and/or storage yard of more than 10,000 square feet. All such uses shall be considered industrial.
11. **Commission.** The Planning and Zoning commission of the City of Irwin established by II.3.
12. **Compatibility.** Land uses need not be identical to be compatible, but must be sited, designed, constructed and used in such a way that the normal functions and operation of neighboring uses do not seriously conflict, and so that their appearance is harmonious. Compatibility shall be assessed using the standards of VII.Q.
13. **Comprehensive Plan (also Plan).** The Comprehensive Plan of the City of Irwin.
14. **Council.** The elected governing board of the City of Irwin.
15. **Density.** The number of dwellings per gross acre. Gross acreage includes the entire development (adjoining roads to the centerline, internal roads, common open spaces, etc.). Density is not synonymous with the lot size.
16. **Development.** Development is used as a generic term covering any and all activities regulated by this ordinance.
17. **Developer.** The owner of the parcel on which a development has been proposed, but owners may appoint a representative for proceedings required by this ordinance. Note that the definition of development is more Comprehensive in the SFC. See Appendix A.
18. **Development Right.** The right to construct one single-family dwelling. See VILE.
19. **EPCRA.** The Emergency Planning and Community Right-To-Know Act of 1986. Refers to 42 USC 1101-11050, as amended.
20. **Floodplain.** See Appendix A for all definitions specifically applicable to floodplains.
21. **Grading.** Grading regulated by this Code does not include tillage for agricultural or gardening purposes.
22. **Hazardous Substances.** Any material regulated by the EPCRA.

w. **Home occupation. A** commercial activity conducted in a dwelling or a building accessory· to a dwelling. Home occupations, by definition, comply with the performance standards of Appendix E.

x. **Industrial.** Includes all land uses ins SLUC 21-51, 637, and 82-89, plus any use defined as industrial except: SLUC 4923 and 4924 with a vertical clearance of at least eight feet and a maximum size of 16 square feet.

Y. **Large Scale Development.** Defined at VII.U.

Z. **Livestock.** Cattle, goats, horses, llamas, pigs or sheep kept for personal pleasure or consumption

AA. **Local Planning Act.** Also Local Planning Act of 1975. Refers to IC 67-6501 through IC 67-6537, and subsequent amendments.

BB. **Lot.** For the purposes of this ordinance, lot is used as both a generic term for a development site, and to refer to any parcel of land created and described by a record of survey or plat.

CC. **Lot Split.** Creation of any parcel of land of less than 20 acres for the purpose of sale, lease, rental or development.

DD.**Manufactured Home. A** structure, transportable in one or more sections, which in the traveling mode is eight body feet, or more in width or 40 body feet or more in length, or, when erected on site, is 320 square feet or more, and which is designed to be placed on a permanent foundation, permanently connected to required utilities, and used as a permanent dwelling unit.

EE. **Minor Utility Installations.** Includes cable television, electric power, telephone cables and transmission lines, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to those transmission lines or pipelines. Other utility installations are industrial uses.

FF. **Minimize.** For the purposes of this ordinance, "to minimize" the number of access points means to show that not alternative site plan for a proposed development will result in a smaller number of access points.

GG.**Nonconforming.** Term used to describe any use or building that was in existence on the effective date of this ordinance that does not comply with its requirements

HH. **Occupancy.** The use of a building or lot. Occupancies are classified using the Standard Land Use Coding System (SLUC), which is summarized in Table XIII.1.

1. **Outdoor Material Handling or Storage.** Stockpiling, storage, processing or packaging of materials for any reason (need not be for commercial use), including the long term storage of construction materials and inoperative machinery or vehicles, that are not enclosed in a .building and that are visible from a public street.

JJ. **Plat.** The legal map of a subdivision.

KK. **Sensitive Lands.** Includes the stream corridor, wetlands and slopes over 15%. LL. **Setback.** The distance between the property line and the outer wall, at grade,

of the principal building on the same lot.

* 1. The front setback is measured from the lot line paralleling a public street to the principal building. Corner lots have two front yards.
  2. The rear setback is measured from the rear lot line to a principal building. The rear lot line is parallel, or more or less parallel to the street. Corner lots have two rear yards, but may treat either as a side yard for the purposes of this ordinance.
  3. The side setback is measured from the side lot line to the principal building

MM. **Sign.** Any object or structure used to identify, advertise or in any way attract or direct attention to any use, building, person or product by any means, including, but not limited to, the use of lettering, words, pictures and other graphic depictions or symbols. Specific sign types are defined in Chapter X.

NN. **Single Family Dwelling. A** detached building designed for occupancy by one family. Also includes, as required by IC 67-6530-6532, "any home is which eight or fewer unrelated mentally and/or physically handicapped persons reside, and which is supervised." Includes both conventional dwellings and manufactured home that:

* + 1. comply with the National Manufactured Home Construction and Safety Standards Act (40 USC 5401) or the Uniform Building Code;
    2. have all hitches, wheels, chassis and other running gear removed and are attached to a permanent foundation; and,
    3. are permanently connected to utilities.
    4. Recreational vehicles and travel trailers shall not be used as single family dwellings.

oo. **Site Plan.** Illustrates all those details of a proposed development needed to demonstrate compliance with this ordinance, including the location of existing and proposed property lines, easements, buildings, parking areas, streets, walkways, buffers and other features of the site.

PP. **Sketch Plan. A** sketch plan is a general or conceptual site plan of a development. It must included the approximate location of all lot lines and streets, the approximate location and exterior dimensions of all structures, the approximate location, size and circulation pattern of all parking areas and the approximate location and dimension of all landscaped buffers.

QQ. **Solid Waste.** Material being stored, packaged or processed for ultimate disposal or recycling. For the purposed of this ordinance, the water normally generated by a farming operation (crop stubble and residue, manure, etc. is not solid waste.

RR. **Standard Land Use Code.** Abbreviated SLUC. The Standard Land Use Code is a method of classifying land used adapted fro the Standard Land Use Coding Manual, U.S. Department of Transportation, Federal Highway Administration, as reprinted in March 1977. A summary appears in Table XIII.1.

SS. **Subdivision.** Division of a parcel into more than two lots or parcels of less than 20 acres for the purpose of sale, lease, rental or development. "Division" simply means the design and/or creation of separate units, spaces or sites as part of a development. The actual sale or transfer of ownership is not a necessary part of the act of subdivision as defined for this ordinance. Note the IC 50-1301.3. specifically empowers cities to adopt their own definition of the term "subdivision."

**TT. Variance.** According to IC 67-6516, "a variance is a modification of the requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provisions affecting the size or shape of structure or the placement of the structure upon lots, or the size of lots." Land use cannot, by definition, be varied.

UU. **Yard.** The area between the lot lines and the principal building created by the required setbacks.

|  |  |  |  |
| --- | --- | --- | --- |
| **TABLE XIII,1.** - THE **CATEGORIES AND CODE NUMBERS** | | | |
| A STANDARD SYSTEM FOR IDENTIFYING AND CODING LAND USE ACTIVITIES- ONE AND TWO DIGIT LEVELS | | | |
| **CODE** | **CATEGORY** | **CODE** | **CATEGORY** |
| 1 | Residential | 11  **12**  **13**  **14**  **15**  **19** | Household units Group quarters Residential hotels  Mobile home parks or courts  Transient lodging  Other residential, NEC1 |
| 2 | Manufacturing | **21**  **22**  **23**  **24**  **25**  **26**  **27**  **28**  **29** | Food and kindred products - manufacturing Textile mill products manufacturing  Apparel and other finished products made from fabrics, leather and similar materials -manufacturing  Lumber and wood products (except furniture) - manufacturing Furniture and fixtures - manufacturing  Paper and allied products - manufacturing Printing, publishing and allied industries  Chemicals and allied products - manufacturing Petroleum and refining and related industries |
| 3 | Manufacturing (continued) | **31**  **32**  **33**  **34**  **35**  **39** | Rubber and miscellaneous plastic products - manufacturing Stone, clay and glass products - manufacturing  Primary metal industries  Fabricated metal products- manufacturing  Professional, scientific nd controlling instruments: photographic and optical goods, watched and clocks - manufacturing  Miscellaneous manufacturing, NEC |
| 4 | Transportation, Communication and Utilities | **41**  **42**  **43**  44  **45**  **46**  **47**  **48**  **49** | Railroad, rapid tail transit and street railway transportation Motor vehicle transportation  Marine craft transportation Aircraft transportation  Highway and street right-of-way Automobile parking Communication  Utilities  Other transportations, communication and utilities, NEC |
| 5 | Trade | **51**  **52**  **53**  54  **55**  **56**  57  **58**  **59** | Wholesale trade  Retail trade - building materials, hardware and farm equipment Retail trade - general merchandise  Retail trade - food  Retail trade - automotive, marine craft, aircraft and accessories Retail trade - apparel and accessoriies  Retail trade - furniture, home furnishings and equipment Retail trade - eating and drinking  Other retail trade, NEC |

|  |  |  |  |
| --- | --- | --- | --- |
| CODE | CATEGORY | CODE | CATEGORY |
| 6 | Service | 61  62  63  64  65  66  67  68  69 | Finance, insurance and real estate services Personal service  Business service Repair service Professional services  Contract construction service Governmental service Educations services  Miscellaneous service |
| 7 | Cultural, Entertainment and Recreational | 71  72  73  74  75  76  79 | Cultural activities and nature exhibitions Public assembly  Amusements Recreational activities  Resorts and group camps Parks  Other cultural, entertainment and recreational, NEC |
| 8 | Resource Production and Extraction | 81  82  83  84  85  89 | Agriculture  Agriculture and related activities Forestry activities and related services Fishing activities and related services Mining activities and related services  Other resource production and extraction, NEC |
| 9 | Undeveloped Land and Water Areas | 91  92  93  94  95  99 | Undeveloped and unused land area (excluding non-commercial forest development  Non-commercial forest development Water areas  Vacant floor area Under construction  Other undeveloped land and water areas, NEC |

**APPENDIX A**

**DETAILED PERFORMANCE STANDARDS FOR DEVELOPMENT IN THE SOUTH FORK CORRIDOR (SFC) OVERLAY ZONING DISTRICT**

**Purpose.** Minimizing potential flood hazards and maintaining wildlife habitat and open space values along the South Fork and its tributaries are important goals for the Comprehensive Plan. This Appendix adopts the administrative procedures and performance standards required for Irwin's participation in the Nation al Flood Insurance Program. It also implements the stream corridor setback policy of the Comprehensive Plan.

#### *Division 1* - *Stream Corridor Development Area*

1. **Stream Corridor.** Along the south Fork of the Snake River, the stream corridor includes the river, the 100 year floodplain, any associated wetlands, and all additional areas dominated by riparian vegetation. The development setback shall be 30 feet from the outer edge of the st4ream corridor, as defined here, or 75 feet from the high water mark, whichever is greater. Along tributary streams, the stream corridor is the area within the development setbacks required by Table A.1.
2. **Stream Corridor Setbacks.** Minimum development and building setbacks shall be required along all streams, as shown in Table A.1. Use of the corridors created by this requirement shall be compatible with the water quality, wildlife habitat, recreational and scenic values of the riparian environment.
   1. Required buffers shall be left in or reclaimed to native riparian vegetation, or planted as lawns. Required buffers shall not be developed, except as permitted below.
   2. Roads and utility lines may cross required buffers, but the number and width of such crossing shall be minimized.
   3. Pedestrian trails may be constructed in required buffers, provided they are designed and constructed to exclude motorized vehicles.
   4. Where required for large-scale development or public access, boat ramps and docks may be constructed in required buffers where required for a large scale development or public access, but such facilities shall be sited and designed to minimize disturbance of the river corridor environment and have minimal visibility to other river users. Boat ramps and docks shall occupy no more than 24 feet of river edge.
   5. Proper applications by the developer for any required state and federal permits required for work in the stream corridor will be determined by the City before permitting a development, and will make the ultimate approval of those permits a condition of its approval.
3. **Development Defined.** In the SFC, "development" shall include any activity that may potentially affect flood flows, water quality, wildlife habitat, or aesthetic values of the river corridor. This includes all land disturbance (including grading and the construction of fills for any purpose) as well as all building construction, and should be noted as more Comprehensive than the definition of development used in other portions of the City. Fewer activities are exempt from permit requirement in the SFC than in other zoning districts (see III.B.)
4. **Warning and Disclaimer of Liability.** All applicants for permits in the SFC shall sign an acknowledgment stating:
   1. "I understand that, which the degree of flood protection required by the City is considered reasonable for regulator purposed and is based on scientific and engineering considerations, larger floods can and will occur."
   2. "I understand the projected flood levels may be increased by man- made or natural causes."
   3. "I understand that this Code does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damage."
   4. "I understand that this Code does not create any liability on the part of the city or any officer or employee thereof, or on the part of the Federal Insurance Administration, for flood damages."

|  |  |  |
| --- | --- | --- |
| **TABLE A-1. -MINIMUM STREAM CORRIDOR DEVELOPMENT AND BUILDING SETBACKS** | | |
| **Stream** | **Development Setback (Feet)** | **Building Setback (Feet)** |
| South Fork Snake River | 30' from outer boundary of the stream corridor or 75' from the  high water mark, whichever is greater | Development setback or 75' whichever is greater |
| Tributaries - by channel type | **Note:** the 100 year floodplain may extend beyond the required setback on some tributary streams, imposing additional limitation on development. State health regulations  may require larger setbacks for on-sight sewage disposal systems. | |
| Well-defined channel, narrow floodplain | 60' from the centerline of the stream, or 50' from the high water mark, whichever is areater | |
| Braided or poorly defined  channel, broad floodplain | SO' from high water mark | |
| Ravine or incised stream  channel with no comparatively level stream bottom large enough for the  setbacks required above | 30' from the top of the bank | |

1. Additional Application Requirements. All permit applications in the SFC shall be accompanied by the following information:
   1. Elevation of the lowest floor of all proposed buildings;
   2. Elevation to which any existing or proposed building has been or will be flood proofed;
   3. For all building other than a single family dwelling: certification by an engineer or architect that the flood proofing methods used comply with these performance standards; and,
   4. Where alteration of a watercourse is proposed: a description of the extend to which the water course will be altered or relocated as a result of the proposed development and proof that all state or federal permits required for that alteration have been approved.
   5. The developer shall provide the base flood elevation data for all subdivision or special uses that include 50 or more lots or dwelling units of 5 or more acres.
2. Duties of the Administrator. The administrator shall serve as the local floodplain ordinance administrator and perform the duties listed below:
   1. Determine that all required state and/or federal permits have been obtained before reviewing any application for a special use permit in the SFC.
   2. Where base flood elevation data are not provided by FEMA: obtain and reasonable utilize any base flood elevation and floodway data available from state, federal or other sources as a basis for the administration of these performance standards;
   3. Maintain a record of the actual elevation of the lowest floor of all new or substantially improved buildings, and whether or not the building contains a basement;
   4. Maintain a record of flood proofing certification required by c. above;
   5. Notify Bonneville County and the Idaho Department of Water Resources prior to the alteration or relocation of a watercourse, and submit evidence of that notification to the Federal Insurance Administration; and,
   6. Maintain records of appeal actions and report all variances allowed to the Federal Insurance Administration.

***Division 3* - *Performance Standards for Special Flood Hazard Areas***

### Anchoring.

* 1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement.
  2. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to the use of over-the-top or frame ties to ground anchors.

### Construction Materials and Methods.

* 1. New construction and substantial improvements shall be constructed with materials and utility equipment that is resistant to flood damage, and using methods and practices that minimize flood damage.
  2. All electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed, elevated or located to prevent water from entering or accumulating within their components during flooding.

### Utilities and Solid Waste.

* 1. New and replacement potable water systems shall be designed to eliminate infiltration of flood waters into the system.
  2. New and replacement sewage disposal systems shall be designed to eliminate infiltration of flood waters into the system and discharge from the system into

flood waters.

1. Solid waste handling and storage facilities shall not be located in the SFC.
2. **Hazardous Substance.** Storage and handling of hazardous substances in the SFC is prohibited.
3. **Site Planning.** Design and construction of all subdivisions and uses for which a special use permit is required shall minimize flood damage. Utilities shall be located and designed to minimize flood damage, and the site shall be graded and drained to guide floodwaters around and away from existing and/or proposed buildings.
4. **Residential Development.** Standards a. and b. apply only where base flood elevations have been established by FEMA.
   1. Construction or substantial improvement of any dwelling shall result in

the lowest floor being elevated to or above base flood elevation.

* 1. Fully enclosed areas below the lowest floor are prohibited, except where designed to automatically equalize hydrostatic forces on exterior walls by allowing for entry and exit for floodwaters. Designs for meeting this requirement shall either be certified by an engineer or architect, or meet the following minimum standards:
     1. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided;
     2. The bottom of such openings shall be no higher than one foot above grade; and,
     3. Such openings may be equipped with screens, louvers or other coverings or devices, provided they permit automatic entry and exit floodwaters.
  2. Where base flood elevation data is not available through the flood insurance study or from another authoritative source, applications must be reviewed to assure that the proposed construction will be reasonably safe from flooding. This determination of reasonableness shall be based on evidence submitted with the application by the developer, including historical flood records, photographs of past flood

events and similar documentation. The minimum elevation above grade in such cases shall be two feet

**Nonresidential Development.** Construction or substantial improvement of any nonresidential building shall result in the lowest floor being elevated to or above base flood elevation or, together with the attendant utility and sanitary

facilities, shall:

1. Be flood-proofed so that below base flood level, the building is watertight, with walls substantially impermeable to the passage of water;
2. Be designed and constructed to resist hydrostatic and hydrodynamic loads and the effects of buoyancy;
3. Present a certification from an engineer or architect that the design and methods of construction comply with accepted standards of practice for meeting the performance standards of this ordinance; and,
4. Meet the performance standard b. above for enclosed spaces below the lowest floor.
5. Applicants flood proofing non-residential building shall be notified that flood insurance premiums will be based on rates that are one food below the flood proofed level.
6. **Manufactured Homes.** Manufactured homes that are placed, replaced or substantially improved within the SFC shall be elevated on and securely anchored to a permanent foundation, so that the lowest floor is at or above base flood elevation, where a base flood elevation has been established, or at least two feet above grade where no base flood elevation has been established. Manufactured home (mobile home) parks are not permitted in the SFC.
7. **Floodways. A** floodway is the channel of a river or other watercourse and any adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodway is a hazardous area due to the velocity of flood waters which carry debris and potential projectiles, and due to the high erosion potential. Encroachments into the floodway, including fill, new construction, substantial improvements and other development is prohibited, unless an engineer or architect certifies that the encroachment will not result in any increase in the flood level during the base flood discharge.
8. **Maintenance and Flood Capacity.** Continuing maintenance to prevent the reduction of flood carrying capacity in altered or relocated watercourses shall be required.
9. **Areas of Shallow Flooding (AO Zones).** An "area of shallow flooding is an AO or AH Zone of the Flood Insurance Rate Map (FIRM). In these areas,

base flood depth ranges from one to three feet, a clearly defined channel do\_es not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

a.

b.

i.

ii.

Construction and substantial improvement of dwellings in AO zones shall result in the lowest floor being elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or to at least two feet, where no depth number is specified.

All new construction and substantial improvement of nonresidential building in AO zones shall:

Be graded and drained to guide floodwaters around and away from existing and/or proposed buildings; and

Have the lowest floor elevated above the highest or adjacent grade of the building site to or above the depth number specified on the FIRM, or where no depth number is specified, to at least two feet above the highest adjacent grade; or,

iii. Together with its attendant utility and sanitary facilities, be flood proofed so that nay space below that level is watertight, with substantially impermeable walls and structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Compliance shall be certified by an engineer or architect.

***Division 4*** - ***Variances in the South Fork Corridor Overlay Zoning District***

1. **Additional Finding for Variances.** The approval of any variance in the SFC shall be based on all findings required by III.M.4. and the additional finding that approval of the variance will not result in increased flood levels, a threat to public safety or extraordinary public expense.
2. **Variance Notice.** Where a variance of the requirements of this appendix is

· approved, the administrator's notice of the decision (111.M.6.) shall state that the City is not liable for any flood damages that result fro the variance. Where a variance of the elevation requirements of this appendix is approved, the administrator shall also notify the developer that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

***Division 5*** - ***Definitions Needed for the Administration of this Appendix***

1. **Base Flood.** The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100 year flood."
2. **Flood.** Partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source.
3. **Flood Insurance Rate Map.** Abbreviated FIRM. The official map on which the . Federal Insurance Administration has delineated areas of special flood hazard and risk premium zones applicable to the City and its area of impact. Because no FIRM exists for Irwin, this appendix relies on FIRMs prepared for Bonneville County, with river frontage lands recently annexed to the City.
4. **Flood Insurance Study.** The official report of the Federal Insurance Administration, including flood profiles, flood boundary maps and the water surface elevation of the base flood.
5. **Lowest Floor.** The lowest floor of the lowest enclosed area, including the basement. An unfinished or flood resistant enclosure, usable solely for parking, building access, or storage, in an area other than the basement, is not considered a building's lowest floor, provided that it does not place the building in violation of the non-elevation design requirements of this appendix.
6. **Manufactured Home.** For floodplain management purposes, the definition of "manufactured home" shall be expanded to include recreational vehicles, travel trailers and similar vehicles or trailers that are left in place for 180 or more consecutive days. Recreational vehicles, travel trailers and similar vehicles or trailers are not manufactured homes for flood insurance purposes.
7. **Manufactured Home Park.** For floodplain management purposes, a manufactured home park is any lot or parcel used for the purpose of renting or leasing two or more manufactured home spaces.
8. **New Construction.** Buildings for which the "start of construction" was on or after the effective date of this ordinance.
9. **Special Flood hazard Area.** Land subject to a one percent or greater chance of flooding in any given year. Designation on the Flood Insurance Rate Map (FIRM) always includes the letters "A" or "V."
10. **Start of Construction.** Applies to both substantial improvements and new construction and means the date a permit was issued, provided the actual start of construction, repairs, placement or other improvements are within 180 days of the permit date. "Actual start" means either the first placement of permanent construction on a site, such as pouring a slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include:
    1. Land preparation, such as clearing, grading and filling;
    2. The installation of street and/or walkways;
    3. Excavation for a basement, footings, piers or foundation, or erection of temporary forms; and,
    4. Include installation of accessory buildings.
11. **Substantial Improvement.** Repair, reconstruction or improvement of a building, the cost of which equals or exceeds 50 percent of the building's market value either before the improvement or repair is started, or where the building has been damaged and is being restored before the damage occurred. "substantial improvement" is considered to occur when the firs alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects its external dimensions. The term does not include any project for the improvement of a building required to comply with state or local codes assuring safe living conditions.
12. **Wetlands.** Wetlands shall be as defined in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

## APPENDIX B

**DETAILED PERFORMANCE STANDARDS FOR ROAD CONSTRUCTION**

**Purpose.** The purpose of this appendix is to provide standards for the construction or reconstruction of roads. These standards are for public and private roads in low to medium density residential and light commercial areas. A large-scale development study will be required for any development that generates sufficient traffic to necessitate additional construction requirements.

1. **Right-of-Way and Surface Width.** Road right-of-way and surface widths shall be as required by Table B.1.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **TABLE 8.1 - LOCAL ROAD STANDARDS** | | | | |
| Slope | Units Served | Minimum Right of Way Width | Minimum Surface Width | Maximum  Cul-de-Sac Length |
| 0-8% | >16 | 60 feet | 24 feet | 660 feet |
| 0-8% | <16 | 60 feet | 20 feet two-way  14 feet one-way | 880 feet |
| 8-15% | >16 | SO feet | 20 feet two-way  14 feet one-way | 660 feet |
| 8-15% | <16 | 40 feet | 14 feet with pullouts every  400 feet | 880 feet |
| >15% | Any number, construction  discouraaes | 40 feet | 14 feet with pullouts every 400 feet | 660 feet |

1. **Surface Construction.** Road surfaces shall be laid over a properly compacted sub-grade and consist of:
   1. Sub-base: minimum six inches of coarse aggregate; and,
   2. Base: minimum two inches of crushed coarse aggregate. Roads may also be paved, but paving is not required by this Code.
2. **Drainage.** Road surfaces shall be crowned so as to slope away from the centerline at a grade of two percent. Shallow, parabolic drainage and snow

storage areas shall be provided along all roads. These drainage ways shall be reseeded after construction.

1. **Maximum Grade.** The maximum grade of any road shall be eight percent,

.except at intersections, where the maximum grade at, and within 50 feet along

both approaches shall be three percent.

1. **Cul-De-Sac Turning Radius.** The minimum cul-de-sac radius shall be 60 feet.
2. **Dead-End Streets.** Dead-end streets shall be prohibited, except where temporarily permitted by a subdivision phasing plan or to provide for future

connections between developments. A temporary cul-de-sac shall be provided wherever a temporary dead-end street serves four or more lots.

1. **Minimum Centerline Radius of Curves.** The minimum centerline radius of curves shall be 100 feet.
2. **Minimum Tangent Between Reverse Curves.** The minimum tangent between reverse curves shall be 50 feet.
3. **Clear sight Distance.** Clear vision triangles are determined as follows:
   1. At street intersections: the clear vision triangle includes the area defined by extending a line between two points, one on each lot line paralleling the street, each of which is 30 feet from the lot corner at the intersection;
   2. At other points of access: the clear vision triangle includes the area defined by extending a line between two points, one on the lot line paralleling the street, and one on the outer edge of the driveway, each of which is 15 feet from the point where the driveway crosses the lot line.
   3. No solid fence or wall, planter, hedge, shrub or other visual obstruction more than three feet in height above the grade of the adjoining road shall be permitted in a clear vision triangle. No parking shall be permitted in a clear vision triangle.
   4. Trees shall be permitted in clear vision triangles, but only if all branches are removed to a height of at least seven feet above road grade.
4. **Alignment of Intersections.** All intersections shall be at a 90°, ± s0 angle, with the approaching roads running at 90°, ± 5° for at least 50 feet before the intersection.
5. **Minimum Centerline Offset of Intersections.** The minimum centerline offset of intersections shall be 125 feet, except for intersections with arterials, where it shall be 200 feet.
6. **Signs.** The developer shall install stop signs at all intersections with arterial streets. The developer shall also install all other signs required for safe traffic and pedestrian movement in the subdivision.
7. **Culverts and Bridges.** All culverts and bridges shall be designed by a professional engineer. Bridges and culverts are subject to the stream corridor and floodplain requirements of this ordinance.
   1. All bridges and culverts on natural watercourses shall be designed to pass a 100 year flood without damage to the bridge or it approaches, without diverting floodwaters onto neighboring properties, and without increasing the level of the base flood downstream.
   2. The developer may be required to install a bridge rather than a culvert on any natural watercourse where such action is required, on the advice of the Idaho Fish and Game Department, to protect the fishery.
   3. Culverts not included in a., above, shall be designed to pass the runoff from the 10 years, 6 hour storm.
   4. The minimum gross vehicle load supported by any bridge or culvert shall be 40,000 pounds.
   5. There shall be a minimum 50 foot, 90° approach to all bridges.

## APPENDIX C

**DETAILED PERFORMANCE STANDARDS FOR SIGNS**

**Purpose.** The purpose of these performance standards is to ensure that signs do not constitute a traffic or pedestrian safety hazard, or obstruct public ways, or create a nuisance; and to protect and enhance the community's image while allowing local businesses to communicate with potential customers in a reasonable manner.

#### *Division 1- PerformanceStandards*

1. **Placement of Signs.** No sign shall be placed:
   1. In or over any public right-of-way, except as provided in Division 2 of this appendix;
   2. On any tree, cliff or other natural feature, or on a fence or utility pole;
   3. On a vehicle or trailer parked in a visible location for the primary purpose of displaying the sign; or,
   4. Where it creates a traffic safety hazard by obscuring traffic control signs or signals, confuses drivers by potentially appearing to be a traffic control sign or signal, or the lights of a public safety or road maintenance vehicle, or obstructing vision at intersections or driveways.
2. **Sign Types.** The types of signs permitted in each zoning district are shown in Table C.1.
3. **Number of Signs.** The maximum number of signs permitted in each zoning district is shown in Table C.2. Nothing in Table C.2. shall be construed to allow the total area of signs on any lot or parcel to exceed the overall sign area limitations of 9., below. Where the number of signs permitted is expressed as a ration with street frontage (i.e., 1:2), every lot or parcel shall be permitted one sign, regardless of its frontage, but additional signs shall be permitted only with the addition of a full increment of frontage. For example, a lot with just 30 feet of frontage is permitted on freestanding sign, and a lot with 399 feet of frontage is also permitted only one freestanding sign. A full 400 feet of frontage is required for the second freestanding sign.
4. **Size of Sign.** The maximum size of individual signs permitted in each zoning district is shown in Table C.3. Nothing in table C.3. shall be construed to allow the total area of signs on any lot or parcel to exceed the overall sign area limitation of 9., below.
   1. The size permitted is for one face of a sign. Signs which have two faces (freestanding, projecting, suspended, and some banners) may actually have double the display area permitted by Table C.2.
   2. The size of a sign face shall be calculated as the area of the smallest simple geometric shale (circle, square, rectangle or triangle) that will encompass the outer limits of the sign's copy, including other words and graphics. Decorate or contrasting borders are part of the copy.

s. **Total Area of Signs.** The maximum total area of signs permitted on any lot or parcel, is shown in Table C.3.

1. **Height of Signs.** The height of most signs is limited by definition to the height of the building fa<;ade on which the sign is placed. Height limitations for freestanding and roof signs follow:
   1. The maximum height of any freestanding sign shall be 30 feet.
   2. The maximum roof sign height is not to exceed the peak of the roof.

### Illumination of Signs.

* 1. Signs with a constant source of illumination shall be permitted in all zoning districts except residential. Electrical signs and spotlights or other fixture used for the indirect illumination of signs shall be installed in compliance with the provision of these regulation prohibiting light or glare that constitutes a nuisance, and the City's electrical and fire codes.
  2. No animated, flashing, blinking or moving signs shall be permitted, except that animated public service message signs displaying the time of day, temperature and/or announcements of community events shall be permitted only in the commercial zone district.

1. **Temporary Signs.** Temporary signs shall be permitted as shown in Tables
   1. , C.2., and C.3., but only:
2. Upon approval of a development permit;
3. For a limited term, not exceeding 60 days; and,
4. Upon the posting of a bond guaranteeing removal within the specified term in the amount ·specified in the fee resolution adopted pursuant to

II.f.2. of these regulations.

1. **Design of Signs.** RESERVED.

#### *Division 2 -Signs In or Over Public Rights-of-Way*

1. **Signs in Public Rights-of-Way.** No sign shall be placed in any public right­ of-way, except traffic control signs and public notice placed by public agents.
2. **Signs Over Public Rights-of-Way.** No sign shall extend over a public right­ of-way, except that:
   1. Canopies, banners and projecting signs may extend up to seven feet over a public walkway (measured from the face of the supporting building), but shall not extend to within more than two feet of the near curb or property line, whichever is closer to the building; and,
   2. Suspended signs which may hang over a public walkway shall have a minimum clearance of eight feet.

#### *Division 3 -Maintenance and Abandonment*

1. **Maintenance of Signs.** All signs and their supporting structure shall be maintained so it will not create a health or safety hazard or constitute a nuisance.
2. **Identification of Signs.** All permanent signs shall bear a weatherproof label identifying the owner, including the owner's name, address and telephone number. Identification labels may be attached to the sign or its supporting structure and must be readable from the ground.
3. **Abandoned Signs.** Any sign that is not structurally sound, or that no longer serves to inform or attract the public, including illegible signs and signs advertising or identifying abandoned uses, shall be considered abandoned and its removal required. Abandoned signs shall be removed within sixty days of the adoption of these regulations, or within sixty days of the abandonment of the use to which the sign was appurtenant. Abandonment shall not be a matter of the owner's intent, but shall be considered to occur whenever a use has ceased to operate for more than 12 months. The owners will be notified in writing by the City Clerk.

|  |  |  |
| --- | --- | --- |
| **TABLE C.1. -PERMITTED SIGNS BY TYPE AND ZONING DISTRICT** | | |
| **Sign Type** | **LDR** | **Commercial** |
| **Freestanding Signs** - **Based in the Ground** | | |
| Residential | E | N |
| Directional, Address | N | E |
| Other | P\* | p |
| **Building** - **Attached to a Building** | | |
| Residential | E | N |
| Directional, Address | E | E |
| Banner | **N** | p |
| Canopy | **N** | p |
| Cornerstone | E | E |
| Portable | N | E |
| Projecting | **N** | E |
| Roof | N | **N** |
| Suspended | **N** | p |
| Wall | P\* | p |
| Window | N | E |
| Temporary - Freestanding or Building, as permitted in the zoning district |  |  |

***N***

*E*

*p*

\*

\*\*\*

*Not Permitted*

*Permitted in compliance with these regulations with no permit required Permitted in compliance with the regulations with permit required*

*For special permit uses (such as churches and schools) located in residential zoning districts only Integral roof only*

|  |  |  |
| --- | --- | --- |
| **TABLE C.2.** - **MAXIMUM NUMBER Of SIGNS BY TYPE BY ZONING DISTRICT** | | |
| **Sign Type** | **LDR** | **Commercial** |
| **Freestanding** - **Based in the Ground** | | |
| Residential | 1 | - |
| Directional, Address | - | NL |
| Other (signs per 100 lineal feet of street frontage - one sign allowed on each lot, plus one for each full increment of frontage shown | 1 | 1:2 |
| **Building** - **Attached to a Building** | | |
| Residential | 1 | - |
| Directional, Address | **NL** | NL |
| Banner (signs per 100 lineal feet of street frontage -  one sign allowed on each lot, plus one for each full increment of frontage shown) | - | 1:2 |
| Canopy | - | **NL** |
| Cornerstone | 1 | 1 |
| Portable | - | 1 |
| Projecting (per street frontage) | - | 1 |
| Suspended (per principal business entrance along the arcade or canopy) | - | 1 |
| **Wall** | 1 | NL |
| Window | - | **NL** |
| Temporary - Freestanding or Building, as permitted in the zoning district (signs per 100 lineal feet plus street frontage - one sign allowed for each full increment of frontage shown) | 1\* | 1 |
| I I | |

***NL*** *No limit on number of signs*

\* *For special permit uses (such as churches and schools) located in residential zoning districts only*

|  |  |  |
| --- | --- | --- |
| **TABLE C.3. -MAXIMUM SIGN SIZE BY TYPE BY ZONING DISTRICT** | | |
| **Sign Type** | **LDR** | **Commercial** |
| **Freestanding** - **Based in the Ground** | | |
| Residential | 6 | - |
| Directional, Address | 6 | 12 |
| Other | 32 | 120 |
| **Building** - **Attached to a Building** | | |
| Residential | 6 | - |
| Directional, Address | 6 | 12 |
| Banner | - | 120 |
| Canopy | - | 25% |
| Cornerstone | 4 | 4 |
| Portable | - | 32 |
| Projecting | - | 32 per face |
| Suspended | - | 7 |
| Wall  Percent of canopy's surface | 102  5% | 192  20% |
| Window (percent of glass area) | 25% | 25% |
| Temporary - Freestanding or Building, as permitted in the zoning district | Temporary signs may be 50%  as large as the maximum permitted for permanent signs | |

# APPENDIX D

**MODEL HEARING NOTICES**

**Purpose.** The purpose of this appendix is to provide models for hearing notices required by this Code.

### Notice For Subdivision Permit Application Hearing.

PUBLIC HEARING NOTICE - SUBDIVISION

*John and Jane Doe of P.O. Box 5022, Idaho Falls, ID 83405* propose to subdivide the *E* ½ *of the SE ¼, SW ¼ of Section* ?, *T? N? R? E.B.M.,* into 6 residential lots. The average density of this development will be approximately

3.3 acres per dwelling unit. The property is located on the *east side of U.S. Highway* 26, *?* Miles south of the Irwin School. The present land use is pasture. The Irwin Planning and Zoning commission will conduct a hearing on this proposal as *8:00 P.M., Tuesday, March 1, 1993,* at the Emergency Services Building in Irwin. A copy of the application is available for public review. Call the City Clerk at 000-0000 to arrange to review these materials, public comment is encouraged.

### Notice for Special Use Permit Application Hearing.

PUBLIC HEARING NOTICE - SPECIAL USE PERMIT

*Wave Outfitters of P.*0. *Box 3, Swan Valley, ID 83449* proposed to construct a *fly shop and office on Lot 26 of the Riverview Subdivision.* The address of the proposed building would be *3642 E. Highway* 26. The present land use is vacant. The Irwin Planning and Zoning Commission will conduct a hearing on this proposal at *8:30 P.M., Tuesday, March 1, 1993* at the Emergency Services Building in Irwin. A copy of the application is available for public review. Call the City Clerk at 000-0000 to arrange to review these materials. Public comment is encouraged.

### Notice of Variance Hearing.

PUBLIC HEARING NOTICE -VARIANCE

*Mr. and Mrs.* J. *Smith of P.0. Box* 999, Irwin, Idaho 83428 have applied for a variance of *Section* ??. ??, ?. of the Irwin Development Code. This proposed variance would permit a *two(2) foot encroachment in the required front yard setback along Lynx Street for the construction of a deck.* The property is located on *Lots 5 and* 6 *of the Next Addition* to the City of Irwin. The Irwin Planning and Zoning Commission will conduct a hearing on this proposal at *8:30 P.M., Tuesday, March 1, 1993* at the Emergency Services Building in Irwin. A copy of the

application is available for public review. Call the City Clerk at 000-0000 to arrange to review these materials, public comment is encouraged.

## Notice for Development Code or Plan Amendment Hearing.

PUBLIC HEARING NOTICE - PLAN AMENDMENT

*South Fork Land Company of P.O. Box 66559, Salt Lake City, UT 84101* has requested that the Irwin Comprehensive Plan be amended to permit a *large­ scale development of 57 condominium units in the NC ¼,* Sec. ?, ?,*?,E.B.M.* This development would be located at *South of U.S. Highway* 26, *three miles east of the Irwin Elementary School.* The Irwin Planning and Zoning Commission will conduct a hearing on this proposal at *9:30 P.M., Tuesday, March 1, 1993* at the Emergency Services Building in Irwin. A copy of the application is available for public review. Call the City Clerk at 000-0000 to arrange to review these materials. Public comment is encouraged.

# APPENDIX E

**DETAILED PERFORMANCE STANDARDS FOR HOME OCCUPATIONS**

**Purpose.** These performance standards will permit limited commercial activity in residential areas, while ensuring that such activity does not diminish the residential character of the neighborhood. Approval of a home occupation does not change any requirement of this Code that is applicable to the dwelling to which that home occupation is an accessory.

1. **Maximum Floor Area.** Home occupations may be located within dwellings or accessory building, but no home occupation shall occupy a floor area larger than that of the dwelling to which it is an accessory.
2. **Nonresident Employees.** No home occupation shall have more than one employee who is not a member of the resident family.
3. **Off-Street Parking.** Home occupation shall provide off-street parking for all employees and any vehicles associated with the home occupation in compliance with the requirements of Appendix F.
4. **Outdoor Storage.** The storage of any materials or solid waste associated with a home occupation shall be:
   1. Within an enclosed structure; or,
   2. Within an area that is effectively screened from public view.
5. **Signs.** Home occupations shall display only the following signs:
   1. One non-illuminated wall sign of no more than six square feet; and,
   2. One non-illuminated on-site directional sign of no more than four square feet.

**APPENDIX F**

**DETAILED PERFORMANCE STANDARDS FOR OFF-STREET PARKING AND LOADING**

**Purpose.** These performance standards are intended to prevent traffic congestion on public streets by requiring provision of adequate off-street parking and loading areas.

1. **Off-Street Parking Required.** All building and uses shall provide the minimum number of off-street parking spaces required by Table F.1. Parking spaces shall have graded and drained gravel or paved surfaces
2. **Off-Street Parking Requirements For Uses Not Listed.** The classification of uses and the off-street parking requirement for uses not listed in Table F.1 shall be determined by the administrator. Any person who disputes a decision of the administrator may request a review of that decision using the appeals procedure of 111.L.
3. **Location Of Off-Street Parking.** Off-street parking shall be provided on the same lot and under the same ownership as the use it serves, except that two or more uses may share a parking area where:
   1. the total number of spaces provided is not less than the sum of the parking spaces required for all buildings or uses served; and,
   2. a contract providing for shared parking for a period of ten or more years is executed before approval of a permit and recorded before the issuance of a certificate of compliance.
   3. Required off-street parking spaces shall be within 600 feet of a main entrance of the building or use being served, except for spaces serving a dwelling, which shall be within 100 feet of the dwelling site served.
4. **Passenger Loading Areas.** Day care centers, pre-schools, public schools and places for public assembly located on arterial roads shall provide at least one safe off-street passenger loading area. Such areas shall be located where there is adequate visibility for their safe use and shell:
   1. Be divided from the street by a barrier of at least four feet in width;
   2. Be at least 60 feet in length and 12 feet wide;
   3. Accommodate one-way traffic only;
   4. Include a depressed curb section for handicapped access; and,
   5. Be marked by pedestrian crossing signs facing both traffic lanes.
5. **Off-Street Loading Areas.** All commercial and industrial building and uses shall provide one safe, properly signed off-street loading areas for each 10,000 square feet of gross floor area. Off-street loading areas shall be on the same lot under the same ownership as the building or use they serve, shall be designed to accommodate the largest vehicle that may reasonably be anticipated for use on the site, and have the following minimum dimensions:
   1. Vertical clearance of 14 feet;
   2. Width of 12 feet; and,
   3. Depth (length) of 35 feet.
   4. No vehicle parked in a required off-street loading space shall extend into a public right-of-way.
6. **Access To Off-Street Parking And Loading Area.** Graded and drained gravel or paved access driveways shall be provided for safe access to all off­ street parking and loading areas.
   1. No parking area, except those serving single family dwellings, shall be designed or constructed to create a situation in which vehicles are required to back on to a public street.
   2. Parking and loading areas shall be sited and designed to minimize the number of access points to arterial roads.
   3. No access drive way to a local road shall be within 20 feet of any intersection or alley or 10 feet of another access point. The distance from an access driveway to an intersection is measured from the junction of the corner lot lines at the intersection, to the dearest side of the driveway.
   4. Clear vision triangles shall be provided for all access driveways.
   5. Access driveways for single family dwellings shall be a minimum of 10 feet wide, with a curb radius of five feet. Access driveway for other uses shall be designed to accommodate the reasonably anticipated level of use.
   6. Where required for drainage, access driveways shall be constructed over a minimum 12 inch culvert capable of supporting a load of 40,000 pounds.

|  |  |  |  |
| --- | --- | --- | --- |
| **Table F.1** - **MINIMUM OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL, RETAIL AND SERVICE USES** | | | |
| **Land Use** | **Parking Spaces** | **Land Use** | **Parking Spaces**  **Per 1000 Feet Of Gross Floor Area** |
| Dwellings  (SLUC 11, 14) | 2 per unit | Retail automotive,  marine (SLUC 55) | 5 |
| Lodging Places (SLUC 15) | 1 per unit plus 1 | Eating and drinking places (SLUC 58) | 15 |
| Theaters and similar places of assembly (including SLUC 72) | .33 per seat | Financial, real estate, insurance services (SLUC 61) | 3 |
| Elementary and junior high schools | 1 per classroom plus  1 (auditoriums are places of assembly) | Beauty and barber service (SLUC 623 | 6 |
| Hospitals, rest homes, similar uses (SLUC 6513, 6516) | 2 per bed | Other Personal services, misc. services (SLUC 62,69) | 3 |
| Building materials,  farm equipments, furniture (SLUC  5211-5240, 5252,57) | 1 | Professional services (SLUC 65) | 3 |
| Hardware, apparel, misc. retail uses  {LSUC 5251,56,59) | 3 | Shopping Centers | 4 |
| General  merchandise, groceries, bakeries (SLUC) 53, 54) | 4 | Mixed office uses | 3 |

***Note:*** *Other uses (transportation, communications and utilities, wholesale trade, and industrial) shall provide one parking space for each anticipated employee plus one and one parking space for each anticipated company vehicle, plus one. Where a place of assembly does to have fixed seating, one space shall be provided for each 25 square feet of assembly area. Off-street paring requirements for different uses in the same building shall be calculated separately.*

1. **Circulation within Off-Street Parking Areas.** The pattern of circulation within parking areas shall be designed to provide safe and efficient access to individual parking spaces, protect pedestrians moving through the parking area and prevent accidents by minimizing the random movement of automobiles, and facilitate safe access to public streets.
   1. Minimum aisle widths shall be:
      1. For two-way circulation and/or 90 degree parking, 24 fee;
      2. For one-way circulation and 60 degree angle parking, 18 feet;
      3. For one-way circulation and 45 degree angle parking, 15 feet; and,
      4. For one-way circulation and 30 degree angle parking 13 feet.
   2. Where one-way circulation is used, directional signs shall be installed at all access points to the parking area.
   3. No parking area shall be designed so that circulation from one portion of the area to another relies on a public street.
2. **Protecting Pedestrians in Off-Street Parking and Loading Areas.** There shall be safe pedestrian access around or through all parking and loading areas.
3. **Maintenance.** Perpetual maintenance of required parking areas is required by

IX.K.

# APPENDIX G

**DETAILED PERFORMANCE STANDARDS FOR BUFFERING**

**Purpose.** Landscaping requirements are an essential element in mitigating potential land use conflicts and enhancing the visual appeal of the City. The purpose of this appendix is to ensure that the landscaped buffers required by these regulations effective accomplish those goals.

1. **Minimum Buffer Requirements.** The width of required buffers shall vary with the nature of the uses being separated, the height of the building being separated, and the construction of the buffer. Table VII.3. shows the width required where the buffer consists of a level or gently sloping areas of sod or ground cover and at least four major trees per hundred lineal feet of buffer. That table also shows where a security fence and/or a solid fence, wall or berm is required as part of a buffer. Such fences may be included in any buffer.
2. **Height Adjustment.** The basic buffer width shall be increased by the height adjustment factor, where one is established. The height adjustment factor is a ration expressing the number of feet that must be added to the basic buffer width for each foot in height over 30 feet of the building being buffered.
3. **Buffer Width Reduction: Berms.** The basic buffer width requirements may be reduced where a berm is included in the buffer. The width reduction shall be twice the height of the berm, but the maximum permitted reduction shall be 10 feet. No berm shall have a slope of more than 3:1, except where a retaining wall is incorporated into the berm on the side opposite the use or public way being buffered.
4. **Buffer Width Reduction: Additional Plantings.** The basic width requirements may be reduced where a greater density and diversity of plantings is included in the buffer. The buffer width reductions permitted in this section are cumulative and may result in a total reduction of up to 30%. The buffer width reductions permitted by G.3. are also cumulative with those permitted here:
   1. *Major Trees.* The required buffer width shall be reduced by 10% where five or more major trees per hundred lineal feet are planted or retained.
   2. *Under Story Trees.* The required buffer width shall be reduced by 10% where five or more under store trees per hundred lineal feet are planted or retained.
   3. *Shrubs.* The required buffer width shall be reduced 10% where 20 or more shrubs per hundred lineal feet are planted or retained.
5. **Minimum Buffer Width.** No required buffer shall be less than half the basic

buffer width or less than 10 feet in width, regardless of any reductions permitted by G.4 and G.5.

1. **Buffer Crossings/Inclusions.** Buffers may be crossed by access driveways, utility lines, walkways and pedestrian trails. A walkway or pedestrian trial may run along the length of the buffer with its width, up to a maximum five feet, being included in the required buffer width. Buffers may also include permitted signs.
2. **Plant Materials Specifications.** Plant materials installed in required buffers shall be warranted for one year. Plant materials shall meet the following specification:
   1. All trees, major and under story, shall be containerized, bagged and burlapped stock in good condition with a caliper o at least 1. 5 inches (measured one foot above grade) for deciduous trees and a height of at least six feet fro coniferous trees; and,
   2. All shrubs shall be a minimum one gallon containerized stock in good condition.
3. Maintenance. Perpetual maintenance of required buffers is required by **IX.K.**

# APPENDIX H

**DETAILED PERFORMANCE STANDARDS FOR THE PLATTING OF LOT SPLITS AND SUBDIVISIONS**

**Purpose.** This appendix establishes technical standards for the form and content of subdivision plats. The requirements it imposes are in addition to the requirements of state law.

***Division* l** - ***Preliminary Plats***

1. **Preliminary Plat Part of Application.** A preliminary plat is one part of the application for a permit to subdivide and shall be accompanied by the official application form and all other materials required for a complete application.
2. **Preliminary Plats To Be Comprehensive.** Preliminary plats shall cover the entire area to be developed by one owner or a group of related or associated owners, even when it is anticipated that the development will be phased or occur in the form of multiple subdivision over several years. An application for a subdivision permit may be rejected solely because it covers insufficient area.
3. **Contents of Preliminary Plats.** Preliminary plats shall include:
   1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county and state;
   2. The name, address and registration number of the engineer or land surveyor who prepared the preliminary plat;
   3. A north point both graphic and written scales;
   4. A vicinity map that locates the proposed subdivision within the section and shows major roads and watercourses adjacent to or near the subdivision, and the boundaries of and recorded names of all adjacent or nearby subdivisions;
   5. The location and nature and boundaries of all existing public ways and public or private easements in or adjacent to the proposed subdivision, including the county book and page number references to the instruments establishing those ways and easements;
   6. The location and size of all existing utility lines on or adjacent to the proposed subdivision;
   7. The exterior boundaries of the proposed subdivision;
   8. The location, exterior dimensions and number of proposed lots and blocks, or other parcels created by the subdivision;
   9. The acreage of each proposed lot, and a table showing the total acreage of the area proposed for subdivision, the total acreage in lots, the total acreage in streets, and the total acreage of parcels proposed for dedication to public use or to be held in common by the lot owners;
   10. The names of all proposed streets and widths and boundaries of all proposed street rights-of-way and utility easements;
   11. The location of all irrigation structure, watercourses and wetlands within or adjacent to the proposed subdivision;
       1. The location of any floodplain and floodway boundaries, as established by the Federal Management Agency, and any stream corridor setback lines established by this ordinance; and,

m. Any other information required by the Code.

1. **Scale and Dimensions.** Preliminary plats shall be prepared at a scale for one inch equals one hundred feet, and all dimensions shown shall be in feet and decimals thereof. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map, which may be combined with the vicinity map. The vicinity and index maps shall appear on the first of the serially numbered sheets.

***Division* - *Final Plats***

1. **Contents of Final Plats.** All final plats submitted shall be prepared in compliance with Chapter 13, Title 50 of the Idaho Code, as amended, and shall include all information listed below:
   1. A title block showing the name of the subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county and state;
   2. The name, address and registration number or seal of the engineer or land surveyor who prepared the plat and that person's certification that the plat is accurate, and that the monuments described in it have been located and/or established as described;
   3. A north point and both graphic and written scales;
   4. A vicinity map that locates the proposed subdivision within the section

and shows major roads and watercourses adjacent to or near the subdivision, and the boundaries of and recorded names of all adjacent or nearby subdivisions;

* 1. The point of beginning for the subdivision survey, which shall be a section or quarter section corner;
  2. The location and a description of all existing monuments found during the course of the survey;
  3. The location, nature and boundaries, with bearings and distances, of all existing public **ways** and public or private easements in or adjacent to the subdivision, including the county book and page number references of the instruments establishing those ways or easements;
  4. The exterior boundaries of the subdivision, with all bearing and distances, including curve data for curving boundaries;
  5. The location, exterior dimensions and number of all lots and blocks, or other parcels created by the subdivision, including bearings and distances and curve data for curving boundaries;
  6. The location, and a description of all monuments established during the course of the survey;
  7. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance;

I. The acreage of each lot, and a table showing the total acreage of the subdivided area, the total acreage in lots, the total acreage in streets, and the total acreage of any parcels dedicated to public use or held in common by the lot owners;

1. The names of all streets, and width and boundaries of all street rights­ of-way and utility easements, including bearings and distances and curve data for curing boundaries;
2. A signed and dated owner's certificate which includes a complete legal description of the parcel being subdivided, and in which the owners of record dedicate all public ways and other public spaces to public use;
3. A public notary's acknowledgment of the owner's certificate;
4. A signed and dated certificate of consent in which all mortgagors, lien holders and other parties with any real property interest, including the holders of mineral rights in the property consent to its subdivision;
5. A public notary's acknowledgment of the certificate of consent;
6. Certificates for plat approval by the commission and council;
7. A statement of "sanitary restriction," as required by IC 50-1326;
8. A certificate for use by the county recorder in recording the plat after its approval; and,
9. Any other information required for compliance with this ordinance.
10. **Scale and Dimensions.** Final plats shall be prepared at the scale of one inch equals one hundred feet and all dimensions shown shall be in feet and decimals thereof. Plats of large areas may be prepared on multiple, serially numbered sheet with match lines and a sheet index map, which may be combined with the vicinity map. All required certificates and the vicinity and index maps shall appear on the first of the serially numbered sheets.
11. **Copy.** The developer shall also provide the City with one reproducible copy of the final plat suitable for photographic reproduction and reduction.

## APPENDIX I

**IDAHO ATTORNEY GENERAL'S TAKINGS CHECKLIST CRITERIA**

**Purpose.** Agency staff must use the following questions in reviewing the potential impact of a regulatory or administrative action on specific property. While these questions also provide a framework for evaluating the impact proposed regulations may have generally, takings questions normally arise in the contest of specific affected property. The public review process used for evaluating proposed regulations is another tool that the agency will use aggressively to safeguard right of private property owners. If property is subject to regulatory jurisdiction of multiple government agencies, each agency will be sensitive to the cumulative impacts of the various regulatory restrictions. Although a question may be answered affirmatively, it does not mean that there has been a "taking." Rather, it means there could be a constitutional issue and that agency staff will carefully review the proposed action with legal counsel.

### Does The Regulation Or Action Result In A Permanent Temporary Physical Occupation Of Private Property?

Regulation or action resulting in a permanent or temporary physical occupation of all or a portion of private property will generally constitute a "taking." For example, a regulation that required landlords to allow the installation of cable television boxes in their apartments was found to constitute a "taking." See *Loretto v. Teleprompter Manhattan CATV Corp.,* 458 U.S. 419 (1982).

### Does The Regulation Or Action Require A Property Owner To Dedicate A Portion Of Property Or To Grant An Easement?

Carefully review all regulations requiring the dedication of property or grant of an easement. The dedication of property must be reasonably and specifically designed to prevent or compensate for adverse impacts of the proposed development. Likewise, the magnitude of the burden placed on the proposed development will be reasonably related to the adverse impacts created by the development. A court will also consider whether the action I question substantially advances a legitimate state interest.

*For example,* the United States Supreme Court determined in *Nol/an V California Costa/ Comm'n,* 483 U.S. 825 (1987), that compelling an owner of waterfront property to grant a public easement across his property that does not substantially advance the public's interest in beach access constitutes a "taking." Likewise, the United States Supreme Court held that compelling a property owner to leave a public greenway, as opposed to a private one, did not substantially advance protection of a floodplain, and was a "taking." *Dolan vCityofTigard,* 114 U.S. 2309 (1994).

### Does The Regulation Deprive The Owner Of All Economically Viable Uses Of The Property?

If a regulation prohibits all economically viable or beneficial uses of the land, it will likely constitute a "taking." In this situation, the agency can avoid liability for just compensation only if it can demonstrate that the proposed uses are prohibited by the laws of nuisance or other preexisting limitation on the use of the property. See *Lucas v South Carolina Costa/ Coun.,* 112 S.Ct. 2886 (1992).

Unlike 1. and 2. above, it is important to analyze the regulation's impact on the property as a whole, and nut just the impact on a portion of the property. It is also important to assess whether there is any profitable use of the remaining property available. See *Florida Rock Industries, Inc. v. Unites States,lB* F.3d 1560 (Fed. Cir. 1994). The remaining uses does not necessarily have to be the owner's planned use, a prior use or the highest and best use of the property. One factor in this assessment is the degree to which the regulatory action interferes with a property owner's reasonable investment­ backed development expectations.

Careful review regulation requiring that all of the particular parcel of land be left substantially in its natural state. A prohibition of all economically viable uses of the property is vulnerable to a takings challenge. In some situations, however, there may be pre-existing limitations on the use of property that could insulate the government from takings liability.

### Does The Regulation Have A Significant Impact On The Landowner's Economic Interest?

Carefully review regulations that have a significant impact on the owner's economic interest. Courts will often compare the value of the property before and after the impact of the challenged regulation. Although a reduction in property value alone may not be a "taking," a severe reduction in property value often indicates a deduction or elimination of reasonably profitable uses. Another economic factor courts will consider is the degree to which the challenged regulation impacts any development rights of the owner. As with 3. above, these economic factors are normally applied to the property as a whole.

### Does The Regulation Deny A Fundamental Attribute Of Ownership?

Regulations that deny the landowner a fundamental attribute of ownership - including the right to possess, exclude other and dispose of all or a portion of the property - are potential takings.

The United States Supreme Court recently held that requiring a public easement for recreational purposes where the harm to be prevented was to the flood plain was a "taking." In finding this to be a "taking," the Court stated:

The City never demonstrated why a public green way, as opposed to a private one, was required in the interest of flood control. This difference to the petitioner, of course, is the loss of her ability to exclude others .

. . [T]his right to exclude others is "one of the most essential sticks in the bundle of rights that are commonly characterized as property."

*Dolan v. City of Tigard,* 114 U.S. 230 (June 24, 1994). The United States Supreme Court has also held that baring the inheritance (and essential attribute of ownership) of certain interests in land held by individual members of an Indian tribe constituted a "taking." *Hodd v. Irving,* 481 U.S.704 (1997)

###### Does The Regulation Serve The Same Purpose That Would Be Served By Directly Prohibiting The Use Of Action; And, Does The Condition Imposed Substantially Advance That Purpose?

A regulation may go too far and may result in a takings claim where I t does not substantially advance a legitimate governmental purpose. *Nol/an v. California costal Commission,* 107 5. Ct. 3141 (1997); *Dolan v. City of Tigard,*

114 U.S. 2309 (June 24, 1994)

In *Nol/an,* the United States Supreme Court held that it was an unconstitutional "taking" to condition the issuance of a permit to land owners on the grant of an easement to the public to use their beach. The court found that since there was o indication that the Nollans' house plans interfered in any way with the public's ability to walk up and down the beach, there was no "nexus" between any public interest that might be harmed by the construction of the house, ant the perm conditions. Lacking this connection, the required easement was just as unconstitutional as it would be if imposed outside the permit context.

Likewise regulatory actions that closely resemble, or have the effects of a physical invasion or occupation of property, are more likely to be found to be taking. The greater the deprivation of use, the greater the likelihood that a "taking" will be found.