Summary of Ordinance No. 97-02

On the 17th day of April, 1997, the Board of County Commissioners of Fremont County, Idaho, passed Ordinance No. 97-02, the title of which is the "Amendments to the Fremont County Development Code." A summary of the provisions of that ordinance is as follows:

GENERAL - Making numerous small clerical or spelling additions or deletions, and amending paragraph numbering, all for clarity and correction.

CHAPTER I - Adding to Paragraph 5 and its subparagraphs to include signs as a non-conforming use, and provide for their use.

CHAPTER II - Adding to subparagraphs 1 and 2 of paragraph B, to require that a majority of planning and zoning commissioners shall reside in unincorporated areas of the county, and that no member shall serve more than two full consecutive terms.

CHAPTER III - Amending subparagraph 4 to paragraph C, to amend from 20 acres to 160 acres the parcel size over which no permit shall be required, and adding that the creation of parcels between 20 and 160 acres shall require lot split applications; Amending subparagraph 1 to paragraph I requiring a developer to request a sketch plan review at least 5 days before the meeting; Amending subparagraph 2 to paragraph I, requiring a developer to file the completed application, with require supporting materials at least 30 days before the commission meeting at which a hearing on the application will be held; Amending paragraph M to add that a notice of appeal must be filed within 10 days after the decision appealed; Adding subparagraph 2 to Paragraph M to require the county attorney to review allegations of taking property without compensation, pursuant to the Attorney General's checklist; Amending subparagraph 5 to paragraph M to provide for the board to consider the county attorney's review of a claimed taking of property.

CHAPTER IV - Adding subparagraph 2 to paragraph D to add the boundaries of the City of Island Park as a zoning district; deleting subparagraph 3 to paragraph D; Adding paragraph E and its subparagraphs to provide for and designate commercial areas and nodes in the City of Island Park; Adding paragraph F to provide for boundary disputes of zoning districts and commercial areas.

CHAPTER VI - Adding subparagraph 2 to paragraph 9 to provide for nuisances of light, glare and heat, and describing the nature of such light nuisances; Adding paragraph S to provide for residential care facilities; Adding to paragraph II to allow for comment from the South Fremont Fire Protection District on Class II permits; Amending paragraph JJ to provide that a large scale development may consist of a series of adjacent or related residential or mixed use projects containing 60 rather than 100 or more lots or units; Amending subparagraph 1 to paragraph JJ to allow large scale developments to make a proportionate contribution
to public facilities necessitated by the development; Amending subparagraph b to subparagraph 2 to paragraph Jj to allow for hearings on large scale developments to be set with the sketch plan review; Adding subparagraph 3 and subparagraph 4 to paragraph JJ to establish what a large scale development shall provide, and requiring such developments to submit an estimate of employees and show how housing will be provided for such employees; Adding subparagraphs 1 through 3 to paragraph MM to provide for density transfers.

CHAPTER VII - Adding paragraph J to provide for wildlife habitats as critical areas; Adding subparagraph 2 to paragraph R to provide for nuisances of light, glare and heat, and describing the nature of such light nuisances; Adding paragraph V to describe residential care facilities; Adding subparagraph 5 to paragraph W to provide for siting and design of high density developments; Adding to paragraph LL to provide for comment on Class II permits from the North Fremont Fire Protection Districts; Amending paragraph MM to provide that a large scale development may consist of a series of adjacent or related residential or mixed use projects containing 60 rather than 100 or more lots or units; amending subparagraph 1 to paragraph MM to allow large scale developments to make a proportionate contribution to public facilities necessitated by the development; Amending subparagraph b to subparagraph 2 to paragraph MM to allow for hearings on large scale developments to be set with the sketch plan review; Adding subparagraphs 3 through 5 to paragraph MM to establish what a large scale development shall provide, requiring such developments to submit an estimate of employees and show how housing will be provided for such employees, and encouraging the provision of affordable housing for employees; Adding to paragraph PP to provide for density transfers to cluster developments; Amending paragraph RR to provide that the number of lots or residential units shall be determined pursuant to ordinance criteria.

CHAPTER VIII - Deleting the former paragraph I to regarding seismic hazards; Adding subparagraph 2 to paragraph P to provide for the nuisances of light, glare and heat, and describing the nature of such light nuisances; Adding paragraph S to provide for residential care facilities; Adding subparagraphs 5 and 6 to paragraph T to provide for the installation of landscaped buffers and the design and siting of high density residential developments; Adding paragraph U regarding commercial development being confined to designated areas; Adding paragraph V to provide performance standards for commercial developments; Deleting subparagraph 1 to Paragraph X; Deleting the former paragraph CC; Adding a new paragraph CC to provide for central water supply in developments; Adding to Paragraph OO to provide for comments on Class II permits to be made by the Island Park Fire Protection District; Amending paragraph OO to provide that a large scale development may consist of a series of adjacent or related residential or mixed use projects containing 60 rather than 100 or more lots or units; Amending subparagraph 1 to paragraph OO to allow large scale developments to make a proportionate contribution to public
facilities necessitated by the development; Amending subparagraph b to Subparagraph 2 to paragraph Oo to allow for hearings on large scale developments to be set with the sketch plan review; Adding subparagraphs 3 through 5 to paragraph Oo to establish what a large scale development shall provide, requiring such developments to submit an estimate of employees and show how housing will be provided for such employees, and encouraging the provision of affordable housing for employees; Adding to paragraph Rr to provide for density transfers to cluster developments; Adding to paragraph TT to provide for determining the maximum density of a development.

CHAPTER IX - Adding a new Chapter IX to provide for inclusion of the City of Island Park, establishing what the chapter does, providing for procedural modifications, establishing chapter VIII performance standards that are not modified or replaced, establishing commercial development confined to designated nodes, establishing performance standards for commercial developments, providing for gravel mining, providing for large-scale development, and providing for nontraditional commercial developments.

CHAPTER XIV - Adding paragraph G providing a definition for "Agriculture"; Adding paragraph AA, providing a definition for "Foot-Candle"; Adding paragraph CC, providing a definition for "Higher Density Residential"; Adding to paragraph JJ, to slightly amend the definition of "Livestock"; Adding paragraph VV, providing a definition of "Original parcel"; Amending paragraph XX, to allow for the consolidation of lots in the definition of "Plat"; Adding paragraph DDD, to provide a definition of "Replat"; Adding paragraph EEE, to provide a definition of "Residential Care Facility"; Amending paragraph QQQ, to amend the definition of subdivision from 20 acres to 160 acres; Adding paragraph VVV to provide a definition of "Uplit"; Amending paragraph AAAA to reference designation of commercial areas.

APPENDIX A - Adding to paragraph 1 of Appendix A to establish for separate treatment of signs in the City of Island Park; Amending subparagraph i to subparagraph b to paragraph 6 to provide for cornerstone signs; Deleting paragraphs 11 through 27.

APPENDIX G - Adding paragraph 7 to describe and provide for residential care facilities.

APPENDIX K - Amending paragraph 13 to provide for alignment of intersections.

APPENDIX L - Amending subparagraph r to paragraph 6 to require the additional signature of the county assessor to final plats, and the statement that the plat properly describes the property; Adding paragraph 9 to provide for plat amendments.

EFFECTIVE DATE - Provides that the ordinance shall be in full force and effect 30 days after passage and publication.
A copy of the full text of this ordinance is available at the Office of the Fremont County Clerk, at the Fremont County Courthouse, 151 West 1st North, St. Anthony, Idaho, Monday through Friday from 9:00 a.m until 5:00 p.m.

I, Mickie Funke, Fremont County Clerk, hereby declare that the foregoing is a true and complete summary of Fremont County Ordinance No. 97-02, and provides adequate notice to the public.

Dated this 6th day of May 1997.

Mickie Funke, County Clerk
SUMMARY: ORDINANCE NO. 95-03
Fremont County, Idaho
The Fremont County Development Code

A summary of Ordinance No. 95-03, known as the Development Code for Fremont County, Idaho, is as follows: The Ordinance declares the Ordinance's purpose, authority and general provisions; provides for a planning and zoning commission and zoning administrator, including their duties and liabilities; provides for administrative procedures, including, permit procedures, appeals and variances, hearing procedures, enforcement, amendments, and vacation of plats; provides for the following penalties for enforcement: Violations of this ordinance shall be a misdemeanor, punishable by a fine in an amount not exceeding $300.00, or by imprisonment for a period of not longer than 30 days, or by both find and imprisonment. Each day in which a violation continues shall be considered a separate offense; provides for the establishment of zoning districts, including an official zoning map and showing zoning district boundaries; provides performance standards for development review, including, requiring compliance with absolute performance standards and providing exceptions thereto, and providing relative performance standards; Describes the South Fremont Zoning District as is set out on the map provided below; Provides for the South Fremont Zoning District, including, performance standards for maintaining natural assets, performance standards for maintaining agricultural resources and the farm economy, performance standards for assuring land use compatibility, performance standards for assuring provision of adequate public facilities and services, additional performance standards for large scale development, and performance standards for residential development density; Describes the North Fremont Zoning District as is set out on the map provided below; Provides for the North Fremont Zoning District, including, performance standards for maintaining natural assets, performance standards for maintaining agricultural resources and the farm economy, performance standards for assuring land use compatibility, performance standards for assuring provision of adequate public facilities and services, additional performance standards for large scale development, and, performance standards for residential development; Describes the Island Park Zoning District as is set out on the map provided below; Provides for the Island Park Zoning District, including, performance standards for maintaining natural assets, performance standards for maintaining agricultural resources and the farm economy, performance standards for assuring land use compatibility, performance standards for protecting visual resources and enhancing the community’s image; performance standards for assuring provision of adequate public facilities and services, additional performance standards for large scale development, and, performance standards for residential development; Provides for an airport overlay zoning district, including height limitations and limitation zones, use restrictions, additional requirements for permits, additional requirements for variances, additional requirements for nonconforming uses, and obstruction marking and lighting; Provides for a floodplain overlay zoning district, including, administration
of federal flood insurance program requirements, performance standards for special flood hazard areas, and variances in the floodplain overlay zoning district; Provides for additional performance standards for subdivisions and manufactured home parks, including, lot splits, subdivisions, and, manufactured home parks; Provides for required improvements, installation and maintenance, including, defining required improvements, installation at developer's expense, standards for required improvements, time of installation, development agreements, effect of development agreements, guarantees, inspection fees, inspection and acceptance of improvements, as-built drawings, warranty of improvements, continuing maintenance required, maintenance mechanism, open space maintenance, maintenance of landscaping; Provides for definitions, including rules of interpretation; and Provides for the effective date thereof.

A full text of the ordinance is available at the office of the County Clerk, Fremont County Courthouse, St. Anthony, Idaho.

MAP OF ZONING DISTRICTS

CLERK'S STATEMENT

I, Mickie Funke, the County Clerk for Fremont County, Idaho, hereby state that I have read the foregoing Summary of Ordinance No. 95-03, known as the Fremont County Development Code, and that this summary is true and complete, and provides adequate notice to the public.

Dated this 83 day of May, 1995.

Mickie Funke
County Clerk
This ordinance shall be in full force and effect, THIRTY (30) days after its passage and publication, all as provided by law.

PASSED THIS ___ DAY OF ____, 1995, BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO.

GRANT CHANDLER, CHAIRMAN

ATTEST:

MICKIE FUNKE, CLERK
ORDINANCE NO. 97-02

AN ORDINANCE AMENDING THE DEVELOPMENT CODE FOR FREMONT COUNTY, IDAHO, AS FOLLOWS: MAKING NUMEROUS SMALL CLERICAL OR SPELLING ADDITIONS OR DELETIONS, AND AMENDING PARAGRAPH NUMBERING, ALL FOR CLARITY AND CORRECTION; ADDING TO PARAGRAPH 5 OF CHAPTER I, AND ITS SUBPARAGRAPHS TO INCLUDE SIGNS AS A NON-CONFORMING USE, AND PROVIDE FOR THEIR USE; ADDING TO SUBPARAGRAPHS 1 AND 2 OF PARAGRAPH B TO CHAPTER II, TO REQUIRE THAT A MAJORITY OF PLANNING AND ZONING COMMISSIONERS SHALL RESIDE IN UNINCORPORATED AREAS OF THE COUNTY, AND THAT NO MEMBER SHALL SERVE MORE THAN TWO FULL CONSECUTIVE TERMS; AMENDING SUBPARAGRAPH 4 TO PARAGRAPH C OF CHAPTER III, TO AMEND FROM 20 ACRES TO 160 ACRES THE PARCEL SIZE OVER WHICH NO PERMIT SHALL BE REQUIRED, AND ADDING THAT THE CREATION OF PARCELS BETWEEN 20 AND 160 ACRES SHALL REQUIRE LOT SPLIT APPLICATIONS; AMENDING SUBPARAGRAPH 1 TO PARAGRAPH I TO CHAPTER III REQUIRING A DEVELOPER TO REQUEST A SKETCH PLAN REVIEW AT LEAST 5 DAYS BEFORE THE MEETING; AMENDING SUBPARAGRAPH 2 TO PARAGRAPH I OF CHAPTER III, REQUIRING A DEVELOPER TO FILE THE COMPLETED APPLICATION, WITH REQUIRED SUPPORTING MATERIALS AT LEAST 30 DAYS BEFORE THE COMMISSION MEETING AT WHICH A HEARING ON THE APPLICATION WILL BE HELD; AMENDING PARAGRAPH M TO CHAPTER III, TO ADD THAT A NOTICE OF APPEAL MUST BE FILED WITHIN 10 DAYS AFTER THE DECISION APPEALED; ADDING SUBPARAGRAPH 2 TO PARAGRAPH M OF CHAPTER III, TO REQUIRE THE COUNTY ATTORNEY TO REVIEW ALLEGATIONS OF TAKING PROPERTY WITHOUT COMPENSATION, PURSUANT TO THE ATTORNEY GENERAL’S CHECKLIST; AMENDING SUBPARAGRAPH 5 TO PARAGRAPH M TO CHAPTER III, TO PROVIDE FOR THE BOARD TO CONSIDER THE COUNTY ATTORNEY’S REVIEW OF A CLAIMED TAKING OF PROPERTY; ADDING SUBPARAGRAPH 2 TO PARAGRAPH D OF CHAPTER IV, TO ADD THE BOUNDARIES OF THE CITY OF ISLAND PARK AS A ZONING DISTRICT; DELETING SUBPARAGRAPH 3 TO PARAGRAPH D OF CHAPTER IV; ADDING PARAGRAPH E AND ITS SUBPARAGRAPHS TO CHAPTER IV, TO PROVIDE FOR AND DESIGNATE COMMERCIAL AREAS AND NODES IN THE CITY OF ISLAND PARK; ADDING PARAGRAPH F TO CHAPTER IV TO PROVIDE FOR BOUNDARY DISPUTES OF ZONING DISTRICTS AND COMMERCIAL AREAS; ADDING SUBPARAGRAPH 2 TO PARAGRAPH 9 IN CHAPTER VI, TO PROVIDE FOR NUISANCES OF LIGHT, GLARE AND HEAT, AND DESCRIBING THE NATURE OF SUCH LIGHT NUISANCES; ADDING PARAGRAPH S TO CHAPTER VI, TO PROVIDE FOR RESIDENTIAL CARE FACILITIES; ADDING TO PARAGRAPH II OF CHAPTER VI TO ALLOW FOR COMMENT FROM THE SOUGH FREMONT FIRE PROTECTION DISTRICT ON CLASS II PERMITS; AMENDING PARAGRAPH JJ TO CHAPTER VI TO PROVIDE THAT A LARGE SCALE DEVELOPMENT MAY CONSIST OF A SERIES OF ADJACENT OR RELATED RESIDENTIAL OR MIXED USE PROJECTS CONTAINING 60 RATHER THAN 100 OR MORE LOTS OR UNITS; AMENDING SUBPARAGRAPH 1 TO PARAGRAPH JJ TO CHAPTER VI TO ALLOW LARGE SCALE DEVELOPMENTS TO MAKE A PROPORTIONATE CONTRIBUTION TO PUBLIC FACILITIES NECESSITATED BY THE DEVELOPMENT; AMENDING SUBPARAGRAPH b TO SUBPARAGRAPH 2 TO PARAGRAPH JJ TO CHAPTER VI, TO ALLOW FOR HEARINGS ON LARGE SCALE DEVELOPMENTS TO BE SET WITH THE SKETCH PLAN REVIEW; ADDING SUBPARAGRAPH 3 AND SUBPARAGRAPH 4 TO PARAGRAPH JJ TO CHAPTER VI, TO ESTABLISH WHAT A LARGE SCALE DEVELOPMENT SHALL PROVIDE, AND REQUIRING SUCH DEVELOPMENTS TO SUBMIT AN ESTIMATE OF EMPLOYEES AND SHOW HOW HOUSING WILL BE PROVIDED FOR SUCH EMPLOYEES; ADDING SUBPARAGRAPHS 1 THROUGH 3 TO PARAGRAPH MM TO CHAPTER VI, TO PROVIDE
FOR DENSITY TRANSFERS; ADDING PARAGRAPH J TO CHAPTER VII TO PROVIDE FOR WILDLIFE HABITATS AS CRITICAL AREAS; ADDING SUBPARAGRAPH 2 TO PARAGRAPH R OF CHAPTER VII TO PROVIDE FOR NUISANCES OF LIGHT, GLARE AND HEAT, AND DESCRIBING THE NATURE OF SUCH LIGHT NUISANCES; ADDING PARAGRAPH V TO DESCRIBE RESIDENTIAL CARE FACILITIES; ADDING SUBPARAGRAPH 5 TO PARAGRAPH W OF CHAPTER VII, TO PROVIDE FOR SITING AND DESIGN OF HIGH DENSITY DEVELOPMENTS; ADDING TO PARAGRAPH LL TO CHAPTER VII TO PROVIDE FOR COMMENT ON CLASS II PERMITS FROM THE NORTH FREMONT FIRE PROTECTION DISTRICTS; AMENDING PARAGRAPH MM TO CHAPTER VII TO PROVIDE THAT A LARGE SCALE DEVELOPMENT MAY CONSIST OF A SERIES OF ADJACENT OR RELATED RESIDENTIAL OR MIXED USE PROJECTS CONTAINING 60 RATHER THAN 100 OR MORE LOTS OR UNITS; AMENDING SUBPARAGRAPH 1 TO PARAGRAPH MM TO CHAPTER VII TO ALLOW LARGE SCALE DEVELOPMENTS TO MAKE A PROPORTIONATE CONTRIBUTION TO PUBLIC FACILITIES NECESSITATED BY THE DEVELOPMENT; AMENDING SUBPARAGRAPH b TO SUBPARAGRAPH 2 TO PARAGRAPH MM TO CHAPTER VII, TO ALLOW FOR HEARINGS ON LARGE SCALE DEVELOPMENTS TO BE SET WITH THE SKETCH PLAN REVIEW; ADDING SUBPARAGRAPHS 3 THROUGH 5 TO PARAGRAPH MM TO CHAPTER VII, TO ESTABLISH WHAT A LARGE SCALE DEVELOPMENT SHALL PROVIDE, REQUIRING SUCH DEVELOPMENTS TO SUBMIT AN ESTIMATE OF EMPLOYEES AND SHOW HOW HOUSING WILL BE PROVIDED FOR SUCH EMPLOYEES, AND ENCOURAGING THE PROVISION OF AFFORDABLE HOUSING FOR EMPLOYEES; ADDING TO PARAGRAPH PP TO CHAPTER VII TO PROVIDE FOR DENSITY TRANSFERS TO CLUSTER DEVELOPMENTS; AMENDING PARAGRAPH RR TO CHAPTER VII, TO PROVIDE THAT THE NUMBER OF LOTS OR RESIDENTIAL UNITS SHALL BE DETERMINED PURSUANT TO ORDINANCE CRITERIA; DELETING THE FORMER PARAGRAPH I TO CHAPTER VIII, REGARDING SEISMIC HAZARDS; ADDING SUBPARAGRAPH 2 TO PARAGRAPH P OF CHAPTER VIII, TO PROVIDE FOR THE NUISANCES OF LIGHT, GLARE AND HEAT, AND DESCRIBING THE NATURE OF SUCH LIGHT NUISANCES; ADDING PARAGRAPH S TO CHAPTER VIII TO PROVIDE FOR RESIDENTIAL CARE FACILITIES; ADDING SUBPARAGRAPH 5 AND 6 TO PARAGRAPH T OF CHAPTER VIII, TO PROVIDE FOR THE INSTALLATION OF LANDSCALED BUFFERS AND THE DESIGN AND SITING OF HIGH DENSITY RESIDENTIAL DEVELOPMENTS; ADDING PARAGRAPH U TO CHAPTER VIII, REGARDING COMMERCIAL DEVELOPMENT BEING CONFINED TO DESIGNATED AREAS; ADDING PARAGRAPH V TO CHAPTER VIII, TO PROVIDE PERFORMANCE STANDARDS FOR COMMERCIAL DEVELOPMENTS; DELETING SUBPARAGRAPH 1 TO PARAGRAPH X TO CHAPTER VIII; DELETING THE FORMER PARAGRAPH CC TO CHAPTER VIII; ADDING A NEW PARAGRAPH CC TO PROVIDE FOR CENTRAL WATER SUPPLY IN DEVELOPMENTS; ADDING TO PARAGRAPH OO OF CHAPTER VIII TO PROVIDE FOR COMMENTS ON CLASS II PERMITS TO BE MADE BY THE SOUTH FREMONT FIRE PROTECTION DISTRICTS; AMENDING PARAGRAPH OO TO CHAPTER VIII TO PROVIDE THAT A LARGE SCALE DEVELOPMENT MAY CONSIST OF A SERIES OF ADJACENT OR RELATED RESIDENTIAL OR MIXED USE PROJECTS CONTAINING 60 RATHER THAN 100 OR MORE LOTS OR UNITS; AMENDING SUBPARAGRAPH 1 TO PARAGRAPH OO TO CHAPTER VIII TO ALLOW LARGE SCALE DEVELOPMENTS TO MAKE A PROPORTIONATE CONTRIBUTION TO PUBLIC FACILITIES NECESSITATED BY THE DEVELOPMENT; AMENDING SUBPARAGRAPH b TO SUBPARAGRAPH 2 TO PARAGRAPH OO TO CHAPTER VIII, TO ALLOW FOR HEARINGS ON LARGE SCALE DEVELOPMENTS TO BE SET WITH THE SKETCH PLAN REVIEW; ADDING SUBPARAGRAPHS 3 THROUGH 5 TO PARAGRAPH OO TO CHAPTER VIII, TO ESTABLISH WHAT A LARGE SCALE DEVELOPMENT SHALL PROVIDE, REQUIRING SUCH DEVELOPMENTS TO SUBMIT AN ESTIMATE OF EMPLOYEES AND SHOW HOW
HOUSING WILL BE PROVIDED FOR SUCH EMPLOYEES, AND ENCOURAGING THE PROVISION OF AFFORDABLE HOUSING FOR EMPLOYEES; ADDING TO PARAGRAPH RR TO CHAPTER VIII, TO PROVIDE FOR DENSITY TRANSFERS TO CLUSTER DEVELOPMENTS; ADDING TO PARAGRAPH TT TO CHAPTER VIII, TO PROVIDE FOR DETERMINING THE MAXIMUM DENSITY OF A DEVELOPMENT; ADDING A NEW CHAPTER IX TO PROVIDE FOR INCLUSION OF THE CITY OF ISLAND PARK, ESTABLISHING WHAT THE CHAPTER DOES, PROVIDING FOR PROCEDURAL MODIFICATIONS, ESTABLISHING CHAPTER VIII PERFORMANCE STANDARDS THAT ARE NOT MODIFIED OR REPLACED, ESTABLISHING COMMERCIAL DEVELOPMENT CONFINED TO DESIGNATED NODES, ESTABLISHING PERFORMANCE STANDARDS FOR COMMERCIAL DEVELOPMENTS, PROVIDING FOR GRAVEL MINING, PROVIDING FOR LARGE-SCALE DEVELOPMENT, AND PROVIDING FOR NONTRADITIONAL COMMERCIAL DEVELOPMENTS; ADDING PARAGRAPH G TO CHAPTER XIV, PROVIDING A DEFINITION FOR "AGRICULTURE"; ADDING PARAGRAPH AA TO CHAPTER XIV, PROVIDING A DEFINITION FOR "FOOT-CANDLE"; ADDING PARAGRAPH CC TO CHAPTER XIV, PROVIDING A DEFINITION FOR "HIGHER DENSITY RESIDENTIAL"; ADDING TO PARAGRAPH JJ TO CHAPTER XIV, TO SLIGHTLY AMEND THE DEFINITION OF "LIVESTOCK"; ADDING PARAGRAPH VV TO CHAPTER XIV, PROVIDING A DEFINITION OF "ORIGINAL PARCEL"; AMENDING PARAGRAPH XX TO CHAPTER XIV, TO ALLOW FOR THE CONSOLIDATION OF LOTS IN THE DEFINITION OF "PLAT"; ADDING PARAGRAPH DDD TO CHAPTER XIV, TO PROVIDE A DEFINITION OF "REPLAT"; ADDING PARAGRAPH EEE TO CHAPTER XIV, TO PROVIDE A DEFINITION OF "RESIDENTIAL CARE FACILITY"; AMENDING PARAGRAPH QQQ TO CHAPTER XIV, TO AMEND THE DEFINITION OF SUBDIVISION FROM 20 ACRES TO 160 ACRES; ADDING PARAGRAPH VVV TO CHAPTER XIV, TO PROVIDE A DEFINITION OF "UPLIT"; AMENDING PARAGRAPH AAAAA TO CHAPTER XIV, TO REFERENCE DESIGNATION OF COMMERCIAL AREAS; ADDING TO PARAGRAPH 1 OF APPENDIX A TO ESTABLISH FOR SEPARATE TREATMENT OF SIGNS IN THE CITY OF ISLAND PARK; AMENDING SUBPARAGRAPH 1 TO SUBPARAGRAPH b TO PARAGRAPH 6 OF APPENDIX A TO PROVIDE FOR CORNERSTONE SIGNS; DELETING PARAGRAPHS 11 THROUGH 27 IN APPENDIX A; ADDING PARAGRAPH 7 TO APPENDIX G TO DESCRIBE AND PROVIDE FOR RESIDENTIAL CARE FACILITIES; AMENDING PARAGRAPH 13 TO APPENDIX K TO PROVIDE FOR ALIGNMENT OF INTERSECTIONS; AMENDING SUBPARAGRAPH r TO PARAGRAPH 6 TO APPENDIX L, TO REQUIRE THE ADDITIONAL SIGNATURE OF THE COUNTY ASSESSOR TO FINAL PLATS, AND THE STATEMENT THAT THE PLAT PROPERLY DESCRIBES THE PROPERTY; ADDING PARAGRAPH 9 TO APPENDIX L TO PROVIDE FOR PLAT AMENDMENTS; AND, PROVIDING THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, AS FOLLOWS:
This draft shows all proposed revisions. Deletions are stricken, like this: deletion. New material is underlined: new. Pagination and section numbering will not be finalized until the code has been taken through the hearing process and approved.
CHAPTER I - PURPOSE, AUTHORITY, AND GENERAL PROVISIONS
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C. Authority
D. Conflicting Ordinances Repealed
E. Vested Rights
F. Most Restrictive Standards Apply
G. Conflict with Private Agreements
H. Burden of Proof
I. Interpretation
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CHAPTER II - PLANNING AND ZONING COMMISSION/ZONING ADMINISTRATOR
A. What This Chapter Does
B. Planning and Zoning Commission
C. Duties of Commission
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CHAPTER III - ADMINISTRATIVE PROCEDURES
A. What This Chapter Does
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B. Permit Required
C. Exemptions for Land Divisions
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E. Application Forms
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H. Class I Permit Procedure
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J. Conditions
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M. Appeals
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Division 4 - Enforcement
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W. Enforcement Actions
X. Public Endangerment
Y. Penalties
Division 5 - Amendments
Z. Amendments
Division 6 - Vacation of Plats
A. Vacation of a Plat

CHAPTER IV - ESTABLISHMENT OF ZONING DISTRICTS
A. What This Chapter Does
B. Zoning Districts
C. Official Zoning Map
D. Zoning District Boundaries
E. Commercial Areas and Nodes
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CHAPTER V - PERFORMANCE STANDARDS FOR DEVELOPMENT REVIEW
A. What This Chapter Does
B. Absolute Performance Standards: Compliance Is Required
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CHAPTER XIV - DEFINITIONS

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CHAPTER I - PURPOSE, AUTHORITY, AND GENERAL PROVISIONS

A. What This Chapter Does. This chapter establishes the purpose of this ordinance, identifies the enabling statute pursuant to which it is adopted, repeals conflicting ordinances, establishes certain vested rights during the transition from the previous ordinance, provides rules for the continuation of nonconforming uses, and establishes rules for its interpretation.

B. Purpose. The purpose of this ordinance shall be to promote the health, safety, and general welfare of the people of Fremont County by fulfilling the purposes and requirements of the Local Planning Act of 1975 and implementing the comprehensive plan. Specific statements of purpose accompany selected provisions of this ordinance, but the comprehensive plan provides the full statement of the county’s purpose and intent in planning and zoning activities.

C. Authority. This ordinance is adopted pursuant to the authority granted by the Local Planning Act of 1975. It includes the zoning ordinance required by I.C. 67-6511 and the subdivision ordinance required by I.C. 67-6513. It also fulfills the other requirements of the Local Planning Act, including the provision for variances required by I.C. 67-6516, the adoption of procedures for processing permits required by I.C. 6519, and the adoption of a hearing procedure required by I.C. 67-6534.

D. Conflicting Ordinances Repealed. All prior ordinances are repealed to the full extent of their inconsistency with this ordinance.

E. Vested Rights. A vested right is the right to proceed with development under a previous set of regulations, or the right to proceed under this ordinance, pursuant to a development agreement.

1. Vested rights to proceed with development initiated prior to the adoption of a Fremont County Development Code shall be established only by: a. having obtained a building permit in full compliance with the provisions of the previous regulations (such vested rights expire with the permit); or b. having recorded a final plat in full compliance with the provisions of the previous regulations. Recording a final plat establishes a vested right to the lot layout and road network of the subdivision. It does not establish a vested right for any particular use or development of any lot.

2. Vested rights to proceed with development under the provisions of this ordinance shall be established only by: a. recording a final plat in full compliance with its provisions; b. executing a development agreement in full compliance with its provisions, or c. obtaining a Class I or Class II permit in full compliance with its provisions. Such vested rights expire with the permit. See III. on the duration of permit approvals.

F. Nonconforming Uses, Buildings, and Signs. A nonconforming use, building, or sign was in existence on the effective date of this ordinance, but would not comply with one or more of its requirements if submitted for approval after that date. Nonconforming uses, buildings, and signs may continue subject to the rules established here. While the purpose of these rules is to help eliminate nonconforming uses, buildings, and signs, it is recognized that routine maintenance and repair and, in some cases, a change of occupancy to another nonconforming use or replacement of a nonconforming building or sign may be necessary to prevent community blight.

1. Any nonconforming use or sign 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. See Appendix A for more on abandoned signs.

2. There shall be no limit on repair or maintenance activities for nonconforming uses, buildings, or signs, provided that no such activity shall increase the degree of nonconformity.

3. Changes in occupancy may be permitted in nonconforming commercial or industrial buildings, provided that the new occupancy is no more intense (with intensity being measured by traffic and noise generation, parking requirements, and similar factors) than the existing. Requests for such changes in nonconforming occupancies shall be processed as applications for Class II permits.

4. Nonconforming buildings and signs may be replaced, but only where the effect of the replacement is to lessen the adverse impact of the nonconformity on the community, and where the degree of nonconformity is not increased. Requests for replacement of nonconforming buildings shall be processed as applications for Class II permits, except that any nonconforming building destroyed by fire or other catastrophe may be replaced without a permit (a permit may be required by the UBC), if the degree of nonconformity is not in any way increased and if the replacement is completed within 12 months of the building's destruction. No permit is required for replacement of a nonconforming sign.

5. There are additional limitations on nonconforming uses and buildings in the Airport and Floodplain Overlay Zoning Districts; see IX.G. and Chapter X.

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G. Most Restrictive Standards Apply. When future ordinances, or state or federal law, impose additional standards on activities governed by this ordinance, the most restrictive standard shall apply.

H. Conflict with Private Agreements. This ordinance does not nullify easements, covenants, deed restrictions, and similar private agreements, but where any such private agreement imposes standards that are less restrictive than those adopted here, this ordinance shall apply.

I. Burden of Proof. The burden of proof shall, in all proceedings pursuant to this ordinance, rest with the developer.

J. Interpretation. All ordinance provisions shall be interpreted as the minimum requirements necessary to protect the public health, safety, and general welfare and to implement the Local Planning Act and comprehensive plan. This ordinance is designed for consistency with the comprehensive plan and should be liberally construed to achieve that plan's purposes and intent.

K. Severability. If any provision of this ordinance is held to be invalid by any court, the remainder shall continue in full force.
CHAPTER II - PLANNING AND ZONING COMMISSION/ZONING ADMINISTRATOR

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

B. Planning and Zoning Commission. A planning and zoning commission is established, as authorized by I.C. 67-6504.

1. The commission shall consist of nine members appointed by the board. As required by I.C. 67-6504(a), all commission members shall have resided in Fremont County, Idaho for at least two years prior to their appointment, and a majority shall reside in the unincorporated areas of the county.

2. Commission members shall serve terms of three years, except those members initially appointed, who shall serve terms, as set by lottery, of one, two, or three years, in order to provide for the annual appointment of at least one member. No member shall serve more than two full consecutive terms.

C. Duties of Commission. The commission shall, as required by I.C. 67-6508, "conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan" for the county. The commission shall exercise all powers granted it by the Local Planning Act and fulfill all duties required by this ordinance.

D. Zoning Administrator. The board may appoint an administrator, who shall perform the following duties:

1. assist members of the public in understanding the applicability and requirements of this ordinance;

2. review applications for permits required by this ordinance, accepting only complete applications, as required by I.I.E.;

3. review applications for Class I permits for compliance with this ordinance and approve or disapprove such applications as required by its provisions;

4. arrange for the professional review of applications for Class II permits, as provided by III.I.4.;

5. issue certificates of compliance, based on site inspections, and enforce the provisions of development agreements;

6. investigate possible violations of this ordinance;

7. properly account for all fees collected in the administration of this ordinance and prepare monthly and annual reports of development activity in the county;

8. perform all other duties assigned by this ordinance and assist the commission in the execution of its duties.

E. Liability. No individual, including board or commission members, the administrator, or other county employees, who acts in good faith and without malice in the performance of duties assigned by this ordinance shall be held liable for errors or omissions in its administration. A suit brought against such an individual shall be defended by the county and any judgment resulting from such a suit shall be the liability of the county.
CHAPTER III - ADMINISTRATIVE PROCEDURES

A. What This Chapter Does. This chapter requires a permit for all land development and building activity in the county and establishes procedures for the administration of this ordinance.

Division 1 - Permit Procedures

B. Permit Required. A permit shall be required for any division of land; any clearing, grading, construction, or reconstruction; and any change in land use, except as specifically exempted by III.C. and III.D.

1. A Class I permit shall be required for: a. any lot split or plat amendment; b. any single family dwelling; c. any home occupation; d. any accessory building or fence not exempted by III.D.; e. any minor change of occupancy in an existing commercial or industrial use or structure; f. any other development that is not exempted by III.C. or III.D., but does not require a Class II permit, and g. any clearing or grading preparatory to any activity listed in a. through f. The Class I permit procedure is found at III.H.

2. A Class I permit shall be required for any activity, including dredging, filling, clearing, grading, excavation, the construction of retaining walls or other means of shoreline stabilization, and the construction of accessory buildings within stream or lakeshore corridors and special flood hazard areas established by this ordinance, however, any such activities proposed as part of a subdivision or a development for which a Class II permit is required, may be evaluated as part of the application for a Class II permit.

3. A Class II permit shall be required for: a. any subdivision; b. any higher density residential development, including multi-family dwellings or manufactured home parks; c. any commercial or industrial development, including any major change in occupancy in an existing commercial or industrial use or structure, and d. any clearing or grading preparatory to any activity listed in a. through c. The Class II permit procedure is found at III.L.

C. Exemptions for Land Divisions. Exemption of a land division does not exempt development of the parcel created from compliance with this ordinance. No permit shall be required for:

1. No permit shall be required for any land division that results from the settlement of an estate or a court decree for the distribution of specific parcels of property.

2. No permit shall be required for any land division that results from a condemnation proceeding or the voluntary sale or gift of land for a public purpose.

3. No permit shall be required for any platting of a cemetery plot.

4. No permit shall be required for any land division in which all resulting parcels are 20 acres or more in size. The creation of parcels between 20 and 160 acres in size for agricultural purposes only shall also be exempt from the requirement for a permit, but the further division or the development of any such parcel shall be preceded or accompanied by an application for a lot split.

5. No permit shall be required for the adjustment of unplatted property lines in which no new parcel is created and no nonconforming lot, parcel, use, or structure results. Plat amendments require a Class I permit and approval by the board.

D. Exemptions for Construction Activity. The activities listed here are not exempt from any applicable requirement of this ordinance, except the requirement for a permit. No permit shall be required for:

1. clearing and grading for agricultural purposes, the maintenance and construction of irrigation works, and grading required for the maintenance (but not change or expansion) of an existing use or structure;

2. repair or remodeling that does not alter the exterior dimensions of the structure involved (note that the Uniform Building Code may require a building permit for such remodeling);

3. accessory buildings that are also exempted from review by the Uniform Building Code (note that these generally exempts accessory buildings of less than 120 square feet in floor area and less than 10 feet in height);

4. fences of eight feet or less in height (note that all fences must comply with the requirements of Appendices A. and B. for clear sight triangles at intersections and points of access to public roads);

5. minor utility installations; and

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6. certain signs, as provided in Appendix A.

7. These exemptions may not apply within the Airport Overlay Zoning District. See IX.E.

8. The exemptions of III.D.1., III.D.3., III.D.5., and III.D.6. shall not apply within any stream or lakeshore corridor or special flood hazard established by this ordinance. All development activity within stream or lakeshore corridors or special flood hazard areas shall be subject to the requirement for a permit.

E. Application Forms. Applications for permits shall be submitted on forms provided by the county. All information, including a site plan, and other maps, plans, drawings, tabulations, and calculations, called for on those forms shall be required for a complete application and no incomplete application shall be accepted. The administrator may require submission of multiple copies of applications and supporting materials.

F. Application Fees. Application fees for each type of permit established by this ordinance shall be established by resolution of the board.

G. Site Inspection. The filing of an application for a permit constitutes permission for the county to conduct inspections of the proposed development site during its consideration of the application. The administrator may delay consideration of any application when inclement weather or a snowpack prevents a useful on-site inspection.

H. Class I Permit Procedure. The Class I permit procedure provides for the prompt review of minor developments and plat amendments, while assuring they have no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The Class I permit procedure shall be as follows.

1. The developer shall file a properly completed permit application form, the required supporting materials, and the required application fee with the administrator.

2. The administrator shall determine whether the proposed development is in compliance with the comprehensive plan and this ordinance. If the proposed development complies with all applicable absolute performance standards of this ordinance and has a cumulative score of zero or more (i.e. a positive score) on the relative performance standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute performance standard of this ordinance or has a cumulative score of zero or less (i.e. a negative score) on the relative performance standards of this ordinance, the application for a permit shall be disapproved. Where the proposed development is part of a larger development for which a Class II permit was previously approved, the administrator shall also determine whether it is in compliance with the previously approved development plan and all conditions attached to that approval. Conditions may be attached to approval of any permit, as provided in III.J.

3. The administrator shall notify the developer of the decision within 10 days, except as provided in III.H.8.

4. The administrator's decision on a proposed development or plat amendment may be appealed to the commission using the appeals procedure of III.M. A notice of any such appeal shall be filed with the administrator within 10 days after notice of the decision has been issued. Developers proceed at their risk during the appeal period.

5. Additional Procedures for Plat Amendments.

a. The administrator shall determine: i. whether the all lots resulting from the proposed plat amendment are capable of accommodating a use permitted by this ordinance, and ii. whether the proposed amendment affects road or utilities access to any adjoining lot or parcel. If the lots resulting from the proposed plat amendment are capable of accommodating such a use and the amendment does not adversely affect access to any adjoining lot or parcel, the administrator shall approve the application for a permit and place the proposed plat amendment on the agenda of the next regular board meeting at which time will permit its proper review. If the lots resulting from the proposed plat amendment are not capable of accommodating such a use, or the amendment adversely affects access to a lot or adjoining parcel, the administrator shall disapprove the application for a permit.

b. Plat amendments approved by the administrator shall be reviewed by the board which, if it affirms the administrator's findings, shall sign the amended plat.

6. Upon finding that a development or plat amendment will have a significant adverse impact on environmental quality, neighboring land uses, or public facilities and services, the administrator may refer any application for a Class I permit to the commission. The commission may, upon confirming the administrator's finding, require that the application for a Class I permit be converted to an application for a Class II permit. Such referrals shall be placed on the agenda of the next regular commission meeting.

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I. Class II Permit Procedure. The purpose of the Class II permit procedure is to assure effective regulation of developments that may have significant impacts on public facilities, environmental quality, or neighboring uses. The Class II permit procedure shall be as follows:

1. The developer shall file a request for sketch plan review with the administrator at least 5 days before the meeting at which the review is requested.
   a. The administrator shall place the sketch plan on the agenda of the next regular commission meeting at which time will permit its proper review.
   b. The commission shall conduct a sketch plan review. A sketch plan review is not a regulatory proceeding, but an opportunity for the commission to be made aware of the proposal and for the developer to be made aware of possible questions and the applicable requirements of this ordinance.

2. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator at least 30 days before the commission meeting at which a hearing on the application is requested.

3. The administrator shall place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements of III.I.5. can be met, and at which time will permit its proper review.

4. 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.

5. The content of all hearing notices shall comply with the requirements of III.K. Notice shall be provided, as follows:
   a. by certified mail: to all owners of record of property within 1,000 feet of the site, at least 15 days before the hearing, except as provided in III.I.5.e;
   b. by newspaper publication: two legal notices in the official newspaper, with the first newspaper notice appearing at least 15 days prior to the hearing and the second one week later;
   c. by first class mail: to all potentially affected public agencies, including the appropriate school and fire protection districts, and other interested parties on a list maintained by the administrator; and
   d. by posting: at least seven days before the hearing, a sign conveying the required notice shall be placed on the site. Such signs shall be clearly visible from the nearest public road and may be placed at a point of access to the site, rather than on the site where the administrator determines that so doing will provide more effective notice.
   e. Where more than 200 certified mail notices would be required, the administrator may limit certified mail notice to adjoining property owners of record, while providing all other forms of notice required by this ordinance.
   f. The actual cost of mail and newspaper notice shall be in addition to the application fee required by III.F. No permit shall be issued until payment is received.

6. The commission shall conduct a hearing on the proposed development following the procedure established in III.O. No application shall be reviewed if the developer or a representative is not present.

7. The commission shall determine whether the proposed development is in compliance with the comprehensive plan and all requirements of this ordinance. If the proposed development complies with all applicable absolute performance standards of this ordinance and has a cumulative score sufficient to permit the proposed density on the relative performance standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute performance standard of this ordinance or has a cumulative score insufficient to permit the proposed density on the relative performance standards of this ordinance, the application for a permit shall be disapproved. Conditions may be attached to approval of any permit, as provided in III.J.
8. The administrator shall notify the developer and interested parties of the commission’s decision within 10 days.

9. The commission’s decision may be appealed to the board using the appeals procedure of III.M. A notice of any such appeal shall be filed with the administrator within 10 days after notice of the decision has been issued. Developers proceed at their own risk during this appeals period.

10. The developer may file a final plat with the administrator at any time after the Class II permit for a subdivision is approved. Phased final platting is permitted by XII.E.

   a. The administrator shall place the final plat on the agenda of the next commission meeting.

   b. No public notice or hearing is required for final plats, but no final plat shall be reviewed if the developer or a representative is not present.

   c. The commission shall review the final plat and determine whether it is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat and recommend that it be signed by the board. If it finds that the final plat fails to comply, it shall disapprove that plat and recommend that it not be signed by the board. Conditions may be attached to approval of a final plat, as provided in III.J.

   d. If the commission approves the final plat, the administrator shall place it on the agenda of the next regular board meeting. Commission disapproval of a final plat may be appealed to the board using the appeals procedure of III.M. A notice of any such appeal shall be filed with the administrator within 10 days after notice of the decision has been issued.

   e. The board shall determine whether the final plat is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat. If it finds that the final plat fails to comply, it shall disapprove that plat. Conditions may be attached to board approval of a final plat, as provided in III.J.

   f. The administrator shall notify the developer and interested parties of the board’s decision within 10 days.

J. Conditions. Conditions may be imposed on the approval of any permit or variance, provided that those conditions are clearly designed to assure compliance with one or more specific requirements of this ordinance, and that a list of all conditions imposed is provided to the developer with notification of the commission’s or board’s decision. That list shall specifically identify the provision of this ordinance the condition is designed to implement.

K. Hearing Notices. All required notices shall provide the following information (for model notices, see Appendix B): the name and mailing address of the developer; a legal description of the development site; the address of the development site, or another general description by which the public can identify the site; the present land use at the site; the proposed use and, for subdivisions, the proposed number of lots and average proposed lot size; the body (commission or board) that will conduct the hearing; the date, time, and place of the hearing; a statement of the availability of application materials for public review, and a statement that “PUBLIC COMMENT IS ENCOURAGED.”

L. Approvals Valid for Two Years. Permits shall be valid for two years from the date of approval, unless extended by a development agreement, as provided in XII.E.

Division 2 - Appeals and Variances

M. Appeals. Any decision of the administrator or commission may be appealed using the procedure described here. A notice of appeal must be filed within 10 days after the decision being appealed. Appeals from decisions of the administrator are heard by the commission. Appeals from decisions of the commission are heard by the board.

1. The appellant shall file a properly completed notice of appeal, the required supporting materials, and the required appeal fee with the administrator. If a notice of appeal alleges that the decision of the administrator or commission constitutes a taking of property without just compensation, the administrator shall direct the appeal to the county attorney.

2. The county 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 (Appendix C) and other information the county attorney deems appropriate, including the property rights policy of the plan.

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3. The administrator shall place a hearing on the appeal on the agenda of the next regular commission or board meeting for which the attorney's review (if relevant) and notice requirements can be met and at which time will permit its proper consideration. Notice requirements for an appeal shall be the same as for the original permit application.

4. The commission or board shall conduct a hearing on the appeal following the procedure established in III.O. 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.

5. The commission or board 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. Where a taking of property without just compensation is alleged, the commission or board shall also consider the county attorney's review of the decision, as provided by III.M.2.

6. The administrator shall notify the appellant and interested parties of the commission's or board's decision within 10 days.

N. 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 no beneficial use of the property if this ordinance is strictly enforced. Applications for variances shall follow the procedure described here. Applications for variances may be combined and processed simultaneously with applications for Class II permits.

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 Class II permit, and Class II permit and variance hearings may be combined where appropriate. Where such a combination is made, the hearing notice shall specifically describe the proposed variance, including a citation of the sections of this ordinance from which a variance is requested.

3. The commission shall conduct a hearing on the proposed variance following the procedure established in III.O. 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:

   a. the need for a variance results from physical limitations unique to the lot or parcel on which the variance is requested;

   b. failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot or parcel is possible without a variance;

   c. the alleged hardship has not been created by action of the owner or occupants;

   d. approval of the variance will not create a nuisance, result in potential harm to adjoining properties or the neighborhood, or have an adverse affect on the implementation of the comprehensive plan; and

   e. the variance approved is the minimum relief from the requirements of this ordinance necessary to permit a reasonable conforming use.

   f. Additional findings are required for variances in the Airport and Floodplain Overlay Zoning Districts: see Chapters IX. and X.

   g. Conditions may be attached to the approval of any variance, as provided in III.J.

5. The administrator shall notify the developer and interested parties of the commission's decision within 10 days.

6. The commission's decision may be appealed to the board using the appeals procedure of III.M. A notice of any such appeal shall be filed with the administrator within 10 days after notice of the decision has been issued. Developers proceed at their own risk during this appeal period.

Division 3 - Hearing Procedure

Fremont County Development Code 8
O. Hearing Procedure. This procedure shall be followed in all hearings before the commission or board.

1. The presiding officer shall announce the purpose and subject of the hearing.

2. The presiding officer shall determine whether proper notice of the hearing has been provided. If proper notice has not been provided, the hearing shall be re-scheduled.

3. The presiding officer shall ask if any commission/board member wishes to declare a conflict of interest, as defined by I.C. 67-6506, in the matter to be heard and excuse any member who declares such a conflict from participation in the hearing.

4. The presiding officer shall ask the administrator to present a report on the proposal being considered.

5. The presiding officer shall direct questions from commission/board members to the administrator. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.

6. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its compliance or lack of compliance with the comprehensive plan and this ordinance.

7. The presiding officer shall ask for a statement from the developer or his or her representative. Commission/board members may ask questions following this statement. All questions and replies shall be directed through the presiding officer.

8. 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/Board members may ask questions following any statement. All questions and replies shall be directed through the presiding officer.

9. When all statements have been given, the presiding officer shall ask if any person who gave a statement wishes 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/board members may follow each rebuttal or clarification.

10. The presiding officer shall close the public hearing and call for discussion by the commission/board, resulting in action, as provided by this ordinance.

11. 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 county. Supporting materials shall be left with the administrator after each statement is made.

P. Additional Hearing Procedures. These procedures may be used without prior notice to assist in the conduct of large or controversial hearings.

1. The commission/board may impose time limits on the statements given in order to assure completion of its agenda.

2. The commission/board 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 call on persons to present their statements.

Q. Hearings To Be Taped. As required by I.C. 67-6536, the administrator shall keep a transcribable tape record of all hearings on file for at least six months after the final hearing, including appeals hearings, on the development.

R. Decision Record. All decisions of the commission and board shall be reported in the form of findings of fact and conclusions of law, as required by I.C. 67-6535. The completed decision record shall include the application materials, any report prepared by or on contract for the administrator, and a performance standards checklist. The administrator’s report shall be presented in a form that can serve as a basis for the commission’s findings of fact. The completed performance standards checklist shall be considered to constitute the conclusions of law.

S. Decision Deadline. This section establishes the "reasonable time" for deliberation on applications by the commission required by I.C. 67-6519. The commission shall make a decision on any application for a permit within 60 days of the hearing, if a hearing is required by this ordinance, or within 60 days of the meeting at which the application first appeared on the commission agenda. Note that submission of an incomplete application requires no
action by the commission and that applications for which a large scale development study is required are not complete and subject to action within the deadline established here until that study is complete.

Division 4 - Enforcement

T. Failure to Obtain a Permit. Whenever the administrator becomes aware of an activity for which a permit is required by this ordinance, but for which a permit has not been approved, he or she shall notify the occupant (and owner, if they are not the same) to immediately cease all unpermitted activity. Notice shall be given by posting on the site and/or first class mail. If the unpermitted activity does not cease, the administrator shall ask the prosecuting attorney to take immediate action, as authorized by I.C. 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 ordinance.

U. Certificate of Compliance. A certificate of compliance shall be issued before any land division is offered for sale, lease, or occupancy, sold, leased, or occupied OR before any development is occupied. A certificate of compliance indicates that an on-site inspection has shown that the development complies with this ordinance, including any conditions imposed upon its approval. Occupancy of a development without a certificate of compliance shall be a violation of this ordinance. Issuance of a certificate of compliance shall not be construed as approval of any violation of this ordinance that may have been undiscovered during the inspection.

V. Temporary Certificate of Compliance.

1. A temporary certificate of compliance may be issued to permit temporary use of a structure 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 180 days.

2. A temporary certificate of compliance may be issued for the use of one manufactured home or recreational vehicle as temporary living quarters while a single family dwelling for which a permit has been approved pursuant to this ordinance is being constructed.

   a. No such certificate shall be issued, and no such occupancy permitted, until an approved sewage disposal system has been installed, and the temporary living quarters connected to that system.

   b. The temporary certificate of compliance expires with the permit and the temporary living quarters shall be removed before a certificate of compliance can be issued for the completed single family dwelling.

W. Enforcement Actions. The process for enforcement of these regulations shall be as 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 section/s of this ordinance 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 that compliance has been attained within the 30 days allowed, or: a. 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 b. file an appeal of the administrator’s notice, following the appeals procedure of I.II.M.

3. The administrator shall ask the prosecuting attorney to commence legal action, as authorized by I.C. 67-6527, against any occupant or owner who fails to attain compliance within the specified time, or to show, on appeal, that a violation has not occurred.

X. Public Endangerment. The enforcement procedure provided here may be accelerated where the administrator finds that public health and safety could be endangered by a violation. In such cases, the administrator shall ask the prosecuting attorney to take immediate action to end the danger to public health and safety.

Y. Penalties. Violations of this ordinance shall be a 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

Z. Amendments. Any person may petition for the amendment of the comprehensive plan or this ordinance. The amendment procedure shall be as described here and in I.C. 67-6509 or I.C. 67-8511, respectively.
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 can be met and at which time will allow its proper consideration. Notice requirements for an amendment shall be as set by I.C. 67-6509 or I.C. 67-6511(b).

3. The administrator may contract with a planner 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.

4. The commission shall conduct a hearing on the proposed amendment following the procedure established in III.O. No application for an amendment shall be reviewed if the developer or a representative is not present.

5. In the case of proposed plan amendments, the commission shall determine whether the proposed amendment is consistent with the public interest, and recommend that the board approve or disapprove it accordingly. In the case of proposed ordinance amendments, the commission shall determine whether the proposed amendment is consistent with the comprehensive plan, and recommend that the board approve or disapprove it accordingly.

6. The administrator shall convey the commission's recommendation to the board and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular board meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice shall be provided in the same manner as for the hearing before the commission.

7. The board shall conduct a hearing on the proposed amendment following the procedure established in III.O. No application for an amendment shall be reviewed if the person who petitioned for the amendment or a representative is not present.

8. The board shall determine whether the proposed amendment is consistent with the public interest and/or the comprehensive plan and approve or disapprove it accordingly.

9. The administrator shall notify the developer and interested parties of the board's decision within 10 days. No amendment to this ordinance shall become effective until that amendment has been adopted as an ordinance and published as required by law.

Division 6 - Vacation of Plats

A. Vacation of a Plat. Vacation of any plat, or any portion of a plat, may be proposed, following the procedure provided here and in I.C. 50-1306A. Note that the county may take no action on a proposed vacation within one mile of an incorporated city until the vacation has been approved by the city.

1. A petition for vacation and the required fee shall be filed with the administrator, who shall place consideration of that petition on the agenda of the next regular commission meeting at which time will permit its proper review.

2. The commission shall review the proposed vacation and recommend that the vacation either be accepted or denied by the board.

3. The administrator shall notify the board and the petitioner of the commission's recommendation within 10 days, and unless the petitioner withdraws the petition, place a hearing on the proposed plat vacation on the agenda of the next regular board meeting for which the notice requirements of III.AA.4. can be met, and at which time will permit its proper review.

4. Notice of the hearing shall be provided, as follows: a. by certified mail: to all owners of record of property within, and within 300 feet of, the boundaries of the plat proposed to be vacated, at least 10 days before the hearing, and b. by newspaper publication: two successive legal notices in the official newspaper, with the final newspaper notice appearing at least seven days prior to the hearing.

5. The board shall conduct a hearing on the proposed plat vacation following the procedure established in III.O. No petition shall be reviewed if the petitioner or a representative is not present.

Fremont County Development Code 11
6. The board shall accept or reject the petition for vacation, with acceptance based on findings that: a. the vacation will not eliminate safe road access to any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat, b. the vacation will not eliminate easements or rights-of-way used for utilities serving any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat, and c. all owners of record of property or property interests within the plat proposed to be vacated have consented, in writing, to the vacation.

7. The administrator shall notify the petitioner and interested parties of the board's decision within 10 days.
CHAPTER IV - ESTABLISHMENT OF ZONING DISTRICTS

A. What This Chapter Does. This chapter creates zoning districts and overlay zoning districts for use in the county, and adopts an official map of those districts. It also provides rules for the interpretation of zoning district boundaries.


C. Official Zoning Map. The “Official Zoning Map of Fremont County” is adopted, by reference, as part of this ordinance. A dated copy of that map, certified to be correct by the signature of the chairman of the board, shall be maintained for public inspection at the office of the administrator.

D. Zoning District Boundaries. Zoning district boundaries shall be as shown on the “Official Zoning Map of Fremont County”, except as follows.

1. The boundaries of the Floodplain Overlay Zoning District, which shall be as shown on the Federal Emergency Management Agency’s Flood Insurance Rate Maps of Fremont County, Idaho.

2. The boundaries of the City of Island Park Zoning District shall be the city limits. Annexed areas must be added to the City of Island Park Zoning District, as required by I.C. 67-4525, using the amendment procedure provided in this ordinance.

3. Any person who disputes the location of a zoning district boundary, as interpreted by the administrator, may appeal the administrator’s decision using the appeals procedure of III-M.

E. Commercial Areas and Nodes.

1. Designated commercial “nodes” are established in the City of Island Park, the boundaries of which are established by the “Commercial Nodes and Areas Maps”, which are attached to the “Official Zoning Map” established by IV.C.

2. Designated commercial “areas” are established in the Island Park Zoning District, the boundaries of which are established by the “Commercial Nodes and Areas Maps”, which are attached to the “Official Zoning Map” established by IV.C.

F. Boundary Disputes. Any person who disputes the location of a zoning district or commercial area or node boundary, as interpreted by the administrator, may appeal the administrator’s decision using the appeals procedure of III-M.

ZONING MAP APPEARS HERE IN FINAL EDITION
CHAPTER V - PERFORMANCE STANDARDS FOR DEVELOPMENT REVIEW

A. What This Chapter Does. This chapter explains the nature of the performance standards that are used as a basis for the review of Class I and Class II permit applications. The performance standards appear in Chapters VI through X.

B. Absolute Performance Standards: Compliance Is Required. The absolute performance standards require or prohibit certain kinds of performance in developments. Failure to comply with any absolute performance standard shall result in rejection of the application for a permit, except as provided in V.C.

C. Absolute Performance Standards: Exceptions. The only exceptions to the requirement for compliance with all absolute performance standards shall be those specifically provided in this ordinance and those allowed by variance. The variance procedure is explained in III.N.

D. Relative Performance Standards. Relative performance standards address complex issues for which absolute standards are inappropriate. They encourage or discourage certain kinds of performance in developments through the use of the point-scoring system described here.

1. Importance Factors. This ordinance assigns an importance factor to each relative performance standard. Importance factors range from "1" to "5" and reflect the importance of the performance standard to which they are assigned in implementing the comprehensive plan and in comparison with other relative performance standards. An importance factor of "1" is assigned to the least important relative performance standards and an importance factor of "5" to the most important. Importance factors may be changed by amendment of this ordinance only.

2. Point Assignment. Point assignment provides a systematic technique for assessing the implementation of the relative performance standards. A positive point assignment reflects the successful implementation of a relative performance standard, while a negative point assignment reflects a failure to implement a relative performance standard. Points shall be assigned to each development on the basis of its performance on each relative performance standard using these guidelines:

a. -2 points shall be assigned where there is essentially no effort to implement the performance standard;

b. -1 points shall be assigned where there is an inadequate attempt to implement the performance standard;

c. 0 points shall be assigned where the performance standard is not relevant OR there is only minimally adequate implementation of the performance standard;

d. +1 points shall be assigned where there is a successful effort to implement the performance standard; and

e. +2 points shall be assigned where there is an outstanding effort to implement the performance standard.

f. Relative performance standards may be designed to use the full point range described here or strictly to discourage (using only negative point assignments) or encourage (using only positive point assignments) certain kinds of performance.

3. Score. The importance factor of each relative performance standard is multiplied by the points assigned to obtain a score.

4. Cumulative Score. Scores on individual relative performance standards are summed to calculate a cumulative score. If that cumulative score is not "0" or greater, the application for a permit shall be disapproved.
A. What This Chapter Does. This chapter establishes the South Fremont Zoning District and performance standards applicable to land development and building activity in that district. The nature of these performance standards was explained in Chapter V.

B. South Fremont Zoning District Boundaries. The South Fremont Zoning District shall be as shown on the Official Zoning Map of Fremont County, Idaho, which is adopted as part of this ordinance (see IV.C.).

Division 1 - Performance Standards for Maintaining Natural Assets

C. Water Quality. All developments shall demonstrate continuing compliance with state and federal water quality regulations.

D. Runoff and Erosion Control. A professionally prepared runoff and erosion control plan shall be implemented by 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:

1. identify runoff and erosion hazard areas on the site;
2. identify areas and facilities, both on and downstream from the site, that are vulnerable to damage from accelerated runoff or erosion;
3. show how the retention of existing vegetation will be maximized and land disturbance minimized;
4. show how existing trees that are to be retained will be protected from damage during construction;
5. show how the area disturbed by construction at any one time will be minimized and 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 (revegetation with locally propagated native plants is encouraged by VI.1.);
7. show how runoff velocities will be minimized and drainageways 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.

E. Wetlands.

1. All developments shall demonstrate compliance with state and federal wetlands protection requirements.
2. The open space use of wetlands and/or their enhancement, to a higher functional value shall be encouraged. -2/-2(3). Positive points for wetlands enhancement shall be assigned only where the acreage of wetlands enhanced or restored is greater than the area disturbed. Wetlands may be modified for necessary utility lines, roads, and trails without a negative point assignment, provided that the required state and federal permits are obtained.

F. Stream Corridors/Floodplains. The stream corridor includes the 100 year floodplain (or special flood hazard area), any associated wetlands, and any associated areas where riparian vegetation is dominant.

1. Minimum development setbacks shall be required along all streams, as shown in Table VI.1. The use of buffers created by this requirement shall be compatible with the protection of stream corridor values.

a. Roads and utility lines may cross stream or lakeshore corridors, but the number and width of such crossings shall be minimized. Irrigation works (dams, headgates, ditches, etc.) may be placed in stream or lakeshore corridors, as may hydroelectric power generation facilities, upon issuance of a Class II permit, and all required state and federal permits.

Fremont County Development Code 15
b. Boat ramps, docks, and piers may be installed within stream corridor buffers, but shall occupy no more than 10% of the stream frontage on any lot or site (note that state or federal permits may be required for the disturbance of stream channels). A minimum disturbance of 24 feet shall be permitted on any lot or site.

c. Stream corridor buffers may be left in, or restored to, native riparian vegetation or planted as lawns. They may not be developed, except as permitted in a. and b., above.

d. The development setbacks required here shall be clearly shown on final site plans and final subdivision plats. In subdivisions, the setback line shall be located by a permanent monument on each lot line that runs more or less perpendicular to the stream or lake and at the center of each lot that borders the stream or lake.

2. The open space use of stream corridors and retention or restoration of riparian vegetation shall be encouraged. -2/+2(3). Compliance with the minimum development setback requirements of Table VI.1. shall receive an award of 0” points only. Positive points may be awarded for: a. retention of the stream corridor in common (for use by residents only) or public (dedicated to an agency that accepts responsibility for maintenance) open space; and/or b. retention of functional riparian vegetation, including its protection during construction, on at least 90% of the stream frontage. "Functional" riparian vegetation has the structure and species diversity needed to serve the water quality, flood control, wildlife habitat, and/or aesthetic functions on which the stream corridor protection strategy of the comprehensive plan is based.

3. Developments in the Floodplain Overlay Zoning District shall comply with the performance standards of Chapter X.

### TABLE VI.1. - MINIMUM STREAM CORRIDOR SETBACKS

<table>
<thead>
<tr>
<th>stream/stream channel type</th>
<th>required setback (on both sides of stream)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Henry's Fork, Falls River, Teton River</td>
<td>30 feet from the outer edge of the stream corridor or 50 feet from the average annual high water mark, whichever is greater</td>
</tr>
<tr>
<td>other streams - well-defined channel</td>
<td>60 feet from centerline of stream or 50 feet from the average annual high water mark, whichever is greater</td>
</tr>
<tr>
<td>other streams - poorly defined or braided channel</td>
<td>50 feet from average annual high water mark</td>
</tr>
<tr>
<td>other streams - incised channel, ravine (stream bottom less than 50 feet wide on one or both sides)</td>
<td>30 feet from top of bank</td>
</tr>
</tbody>
</table>

G. Slopes.

1. Open space use of slopes of 30% or more, or other slopes identified as unstable, shall be encouraged.-2/+2(4).

2. No development shall be permitted on slopes of 30% or more, or other slopes identified as unstable, unless a geotechnical engineer certifies that such development creates no significant hazard of slope failure or accelerated soil erosion.

3. The open space use of 15-30% slopes shall be encouraged. -2/+2(2).

H. Wildfire Hazards. All developments that are in or adjacent to forested areas, or areas of flammable brushy vegetation shall be encouraged to:

1. for individual structures, including all single family dwellings: provide a fire defensible space of at least 30 feet around the home or structure. -2/+2(3). A defensible space is one in which trees are thinned so that crowns do not overlap or touch, woody brush is removed or substantially thinned, and dead fuel is removed.

Fremont County Development Code 16
DRAFT OF 12/96

Maintenance of the defensible space is a requirement for continuing compliance with this ordinance.

2. For subdivisions: thin timber on and remove dead fuel from the entire site, and provide appropriate perimeter and, in larger developments, internal fuelbreaks. A fuelbreak is a strategically located strip of land in which the timber has been thinned and fuel removed to create an open “park-like” appearance. Fuelbreaks either include roads or are accessible to fire fighting apparatus. Fuelbreaks are generally at least 200 feet in width, with the width increasing on slopes over 10%.

I. Native Plants. The use of native plants propagated from local stock in the revegetation and buffering efforts required by this ordinance shall be encouraged. 0/2(1).

J. Air Quality. All developments shall demonstrate continuing compliance with state and federal air quality regulations.

Division 2 - Performance Standards for Maintaining Agricultural Resources and the Farm Economy

K. Protecting Irrigation Systems. All developments including or adjoining irrigated lands, or including or adjoining any irrigation works (diversions, headgates, canals, pumps, drains, etc.) shall be reviewed by the responsible irrigation entity. No development shall be permitted to adversely impact the operation of any irrigation system and all developments shall comply with the specific performance standards established here.

1. All subdivisions shall demonstrate compliance with I.C. 31-3805, as amended, which provides for the approval of subdivisions by irrigation entities (I.C. 31-3805 appears in Appendix D). Compliance shall be attained by the transfer of water rights or the installation of a central irrigation system maintained by a community association. Irrigation systems installed in subdivisions to achieve compliance with I.C. 31-3805 are subject to the requirements imposed on other subdivision improvements (see XI.B., et seq.).

2. No development shall channel stormwater or snowmelt runoff into any irrigation system without written consent of the responsible irrigation entity.

L. Protecting Agricultural Operations. Development of other uses in farming areas should not interfere with existing agricultural operations, including the normal operation of dairies, feedlots, potato cellars, and other agricultural activities that may, at times, be perceived as a nuisance by inhabitants of nearby residences. Farming areas include all portions of the South Fremont Zoning District except the incorporated cities, areas of city impact shown in the comprehensive plan, and existing residential subdivisions. No building permit for a residence in a farming area shall be issued until a resource management easement has been recorded by the owner. The model resource management easement is reproduced in Appendix E.

M. Agricultural Industries. While the protection of existing agricultural operations is an important goal of this ordinance and the comprehensive plan, it is also recognized that new agribusiness developments in certain areas could have an adverse impact on existing nonagricultural uses. For that reason, new dairies and feedlots with a capacity of more than 100 head, the expansion of any existing dairy or feedlot to more than 100 head capacity, and new agricultural processing and wholesaling operations are classified as industrial, rather than agricultural uses, and shall be required to comply with the performance standards adopted in this ordinance.

N. Weed Control. As required by I.C. 22-2471, “It shall be the duty and responsibility of all persons and nonfederal agencies to control noxious weeds on land and property that they own”.

Division 3 - Performance Standards for Assuring Land Use Compatibility

O. Potential Nuisances. All potential nuisances and hazards shall be mitigated by appropriate means.

1. No development shall create excessive levels of noise or vibration beyond its property line. Excessive noise, as measured at the property line, exceeds the standards of Appendix F.

2. Light, Glare, Heat.

a. No development shall direct hazardous light, glare, or heat beyond its property line. Welding equipment and similar sources of intense light shall be shielded from neighboring properties or public ways by enclosure in a building, location on the property, or construction of a fence or wall, or a densely planted landscaped buffer.

b. All fixtures used to illuminate commercial and industrial uses shall have a full cut-off; no building or landscape feature shall be uplit, and no commercial or industrial use shall generate a level of
illuminated greater than 0.4 foot-candle in any neighboring residential area. Illumination of signs is specifically addressed in Appendix A.

3. No development shall create electrical interference that adversely affects other uses.

4. Solid waste shall be stored in an enclosed building or in bear-proof containers and handled in a manner that does not: a. attract bears, rodents, flies, or other animals; b. generate odors perceptible beyond the property line or liquid runoff; or c. permit the blowing of paper and other lightweight waste.

5. Industrial or commercial solid waste handling and storage areas shall be effectively screened from the public view by enclosure in a building, location on the site, or the construction of a fence or wall. This includes expansions of existing solid waste handling and storage areas. Landscaped buffers for these areas are encouraged; see VIU.

6. No development shall channel stormwater or snowmelt runoff in a way that adversely impacts neighboring properties or public ways.

P. Hazardous Substances. Any development that is, or that may reasonably be expected to be, subject to the reporting requirements of EPCRA (the Emergency Planning and Community Right-To-Know Act of 1986) shall demonstrate continuing compliance with state and federal requirements for the storage and handling of hazardous substances.

Q. Livestock on Residential Lots. The keeping of livestock on residential lots shall be restricted to two horses or cows, or ten llamas, sheep, or goats (including their offspring until weaned) per acre. No livestock shall be kept on lots less than one acre. Temporary keeping of stock during local big game hunting seasons shall be exempt. Residential lots are defined as platted subdivision lots and residential parcels in unplatted areas where the average density is greater than one dwelling unit per 20 acres.

R. Home Occupations. Home occupations shall comply with the detailed performance standards of Appendix G.

S. Residential Care Facilities. Residential care for the elderly, children’s institutions, as defined by the Child Care Licensing Reform Act, and similar home occupations shall be certified or licensed as required by law.

T. Land Use Compatibility. Compatibility with neighboring land uses shall be encouraged. Compatibility shall be assessed using the following relative performance standards.

1. Is the proposed lot coverage and landscaping compatible with neighboring uses? -2/0(5). For single family dwellings, subject to Class I permit review only, it shall be assumed that any lot coverage of less than 50% is compatible, provided that the setbacks of Table VI.2. are maintained from all property lines or that the setbacks comply with a. or b., below.

   a. In subdivisions platted prior to the effective date of this ordinance where recorded covenants dictate front, side, and rear setbacks for single family dwellings that are less than those adopted in Table VI.2., new development shall be found compatible (i.e. zero points will be assigned) where the setbacks provided by the covenants are observed, provided that: i. the subdivision was not vacant on the effective date of this ordinance, ii. existing dwellings have observed the setbacks provided by the covenants, iii. the front setback along arterial roads will not be reduced below 50 feet, and iv. no setback will be insufficient for access by fire fighters.

   b. In subdivisions platted prior to the effective date of this ordinance where recorded covenants do not dictate front, side, and rear setbacks for single family dwellings, or where such covenants exist, but have not been enforced, new development with setbacks less than those adopted in Table VI.2. may be found compatible (i.e. zero points will be assigned) where it is consistent with previous development. It shall be the responsibility of the developer to demonstrate compatibility with this exception by providing the administrator with a scaled drawing or aerial photograph of the subject lot and surrounding lots on which existing structures are accurately located and the front, side, and rear setbacks shown. If the drawing shows that the proposed setbacks are consistent with, or greater than, those on at least 50% of the surrounding lots, the administrator may find that they are compatible, provided that: i. the front setback along arterial roads is not reduced below 50 feet; and ii. no setback will be insufficient for access by fire fighters.

2. Is the proposed building height compatible with neighboring uses? -2/0(4). For single family dwellings, subject to Class I permit review only, it shall be assumed that any building height of less than 30 feet is compatible.

3. Is the proposed building bulk compatible with neighboring uses? -2/0(5).

Fremont County Development Code 18
TABLE VI.2 - SPECIFICATION STANDARDS FOR SINGLE FAMILY DWELLINGS

<table>
<thead>
<tr>
<th>yard</th>
<th>setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>front yard, arterial streets</td>
<td>50 feet</td>
</tr>
<tr>
<td>front yard, all other streets</td>
<td>30 feet</td>
</tr>
<tr>
<td>rear yard</td>
<td>30 feet</td>
</tr>
<tr>
<td>side yard</td>
<td>20 feet</td>
</tr>
</tbody>
</table>

Note: All setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

4. Is the proposed activity level compatible with neighboring uses? -2/0(5). The level of activity shall be measured by the projected traffic generation and noise levels, proposed hours of operation, proposed size and number of signs, and similar factors.

5. Higher density residential developments should be sited and designed to route traffic directly to collector or arterial roads, rather than through neighboring areas of single-family homes. -2/0(3).

6. Does the proposed development block scenic views from existing uses or public recreation areas? 0/+2(3).

U. Gravel Mining. Gravel mining operations shall comply with the detailed performance standards of Appendix H.

V. Buffering.

1. Installation of landscaped buffers between potentially incompatible land uses and along public roads in accordance with Appendix I shall be encouraged. -2/+2(5). Buffers along stream corridors are required by VI.?

2. Retention of existing, mature vegetation that serves buffering functions shall be encouraged. -2/+2(2).

W. Connections. All developments shall be designed to optimize functional connections with adjoining developments, including shared access to arterial roads, shared parking and service access, shared buffers and open space, and shared pedestrian circulation.

X. Signs. Signs shall comply with the detailed performance standards of Appendix A.

Division 4 - Performance Standards Assuring Provision of Adequate Public Facilities and Services

Y. Central Water Supply. For subdivisions, provision of a central domestic water supply system that meets state design and construction requirements shall be encouraged. 0/+2(4).

Z. Fire Fighting Water Supply. Provision of a water system supply system that includes properly spaced fire hydrants capable of delivering adequate fire fighting pressures and flows throughout the development shall be encouraged. 0/+2(3).

AA. Individual Water Supplies. Where reliance on individual water supplies is proposed, evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form of documented experience with existing wells at geologically similar, neighboring sites or records of on-site well tests.

BB. On-Site Sewage Disposal. All on-site sewage disposal systems shall be sited, designed, and constructed in compliance with state standards. This requirement includes nonconforming uses applying for a Class II permit for a change in occupancy or replacement, as provided in I.F.3. and 4.

CC. Private Utilities.
1. Adequate rights-of-way or easements for service by proposed private utilities shall be provided. A written statement of compliance with this performance standard shall be obtained from each utility.
2. Written certification that capacity to serve the proposed development is available shall also be obtained from all proposed private utilities.

3. Provision of underground power and telephone utilities in subdivisions shall be encouraged. 0/+2.3. Underground utilities shall be provided to each lot before road surfaces are constructed.

DD. Construction in Easements. No building shall be placed in any utility or irrigation easement, public or private. Wire or rail fences, or solid wood fences with a removable section across the easement may be constructed across easements (note that some utilities and irrigation entities may prohibit the fences permitted by this ordinance).

EE. Off-Street Parking and Loading Areas. Off-street parking and loading areas shall be provided as required by Appendix J. Snow storage shall not be permitted to reduce the size of any required off-street parking or loading area.

FF. Safe Access.

1. Points of access to public roads shall be constructed in compliance with the standards of Appendices J and K. Developments with points of access to a state or federal highway shall obtain approval for those points of access from the Idaho Transportation Department.

2. All developments are encouraged to minimize their number of points of access to arterial roads and highways, while complying with VI.F.F.3.-2/0(5).

3. All developments containing six or more dwelling units, or with a distance of more than 660 feet from a public road which is maintained on a year round basis, shall provide a minimum of two points of ingress and egress from the public road or highway serving the development. “Loop” systems that return to a single point of access to the public road or highway may be acceptable for relatively small developments (1,000 or less projected average daily traffic).

GG. Roads. There shall be safe all-weather road access to all developments and all lots within any development. The requirement for all-weather road construction does not imply that roads must be maintained throughout the year. The design and construction of roads shall be in compliance with the detailed performance standards of Appendix K.

HH. Public Access.

1. No development shall eliminate historically existing public access through private lands to trailheads on public lands.
2. Provision of public access to public lands or water resources shall be encouraged. 0/+2(3). The access provided may be limited to foot travel only.

II. Fire Protection. All applications for Class II permits shall be referred to the South Fremont Fire Protection District for review and comment. If comments are not received before or at the scheduled hearing, it shall be assumed that the district had none.

1. Comments from the South Fremont Fire Protection District shall be considered in determining the development's compliance with VI.H., VI.Z., VI.F.F., VI.GG., and VI.II.

2. Building heights shall be limited to those that can be effectively protected by existing fire fighting apparatus.

3. All developments not presently in the South Fremont Fire Protection District shall petition for addition to that district, as provided by I.C. 31-1401., et. seq.

Division 5 - Additional Performance Standards for Large-Scale Development

JJ. Large-Scale Development. A large-scale development is a residential or mixed-use project, or a series of adjacent or related residential or mixed-use projects, that will contain 100-600 or more residential lots or units, or a commercial, industrial, or mixed-use project, or series of adjacent or related commercial, industrial, or mixed-use projects, that is projected to generate 1,000 or more trips per day will contain more than 5,000 square feet of commercial or industrial space.

1. Large-scale developments shall provide, or make a fair, proportional contribution to the provision of any additional public facilities or improvements to existing public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this ordinance and may
as shown by recorded deeds or other instruments of conveyance. No separate parcels exist within contiguous lands held by a single owner, regardless of how those lands are or have been described for any other purpose. Multiple subdivision lots held by a single owner are a single parcel for the purposes of development, but each existing, undeveloped subdivision lot is assigned one development right.

MM. Density Transfer to Cluster Developments. Development rights from any parcel may be transferred to any cluster development that meets the criteria established by VI.PP.

1. Transfers may be made only from parcels of productive cropland, wetlands, or stream corridors that are located within the South Fremont Zoning District.

2. Where a transfer will result in development of a parcel including productive cropland, wetlands, or stream corridors, the transfer must protect land that is more productive, or has higher functional value as a wetland or stream corridor.

3. Where such a transfer of density is made, the developer shall provide a complete and accurate legal description of the parcel/s from which the transfer is made. Where the transfer involves multiple ownerships, copies of the instruments of conveyance shall be provided.

NN. Density Bonuses for Cluster Development. Cluster development shall be encouraged by the award of density bonuses.

1. One additional dwelling unit over the number of dwelling units permitted by Table VI.3. shall be permitted for the first five points scored on the relative performance standards of this chapter. One additional dwelling unit shall be permitted for each additional three points.

2. The number of dwelling units permitted by transfer from any critical area (wetlands, stream and lakeshore corridors, slopes over 15%, etc.) or productive croplands shall be doubled.

OO. Maximum Density, With Bonuses. The minimum lot size shall be one acre. The total number of lots or residential units permitted shall be as calculated by VI.KK-NN, but regardless of any bonuses awarded, the maximum density of development shall be one dwelling unit per acre.

<table>
<thead>
<tr>
<th>site characteristics</th>
<th>average density, one dwelling unit per</th>
</tr>
</thead>
<tbody>
<tr>
<td>productive croplands</td>
<td>40 acres</td>
</tr>
<tr>
<td>wetlands, slopes over 30%</td>
<td>25 acres</td>
</tr>
<tr>
<td>stream corridors, slopes of 15-30%</td>
<td>10 acres</td>
</tr>
<tr>
<td>other areas</td>
<td>2.5 acres</td>
</tr>
<tr>
<td>minimum lot size, maximum number of units, including bonus units</td>
<td>1.0 per acre</td>
</tr>
</tbody>
</table>

Notes: Where site characteristics overlap, the most restrictive density assignment shall apply. State health regulations may prevent a development from attaining the average density or minimum lot size permitted by these regulations. Remember that these densities are averages, allowing the developer substantial flexibility in the actual arrangement of lots.

PP. Cluster Development Criteria. Cluster developments shall be designed to protect open space and limit the development of productive agricultural land by concentrating development onto a relatively small portion of the parcel and using the development rights transferred from more productive or less fragile sites. Cluster developments do not site
dwellings in critical areas, but critical areas may be included as common or dedicated open space. All cluster developments shall comply with all absolute performance standards of this ordinance and have a positive score on its relative performance standards.
DRAFT OF 12/96

CHAPTER VII - NORTH FREMONT ZONING DISTRICT

A. What This Chapter Does. This chapter establishes the North Fremont Zoning District and performance standards applicable to land development and building activity in that district. The nature of these performance standards was explained in Chapter V.

B. North Fremont Zoning District Boundaries. The North Fremont Zoning District shall be as shown on the Official Zoning Map of Fremont County, Idaho, which is adopted as part of this ordinance (see IV.C.).

Division 1 - Performance Standards for Maintaining Natural Assets

C. Water Quality. All developments shall demonstrate continuing compliance with state and federal water quality regulations.

D. Runoff and Erosion Control. A professionally prepared runoff and erosion control plan shall be implemented by 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:

1. identify runoff and erosion hazard areas on the site;
2. identify areas and facilities, both on and downslope from the site, that are vulnerable to damage from accelerated runoff or erosion;
3. show how the retention of existing vegetation will be maximized and land disturbance minimized;
4. show how existing trees that are to be retained will be protected from damage during construction;
5. show how the area disturbed by construction at any one time will be minimized and 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 (revegetation with native plants is encouraged by VII.I);
7. show how runoff velocities will be minimized and drainageways 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.

E. Critical Areas: Wetlands.

1. All developments shall demonstrate compliance with state and federal wetlands protection requirements.
2. The open space use of wetlands and/or their enhancement to a higher functional value shall be encouraged. Positive points for wetlands enhancement shall be assigned only where the acreage of wetlands enhanced or restored is greater than the area disturbed. Wetlands may be modified for necessary utility lines, roads, and trails without a negative point assignment, provided that the required state and federal permits are obtained.

F. Stream Corridors/Floodplains. The stream corridor includes the 100 year floodplain (or special flood hazard area), any associated wetlands, and any associated areas where riparian vegetation is dominant.

1. Minimum development setbacks shall be required along all streams, as shown in Table VII.1. The use of buffers created by this requirement shall be compatible with the protection of stream corridor values.

   a. Roads and utility lines may cross stream or lakeshore corridors, but the number and width of such crossings shall be minimized. Irrigation works (dams, headgates, ditches, etc.) may be placed in stream or lakeshore corridors, as may hydroelectric power generation facilities, upon issuance of a Class II permit, and all required state and federal permits.

Fremont County Development Code 24
TABLE VII. - MINIMUM STREAM CORRIDOR SETBACKS

<table>
<thead>
<tr>
<th>stream/stream channel type</th>
<th>required setback (on both sides of stream)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Henrys Fork (including Ashton Reservoir), Fall River, Warm River</td>
<td>30 feet from the outer edge of the stream corridor or 50 feet from the average annual high water mark, whichever is greater</td>
</tr>
<tr>
<td>other streams - well-defined channel</td>
<td>60 feet from centerline of stream or 50 feet from the average annual high water mark, whichever is greater</td>
</tr>
<tr>
<td>other streams - poorly defined or braided channel</td>
<td>50 feet from average annual high water mark</td>
</tr>
<tr>
<td>other streams - incised channel, ravine (stream bottom less than 50 feet wide on one or both sides)</td>
<td>30 feet from top of bank</td>
</tr>
</tbody>
</table>

b. Boat ramps, docks, and piers may be installed within stream corridor buffers, but shall occupy no more than 10% of the stream frontage on any lot or site (note that state or federal permits may be required for the disturbance of stream channels). A minimum disturbance of 24 feet shall be permitted on any lot or site.

c. Stream corridor buffers may be left in, or restored to, native riparian vegetation or planted as lawns. They may not be developed, except as permitted in a and b, above.

d. The development setbacks required here shall be clearly shown on final site plans and final subdivision plats. In subdivisions, the setback line shall be located by a permanent monument on each lot line that runs more or less perpendicular to the stream or lake and at the center of each lot that borders the stream or lake.

2. The open space use of stream corridors and retention or restoration of riparian vegetation shall be encouraged. -2/-2(3). Compliance with the minimum development setback requirements of Table VII.1. shall receive an award of "0" points only. Positive points may be awarded for: a. retention of the stream corridor in common (for use by residents only) or public (dedicated to an agency that accepts responsibility for maintenance) open space; and/or b. retention of functional riparian vegetation, including its protection during construction, on at least 90% of the stream frontage. "Functional" riparian vegetation has the structure and species diversity needed to serve the water quality, flood control, wildlife habitat, and/or aesthetic functions on which the stream corridor protection strategy of the comprehensive plan is based.

3. Developments in the Floodplain Overlay Zoning District shall comply with the performance standards of Chapter X.

G. Critical Areas: Alluvial Fans. Alluvial fans shall be identified on a case-by-case basis, using geologic maps and field investigations. Development on alluvial fans shall be designed to minimize debris flow and sheet flooding hazards.

H. Critical Areas: Slopes.

1. Open space use of slopes of 30% or more, or other slopes identified as unstable, shall be encouraged.-2/+2(4).

2. The open space use of 15-30% slopes shall be encouraged. -2/+2(2).

3. No development shall be permitted on slopes of 30% or more, or other slopes identified as unstable, unless a geotechnical engineer certifies that such development creates no significant hazard of slope failure or accelerated soil erosion.

I. Wildfire Hazards. All developments that are in or adjacent to forested areas, or areas of flammable brushy vegetation shall be encouraged to:

Fremont County Development Code 25
1. for individual structures, including all single family dwellings: provide a fire defensible space of at least 30 feet around the home or structure. -2/+2(5). A defensible space is one in which trees are thinned so that crowns do not overlap or touch, woody brush is removed or substantially thinned, and dead fuel is removed. Maintenance of the defensible space is a requirement for continuing compliance with this ordinance.

2. for subdivisions: thin timber on and remove dead fuel from the entire site, and provide appropriate perimeter and, in larger developments, internal fuelbreaks. -2/+2(3). A fuelbreak is a strategically located strip of land in which the timber has been thinned and fuel removed to create an open “park-like” appearance. Fuelbreaks either include roads or are accessible to fire fighting apparatus. Fuelbreaks are generally at least 200 in width, with the width increasing on slopes over 10%.

J. Critical Areas: Wildlife Habitat. Critical wildlife habitat areas are identified in the comprehensive plan.

1. Open space use of critical wildlife habitat areas shall be encouraged. -2/+2(5).

2. Developments that will disturb more than one acre in or adjoining a critical wildlife habitat area shall be encouraged to implement a professionally prepared plan for the protection of wildlife values. -2/+2(3). That plan shall:
   a. identify the critical wildlife habitat area, the principal species present, and species used as ‘indicators’ in the habitat protection plan;
   b. identify existing wildlife habitat elements, including sources of water, vegetative cover, and migration routes or other wildlife use areas;
   c. show how land disturbance will be minimized in order to maximize retention of large habitat patches;
   d. show how the site plan provides for movement of wildlife through or around developed areas and the connection of habitat patches;
   e. show how disturbed areas will be revegetated with native plants and how revegetation will result a volume, structure, and diversity of vegetation similar to that found in the existing habitat; and
   f. show how occupants will be educated in order to promote long run maintenance of the habitat protection features of the site plan.

K. Native Plants. The use of native plants propagated from local stock in the revegetation and buffering efforts required by this ordinance shall be encouraged. 0/+2(1).

L. Air Quality. All developments shall demonstrate continuing compliance with state and federal air quality regulations.

Division 2 - Performance Standards for Maintaining Agricultural Resources and the Farm Economy

M. Protecting Irrigation Systems. All developments including or adjoining irrigated lands, or including or adjoining any irrigation works (diversions, headgates, canals, pumps, drains, etc.) shall be reviewed by the responsible irrigation entity. No development shall be permitted to adversely impact the operation of any irrigation system and all developments shall comply with the specific performance standards established below.

1. All subdivisions shall demonstrate compliance with I.C. 31-3805, as amended, which provides for the approval of subdivisions by irrigation entities (I.C. 31-3805 appears in Appendix D). Compliance shall be attained by the transfer of water rights or the installation of a central irrigation system maintained by a community association. Irrigation systems installed in subdivisions to achieve compliance with I.C. 31-3805 are subject to the requirements imposed on other subdivision improvements (see XII.E.).

2. No development shall channel stormwater or snowmelt runoff into any irrigation system without written consent of the responsible irrigation entity.

N. Protecting Agricultural Operations. Development of other uses in farming areas should not interfere with normal agricultural operations, including the normal operation of dairies, feedlots, potato cellars, and other agricultural activities that may, at times, be perceived as a nuisance by the inhabitants of nearby residences. Farming areas include all portions of the North Fremont Zoning District except the incorporated cities, areas of city impact shown in the comprehensive plan, and existing residential subdivisions. No building permit for a residence in any farming area shall
be issued until a resource management easement has been recorded by the owner. The model resource management easement is reproduced in Appendix E.

O. Agricultural Industries. While the protection of existing agricultural operations is an important goal of this ordinance and the comprehensive plan, it is also recognized that new agribusiness developments in certain areas could have an adverse impact on existing nonagricultural uses. For that reason, new dairies and feedlots with a capacity of more than 100 head, the expansion of any existing dairy or feedlot to more than 100 head capacity, and new agricultural processing and wholesaling operations are classified as industrial, rather than agricultural uses, and shall be required to comply with the performance standards adopted in this ordinance.

P. Weed Control. As required by I.C. 22-2471, "It shall be the duty and responsibility of all persons and nonfederal agencies to control noxious weeds on land and property that they own."

Q. Protecting Agricultural Lands. Conversion of productive agricultural land to other uses shall be discouraged.

Division 3 - Performance Standards for Assuring Land Use Compatibility

R. Nuisances. All potential nuisances and hazards shall be mitigated by appropriate means.

1. No development shall create excessive levels of noise or vibration beyond its property line. Excessive noise, as measured at the property line, exceeds the standards of Appendix F.

2. Light, Glare, Heat.

   a. No development shall direct hazardous light, glare, or heat beyond its property line. Welding equipment and similar sources of intense light shall be shielded from neighboring properties or public ways by enclosure in a building, location on the property, or construction of a fence or wall, or a densely planted landscaped buffer.

   b. All fixtures used to illuminate commercial and industrial uses shall have a full cut-off, no building or landscape feature shall be uplit, and no commercial or industrial use shall generate a level of illumination greater than 0.4 foot-candle in any neighboring residential area. Illumination of signs is specifically addressed in Appendix A.

3. No development shall create electrical interference that adversely affects other uses.

4. Solid waste shall be stored in an enclosed building or in bear-proof containers and handled in a manner that does not: a. attract bears, rodents, flies, or other animals; b. generate odors perceptible beyond the property line or liquid runoff; or c. permit the blowing of paper and other lightweight waste.

5. Industrial or commercial solid waste handling and storage areas shall be effectively screened from the public view by enclosure in a building, location on the site, or the construction of a fence or wall. This includes expansions of existing solid waste handling and storage areas.

6. No development shall channel stormwater or snowmelt runoff in a way that adversely impacts neighboring properties or public ways.

S. Hazardous Substances. Any development that is, or that may reasonably be expected to be, subject to the reporting requirements of EPCRA (the Emergency Planning and Community Right-To-Know Act of 1986) shall demonstrate continuing compliance with state and federal requirements for the storage and handling of hazardous substances.

T. Livestock on Residential Lots. The keeping of livestock on residential lots shall be restricted to two horses or cows, or ten llamas, sheep, or goats (including their offspring until weaned) per acre. No livestock shall be kept on lots of less than one acre. Temporary keeping of stock during local big game hunting seasons shall be exempt. Residential lots defined as platted subdivision lots and residential parcels in unplatted areas where the average density is greater than one dwelling unit per 20 acres.

U. Home Occupations. Home occupations shall comply with the detailed performance standards of Appendix G.

V. Residential Care Facilities. Residential care for the elderly, children's institutions, as defined by the Child Care Licensing Reform Act, and similar home occupations shall be certified or licensed as required by law.

W. Land Use Compatibility. Compatibility with neighboring land uses shall be encouraged. Compatibility shall be assessed using the following relative performance standards.

Fremont County Development Code 27
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1. Is the proposed lot coverage and landscaping compatible with neighboring uses? 2/0.5. For single family dwellings, subject to Class I permit review only, it shall be assumed that any lot coverage of less than 50% is compatible, provided that the setbacks of Table VII.2. are maintained from all property lines or that the setbacks comply with a. or b., below.

a. In subdivisions platted prior to the effective date of this ordinance where recorded covenants dictate front, side, and rear setbacks for single family dwellings that are less than those adopted in Table VI.2., new development shall be found compatible (i.e. zero points will be assigned) where the setbacks provided by the covenants are observed, provided that: i. the subdivision was not vacant on the effective date of this ordinance, ii. existing dwellings have observed the setbacks provided by the covenants, iii. the front setback along arterial roads will not be reduced below 50 feet, and iv. no setback will be insufficient for access by fire fighters.

b. In subdivisions platted prior to the effective date of this ordinance where recorded covenants do not dictate front, side, and rear setbacks for single family dwellings, or where such covenants exist, but have not been enforced, new development with setbacks less than those adopted in Table VI.2. may be found compatible (i.e. zero points will be assigned) where it is consistent with previous development. It shall be the responsibility of the developer to demonstrate compatibility with this exception by providing the administrator with a scaled drawing or aerial photograph of the subject lot and surrounding lots on which existing structures are accurately located and the front, side, and rear setbacks shown. If the drawing shows that the proposed setbacks are consistent with, or greater than, those on at least 50% of the surrounding lots, the administrator may find they are compatible, provided that: i. the front setback along arterial roads is not reduced below 50 feet; and ii. no setback will be insufficient for access by fire fighters.

TABLE VII.2. - SPECIFICATION STANDARDS FOR SINGLE FAMILY DWELLINGS

<table>
<thead>
<tr>
<th>yard</th>
<th>setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>front yard, arterial streets</td>
<td>50 feet</td>
</tr>
<tr>
<td>front yard, all other streets</td>
<td>30 feet</td>
</tr>
<tr>
<td>rear yard</td>
<td>30 feet</td>
</tr>
<tr>
<td>side yard</td>
<td>20 feet</td>
</tr>
</tbody>
</table>

Note: All setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

2. Is the proposed building height compatible with neighboring uses? 2/0(5). For single family dwellings, subject to Class I permit review only, it shall be assumed that any building height of less than 30 feet is compatible, except as provided by VII.KK.1.

3. Is the proposed building bulk compatible with neighboring uses? 2/0(5).

4. Is the proposed activity level compatible with neighboring uses? 2/0(5). The level of activity shall be measured by the projected traffic generation and noise levels, proposed hours of operation, proposed size and number of signs, and similar factors.

5. Higher density residential developments should be sited and designed to route traffic directly to collector or arterial roads, rather than through neighboring areas of single-family homes. 2/0(3).

6. Does the proposed development block scenic views from existing uses or public recreation areas? 2/0(3).

X. Gravel Mining. Gravel mining operations shall comply with the detailed performance standards of Appendix H.

Y. Buffering.

Fremont County Development Code 28
1. Installation of landscaped buffers between potentially incompatible land uses and along public roads in accordance with Appendix I shall be encouraged.-2/+2(5). Buffers along stream corridors are required by VII.F.

2. Retention of existing, mature vegetation that serves required buffering functions shall be encouraged.-2/+2(2).

Z. Connections. All developments shall be designed to optimize functional connections with adjoining developments, including shared access to arterial roads, shared parking and service access, shared buffers and open space, and shared pedestrian circulation.

AA. Signs. Signs shall comply with the detailed performance standards of Appendix A.

Division 4 - Performance Standards Assuring Provision of Adequate Public Facilities and Services

BB. Central Water Supply. For subdivisions, provision of a central domestic water supply system that meets state design and construction requirements shall be encouraged. 0/+2(4).

CC. Fire Fighting Water Supply. Provision of a water system supply system that includes properly spaced fire hydrants capable of delivering adequate fire fighting pressures and flows throughout the development shall be encouraged. 0/+2(3).

DD. Individual Water Supplies. Where reliance on individual water supplies is proposed, evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form of documented experience with existing wells at geologically similar, neighboring sites or records of on-site well tests.

EE. On-Site Sewage Disposal. All on-site sewage disposal systems shall be sited, designed, and constructed in compliance with state standards. Note that this requirement does include nonconforming uses applying for a Class II permit for a change in occupancy or replacement, as provided in I.F.3. and 4.

FF. Private Utilities.

1. Adequate rights-of-way or easements for service by proposed private utilities shall be provided. A written statement of compliance with this performance standard shall be obtained from each utility.

2. Written certification that capacity to serve the proposed development is available shall be obtained from all proposed private utilities.

3. Provision of underground power and telephone utilities in subdivisions shall be encouraged. 0/+2(3). Underground utilities shall be provided to each lot before road surfaces are constructed.

GG. Construction in Easements. No building shall be placed in any utility or irrigation easement, public or private. Wire or rail fences, or solid wood fences with a removable section across the easement may be constructed across easements (note that some utilities and irrigation entities may prohibit fences permitted by this ordinance).

HH. Off-Street Parking and Loading Areas. Off-street parking and loading areas shall be provided as required by Appendix J. Snow storage shall not be permitted to reduce the size of any required off-street parking or loading area.

II. Access.

1. Points of access to public roads shall be constructed in compliance with the standards of Appendices J and K. Developments with points of access to a state or federal highway shall obtain approval from the Idaho Transportation Department.

2. All developments are encouraged to minimize their number of points of access to arterial roads and highways, while complying with VII.II.3. -2/0(5).

3. All developments containing six or more dwelling units, or with a distance of more than 660 feet from a public road which is maintained on a year round basis, shall provide a minimum of two points of ingress and egress from the public road or highway serving the development. "Loop" systems that return to a single point of access to the public road or highway may be acceptable for relatively small developments (1,000 or less projected ADT).
**DRAFT OF 12/96**

**JJ. Roads.** There shall be safe all-weather road access to all developments (the requirement for all-weather road construction does not imply that roads must be maintained throughout the year). The design and construction of roads shall be in compliance with the detailed performance standards of Appendix K.

**KK. Public Access.**

1. No development shall eliminate historically existing public access through private lands to trailheads on public lands.

2. Provision of public access to public lands or water resources shall be encouraged. 0/+2(3). The access provided may be limited to foot travel only.

**LL. Fire Protection.** All applications for Class II permits shall be referred to the North Fremont Fire Protection District for review and comment. If comments are not received before or at the scheduled hearing, it shall be assumed that the district had none.

1. Comments from the North Fremont Fire Protection District shall be considered in determining the development's compliance with VII, VII BB, VII HH, VII II, and VII MM.

2. Building heights shall be limited to those that can be effectively protected by existing fire fighting apparatus.

3. All developments not presently in the North Fremont Fire Protection District shall petition for addition to that district, as provided by I.C. 31-1401, et. seq.

**Division 5 - Additional Performance Standards for Large Scale Development**

**MM. Large-Scale Development.** A large-scale development is a residential or mixed-use project, or a series of adjacent or related residential or mixed-use projects, that will contain 400 or more residential lots or units, or a commercial, industrial, or mixed-use project, or series of adjacent or related commercial, industrial, or mixed-use projects, that is projected to generate 1,000 or more persons per day will contain more than 5,000 square feet of commercial or industrial space.

1. Large-scale developments shall provide, or make a fair, proportional contribution to the provision of any additional new public facilities or improvements to existing public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this ordinance and may include: off-site runoff and erosion control measures; fire-fighting water supplies; central sewerage systems; off-site road improvements such as deceleration or acceleration lanes, left turn lanes, signs or signals, and bridges or culverts; solid waste transfer stations; emergency services buildings and apparatus, including fire engines or ambulances; and neighborhood parks (including space used for recreational trails) at a rate of two acres per thousand population.

2. The public facilities needs of the 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 planners and/or engineers to conduct this study, the purpose of which shall be to determine what new facilities needs may be attributed to the proposed development. The large-scale development study process shall be conducted as follows.

   a. The administrator shall determine whether a proposed development is a large-scale development upon the filing of an application for sketch plan review.

   b. The administrator shall not schedule a hearing on an application determined to be for a large scale development, but shall place the initiation of a large-scale development study on the agenda of the next regular commission meeting, along with the sketch plan review, and.

   c. The commission shall review the application at that meeting. If it confirms the administrator's determination, the commission shall direct the administrator to begin a large-scale development study.

   d. Where a large-scale development study is required, the developer shall place a deposit with the county in the amount provided in the resolution establishing fees for administration of this ordinance. The administrator shall retain appropriate professional assistance for the study, drawing against the required deposit as necessary. All unused funds shall be returned to the developer upon completion of the study.
3. A large-scale development study shall:
   a. project the additional need for public facilities that will be generated by the proposed development;
   b. inventory the facilities that will serve the proposed development and their existing condition and capacity;
   c. combine the projections and inventory to show what, if any, additional or improved facilities will be needed to serve the proposed development; and
   d. estimate the costs of those additional or improved facilities. Where it is anticipated that new or improved facilities will also serve other developments (existing or new), the study shall calculate the fair proportional contribution of the large-scale development to the total costs of the new or improved facilities.

4. Large-scale developments shall also submit an estimated number of employees and show how housing will be provided for them.

5. Provision of affordable housing for service industry employees shall be encouraged. 0/+2(4)

Division 6 - Performance Standards for Residential Development

NN. Residential Development: Average Density. An average density is assigned to all undeveloped lands (unused portions of existing, occupied subdivision lots are not undeveloped lands) as shown in Table VI.3. Average density varies by land type. The number of acres of a particular land type within a development is divided by the average density to calculate the number of development rights permitted on that portion of the site. For example, 30 acres of stream or lakeshore corridor would be permitted three (3/10) development rights. The development rights permitted on each land type are then summed to yield the number of dwelling units per acre that may be constructed on a parcel pursuant to the Class I permit procedure, as provided in III.B.1 and III.H, or a Class II permit, as provided in III.B.3. and III.L, when no density bonus is requested or awarded. Any increase in density shall be by exception, as permitted by VII.MM or the result of a density bonus, as provided by VII.PP.

OO. Residential Development: Exception to Average Density. One dwelling unit may be built on any undeveloped parcel that was in existence on the effective date of this ordinance, regardless of that parcel's size, if all requirements of the Class I permit procedure are fulfilled. Also, the development right (i.e. the one dwelling unit) assigned to such a parcel may be transferred. 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. No separate parcels exist within contiguous lands held by a single owner, regardless of how those lands are or have been described for any other purpose. Multiple subdivision lots held by a single owner are a single parcel for the purposes of development, but each existing, undeveloped subdivision lot is assigned one development right.

PP. Density Transfer to Cluster Developments. Development rights from any parcel may be transferred to any cluster development that meets the criteria established by VII.SS.  
   1. Transfers may be made only from parcels of productive cropland, wetlands, stream corridors, or wildlife habitat that are located within the North Fremont Zoning District.
   2. Where a transfer will result in development of a parcel including productive cropland, wetlands, stream corridors, or wildlife habitat, the transfer must protect land that is more productive, or has higher functional value as a wetland, stream corridor, or wildlife habitat.
   3. Where such a transfer of density is made, the developer shall provide a complete and accurate legal description of the parcel/s from which the transfer is made. Where the transfer involves multiple ownerships, copies of the instruments of conveyance shall be provided.

QQ. Density Bonuses for Cluster Development. Cluster development shall be encouraged by the award of density bonuses.  
   1. One additional dwelling unit over the number of dwelling units permitted by Table VII.3. shall be permitted for the first five points scored on the relative performance standards of this chapter. One additional dwelling unit shall be permitted for each additional three points.
2. The number of dwelling units permitted by transfer from any critical area (wetlands, stream and lakeshore corridors, slopes over 15%, etc.) or productive croplands shall be doubled.

RR. Maximum Density, With Bonuses. The minimum lot size shall be one acre. The total number of lots or residential units permitted shall be as calculated by VI MM-OO, but regardless of any bonuses awarded, the maximum density of development shall be one dwelling unit per acre.

SS. Cluster Development Criteria. Cluster developments shall be designed to protect open space and limit the development of productive agricultural land by concentrating development onto a relatively small portion of the parcel and using the development rights transferred from more productive or less fragile sites. Cluster developments do not site dwellings in critical areas, but critical areas may be included as common or dedicated open space. All cluster developments shall comply with all absolute performance standards of this ordinance and have a positive score on its relative performance standards.

TABLE VII3. RESIDENTIAL DENSITY ASSIGNMENTS BY LAND TYPE

<table>
<thead>
<tr>
<th>site characteristics</th>
<th>average density, one dwelling unit per</th>
</tr>
</thead>
<tbody>
<tr>
<td>productive croplands</td>
<td>40 acres</td>
</tr>
<tr>
<td>wetlands, slopes over 30%</td>
<td>25 acres</td>
</tr>
<tr>
<td>stream corridors, slopes of 15-30%</td>
<td>10 acres</td>
</tr>
<tr>
<td>other areas</td>
<td>2.5 acres</td>
</tr>
<tr>
<td><strong>minimum lot size maximum number of units, including bonus units</strong></td>
<td>1.0 per acre</td>
</tr>
</tbody>
</table>

Notes: Where site characteristics overlap, the most restrictive density assignment shall apply. State health regulations may prevent a development from attaining the average density or minimum lot size permitted by these regulations. Remember that these densities are averages, allowing the developer substantial flexibility in the actual arrangement of lots.
CHAPTER VIII - ISLAND PARK ZONING DISTRICT

A. What This Chapter Does. This chapter establishes an Island Park Zoning District and the performance standards applicable to land development and building activity in that district. The nature of these performance standards was explained in Chapter V.

B. Island Park Zoning District Boundaries. The Island Park Zoning District encompasses all lands north of the south boundary line of Township 10 North.

Division 1 - Performance Standards for Maintaining Natural Assets

C. Runoff and Erosion Control. A professionally prepared runoff and erosion control plan shall be implemented by developments where a cumulative total of more than one acre of land with a slope of more than 8% will be disturbed, or where a cumulative total of more than 20,000 contiguous square feet of impervious cover will be created. That plan shall:

1. identify runoff and erosion hazard areas on the site;
2. identify areas and facilities, both on and downslope from the site, that are vulnerable to damage from accelerated runoff or erosion;
3. show how the retention of existing vegetation will be maximized and land disturbance minimized;
4. show how existing trees that are to be retained will be protected from damage during construction;
5. show how the area disturbed by construction at any one time will be minimized and 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 (revegetation with native plants is encouraged by VIII. M.);
7. show how runoff velocities will be minimized and drainageways 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 other means.

D. Critical Areas: Wetlands.

1. All developments shall demonstrate compliance with state and federal wetlands protection requirements.
2. The open space use of wetlands and/or their enhancement to a higher functional value shall be encouraged. (-2/ +2(3). Positive points for wetlands enhancement shall be assigned only where the acreage of wetlands enhanced or restored is greater than the area disturbed. Wetlands may be modified for necessary utility lines, roads, and trails without a negative point assignment, provided that the required state and federal permits are obtained.

E. Critical Areas: Stream and Lakeshore Corridors/Floodplains. The stream/lakeshore corridor includes the 100 year floodplain (or special flood hazard area), any associated wetlands, and any associated areas where riparian vegetation is dominant.

1. Minimum development setbacks shall be required along all streams and lakes, as shown in Table VIII.1. The use of buffers created by this requirement shall be compatible with the protection of stream corridor values.
   a. Roads and utility lines may cross stream or lakeshore corridors, but the number and width of such crossings shall be minimized. Irrigation works (dams, headgates, ditches, etc.) may be placed in stream or lakeshore corridors, as may hydroelectric power generation facilities, upon issuance of a Class II permit, and all required state and federal permits.

Fremont County Development Code 33
b. Boat ramps, docks, and piers may be installed within stream and lakeshore corridor buffers, but shall disturb no more than 10% of the stream or lake frontage on any lot or site (note that state or federal permits may be required for the disturbance of stream channels or lakebeds). A minimum disturbance of 24 feet shall be permitted on any lot or site.

TABLE VIII.1 - MINIMUM STREAM AND LAKESHORE CORRIDOR SETBACKS

<table>
<thead>
<tr>
<th>stream/lake/stream channel type</th>
<th>required setback (on both sides of stream)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Henrys Fork, all lakes and reservoirs</td>
<td>30 feet from the outer edge of the stream corridor or 50 feet from the average annual high water mark, whichever is greater</td>
</tr>
<tr>
<td>other streams - well-defined channel</td>
<td>60 feet from centerline of stream or 50 feet from the average annual high water mark, whichever is greater</td>
</tr>
<tr>
<td>other streams - poorly defined or braided channel</td>
<td>50 feet from average annual high water mark</td>
</tr>
<tr>
<td>other streams - incised channel, ravine (stream bottom less than 50 feet wide on one or both sides)</td>
<td>30 feet from top of bank</td>
</tr>
</tbody>
</table>

c. Commercial marinas may be permitted to exceed the disturbance limit with docks, piers, boat ramps, and boat slips, but: i. not with parking or any other use or structure that does not require direct access to the water, and ii. only where sufficient shoreline vegetation is retained or planted and buildings sited so as to provide a predominantly natural background when the development is viewed from the lake.

d. Stream and lakeshore corridor buffers may be left in, or restored to, native riparian vegetation or planted as lawns. They may not be developed, except as permitted in VIII. a., b., and c.

e. The development setbacks required here shall be clearly shown on final site plans and final subdivision plats. In subdivisions, the setback line shall be located by a permanent monument on each lot line that runs more or less perpendicular to the stream or lake and at the center of each lot that borders the stream or lake.

2. The open space use of stream and lakeshore corridors and the retention or restoration of riparian vegetation shall be encouraged. -2/+2(3). Compliance with the minimum development setback requirements of Table VIII.1. shall receive an award of '0' points only. Positive points may be awarded for: a. retention of the stream corridor in common (for use by residents only) or public (dedicated to an agency that accepts responsibility for maintenance) open space; and/or b. retention of functional riparian or wetlands vegetation, including its protection during construction, on at least 90% of the stream or lake frontage. Functional riparian or wetlands vegetation has the structure and species diversity needed to serve the water quality, flood control, wildlife habitat, and/or aesthetic functions on which the stream and lakeshore corridor protection strategy of the comprehensive plan is based.

3. Developments in the Floodplain Overlay Zoning District shall comply with the performance standards of Chapter X.

F. Critical Areas: Water Quality Vulnerability. Water quality vulnerability areas are identified in the comprehensive plan. Provision of central sewerage, via construction of a new system or connection to an existing one, for developments in water quality vulnerability areas shall be encouraged. -2/+2(4).

G. Critical Areas: Alluvial Fans. Alluvial fans shall be identified on a case-by-case basis, using geologic maps and field investigations. Development on alluvial fans shall be designed to minimize debris flow and sheet flooding hazards.

H. Critical Areas: Slopes.

1. Open space use of slopes over 30% or other slopes identified as unstable shall be encouraged. -2/+2(4).
2. Open space use of 15-30% slopes shall be encouraged. -2/+2(2).

3. No development shall be permitted on any slope exceeding 30% or identified as unstable except where a geotechnical engineer certifies that the proposed development will create no significant hazard of slope failure or accelerated soil erosion.

I. Seismic Hazards:

1. A notice that "THIS DEVELOPMENT IS WITHIN AN EARTHQUAKE HAZARD AREA." shall appear on the final plat of any subdivision and on any instrument of conveyance used in the sale or lease of properties within the Henrys Lake earthquake hazard area identified in the comprehensive plan.

2. No permit (Class I or II) shall be issued for a structure within the Henrys Lake earthquake hazard area identified in the comprehensive plan, except upon submission of plans for that structure certified by an architect or structural engineer to be in compliance with the Uniform Building Code, and particularly as it pertains to seismic design.

I. Wildfire Hazards. All developments that are in or adjacent to forested areas, or areas of flammable brushy vegetation shall:

1. for individual structures, including all single family dwellings; provide a fire defensible space of at least 30 feet around the home or structure. A defensible space is one in which trees are thinned so that crowns do not overlap or touch, woody brush is removed or substantially thinned, and dead fuel is removed. Maintenance of the defensible space is a requirement for continuing compliance with this ordinance.

2. for subdivisions: thin timber on and remove dead fuel from the entire site, and provide appropriate perimeter and, in larger developments, internal fuelbreaks. A fuelbreak is a strategically located strip of land in which the timber has been thinned and fuel removed to create an open "park-like" appearance. Fuelbreaks either include roads or are accessible to fire fighting apparatus. Fuelbreaks are generally at least 200 feet in width, with the width increasing on slopes over 10%.

J. Critical Areas: Wildlife Habitat. Critical wildlife habitat areas are identified in the comprehensive plan.

1. Open space use of critical wildlife habitat areas shall be encouraged. -2/+2(5).

2. Developments that will disturb more than one acre in or adjoining a critical wildlife habitat area shall be encouraged to implement a professionally prepared plan for the protection of wildlife values. -2/+2(3). That plan shall:

a. identify the critical wildlife habitat area, the principal species present, and species used as "indicators" in the habitat protection plan;

b. identify existing wildlife habitat elements, including sources of water, vegetative cover, and migration routes or other wildlife use areas;

c. show how land disturbance will be minimized in order to maximize retention of large habitat patches;

d. show how the site plan provides for movement of wildlife through or around developed areas and the connection of habitat patches;

e. show how disturbed areas will be revegetated with native plants and how revegetation will result a volume, structure, and diversity of vegetation similar to that found in the existing habitat; and

f. show how occupants will be educated in order to promote long run maintenance of the habitat protection features of the site plan.

K. Native Plants. The use of native plants propagated from local stock in revegetation efforts required or encouraged by this ordinance shall be encouraged. 0/+2(1).

Division 2 - Performance Standards for Maintaining Agricultural Resources and the Farm Economy

L. Protecting Irrigation Systems. All developments including or adjoining irrigated lands, or including or adjoining any irrigation works (diversions, headgates, canals, pumps, drains, etc.) shall be reviewed by the responsible
irrigation entity. No development shall be permitted to adversely impact the operation of any irrigation system and all developments shall comply with the specific performance standards established, below.

1. All subdivisions shall demonstrate compliance with I.C. 31-3805, as amended, which provides for the approval of subdivisions by irrigation entities (I.C. 31-3805 appears in Appendix D). Compliance shall be attained by the transfer of water rights or the installation of a central irrigation system maintained by a community association. Irrigation systems installed in subdivisions to achieve compliance with I.C. 31-3805 are subject to the requirements imposed on other subdivision improvements (see XI.E.).

2. No development shall channel stormwater or snowmelt runoff into any irrigation system without written consent of the responsible irrigation entity.

M. Agricultural Land. Developments should be sited and designed to minimize the conversion of productive agricultural lands to other uses and to minimize conflict with neighboring agricultural operations. -2/+2(4).

Division 3 - Performance Standards for Assuring Land Use Compatibility

N. Industrial Land Use. The following industrial uses shall be prohibited in the Island Park Zoning District:

1. any industrial use that will result in the degradation of existing air quality;
2. any industrial use that will result in the degradation of existing water quality;
3. any industrial use that will result in the degradation or potential degradation of the geothermal resources of the Island Park/Yellowstone National Park region.

O. Hazardous Substances.

1. Any development that is, or that may reasonably be expected to be, subject to the reporting requirements of EPCRA, the Emergency Planning and Community Right-To-Know Act of 1986, shall demonstrate continuing compliance with all state and federal requirements for the storage and handling of hazardous substances.

2. No development that is, or that may reasonably be expected to be, subject to the reporting requirements of EPCRA shall be located in any critical area established by this ordinance.

P. Nuisances. All potential nuisances and hazards shall be mitigated by appropriate means.

1. No development shall create excessive levels of noise or vibration beyond its property line. Excessive noise, as measured at the property line, exceeds the standards of Appendix F.

2. Light, Glare, Heat.

   a. No development shall direct hazardous light, glare, or heat beyond its property line. Welding equipment and similar sources of intense light shall be shielded from neighboring properties or public ways by enclosure in a building, location on the property, construction of a fence or wall, or a densely planted landscaped buffer.

   b. All fixtures used to illuminate commercial and industrial uses shall have a full cut-off, no building or landscape feature shall be uplit, and no commercial or industrial use shall generate a level of illumination greater than 0.4 foot-candle in any neighboring residential area. Illumination of signs is specifically addressed in Appendix A.

3. No development shall create electrical interference that adversely affects other uses.

4. Solid waste shall be stored in an enclosed building or in bear-proof containers and handled in a manner that does not: a. attract bears, rodents, flies, or other animals; b. generate odors perceptible beyond the property line or liquid runoff; or c. permit the blowing of paper and other lightweight waste.

5. All commercial and industrial solid waste handling and storage areas shall be effectively screened from public view by enclosure in a building, location on the property, or construction of a fence or wall. This includes expansions of existing solid waste handling and storage areas.

6. No development shall channel storm or melt water runoff in a way that adversely impacts neighboring properties or public ways.

Fremont County Development Code 36
Q. Livestock in Residential Areas. Keeping of livestock on residential lots shall be restricted to one large animal (horse, cow, llama, sheep, or goat and offspring until weaned) per acre, with no livestock being permitted on lots of less than one acre. Temporary keeping of stock during local big game hunting seasons shall be exempt.

R. Home Occupations. Home occupations shall comply with the detailed performance standards of Appendix G.

S. Residential Care Facilities. Residential care for the elderly, children's institutions, as defined by the Child Care Licensing Reform Act, and similar home occupations shall be certified or licensed as required by law.

T. Land Use Compatibility. Compatibility with neighboring land uses shall be encouraged. The compatibility of residential developments with neighboring uses shall be assessed using the following factors:

1. Is the proposed lot coverage and landscaping compatible with neighboring uses? 2-0/0(5). For single family dwellings, subject to Class I permit review only, it shall be assumed that any lot coverage of less than 50% is compatible, provided that the setbacks of Table VIII.2. are maintained from all property lines or that the setbacks comply with a. or b., below.

   a. In subdivisions platted prior to the effective date of this ordinance where recorded covenants dictate front, side, and rear setbacks for single family dwellings that are less than those adopted in Table VI.2., new development shall be found compatible (i.e. zero points will be assigned) where the setbacks provided by the covenants are observed, provided that: i. the subdivision was not vacant on the effective date of this ordinance, ii. existing dwellings have observed the setbacks provided by the covenants, iii. the front setback along arterial roads will not be reduced below 50 feet, and iv. no setback will be insufficient for access by fire fighters.

   b. In subdivisions platted prior to the effective date of this ordinance where recorded covenants do not dictate front, side, and rear setbacks for single family dwellings, or where such covenants exist, but have not been enforced, new development with setbacks less than those adopted in Table VI.2. may be found compatible (i.e. zero points will be assigned) where it is consistent with previous development. It shall be the responsibility of the developer to demonstrate compatibility with this exception by providing the administrator with a scaled drawing or aerial photograph of the subject lot and surrounding lots on which existing structures are accurately located and the front, side, and rear setbacks shown. If the drawing shows that the proposed setbacks are consistent with, or greater than, those on at least 50% of the surrounding lots, the administrator may find they are compatible, provided that: i. the front setback along arterial roads is not reduced below 50 feet; and ii. no setback will be insufficient for access by fire fighters.

   TABLE VIII.2. - SPECIFICATION STANDARDS FOR SINGLE FAMILY DWELLINGS

<table>
<thead>
<tr>
<th>yard</th>
<th>setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>front yard, arterial streets</td>
<td>50 feet</td>
</tr>
<tr>
<td>front yard, all other streets</td>
<td>30 feet</td>
</tr>
<tr>
<td>rear yard</td>
<td>30 feet</td>
</tr>
<tr>
<td>side yard</td>
<td>20 feet</td>
</tr>
</tbody>
</table>

Note: All setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

2. Is the proposed building height compatible with neighboring uses? 2-0/0(5). For single family dwellings, subject to building permit review only, it shall be assumed that any building height of less than 30 feet is compatible, except as provided by VIII.IL.1.

3. Is the proposed building bulk compatible with neighboring uses? 2-0/0(5).
4. Is the proposed activity level compatible with neighboring uses? -2/0(5). The level of activity shall be measured by the projected traffic generation and noise levels, proposed hours of operation, proposed size and number of signs, and similar factors.

5. Installation of landscaped buffers between higher density residential developments and other uses in accordance with Appendix I shall be encouraged, except in visually sensitive areas where it shall be required. -2/+2(5).

6. Higher density residential developments should be sited and designed to route traffic directly to collector or arterial roads, rather than through neighboring areas of single-family homes. -2/0(5).

7. Does the proposed development block scenic views from existing uses or public recreation areas? -2/0(5).

V. Commercial Development Confined to Designated Areas. Commercial development shall be confined to the designated commercial areas established by IV.E.

EXCEPTIONS: Home occupations may be established in any dwelling, in compliance with VIII.R. Individual, isolated lodges and guest ranches shall be permitted, in compliance with this ordinance.

V. Performance Standards for Commercial Development. Commercial development should follow the traditional small-scale resort pattern described in the Island Park Guide to Commercial Development. In order to allow reasonable flexibility in site planning and architectural design, however, most of these performance standards are relative, not absolute.

1. Is the scale of the proposed commercial use -- as expressed in the site plan, lot coverage, building height, and building bulk -- compatible with the character of Island Park? -2/+2(5)

2. Is the activity level that will be generated by the proposed development -- as measured by projected traffic and noise generation, the proposed level of outdoor illumination, the proposed number of signs, and similar factors -- compatible with the character of Island Park and neighboring land uses? -2/+2(5)

3. Commercial developments shall install and maintain landscaped buffers, in compliance with Appendix I.

4. Are the proposed architectural features consistent with the traditional resort style defined by the Island Park Guide to Commercial Development? -2/+2(5)

5. Are the proposed signs consistent with the traditional resort style defined by the Island Park Guide to Commercial Development? -2/+2(5)

W. Gravel Mining. Gravel mining operations shall comply with the detailed performance standards of Appendix H.

X. Buffering. Retention of existing vegetation to serve required buffering functions shall be encouraged. -2/+2(2).

1. Installation of landscaped buffers between potentially incompatible land uses and along public roads in accordance with Appendix II shall be encouraged, except in visually sensitive areas where it shall be required. -2/+2(5). Buffers along stream corridors are required by VIII.E.

Y. RV Parks. The maximum density of any recreational vehicle park shall be 10 units (spaces) per acre. RV parks shall be subject to the same buffering requirements as any other commercial use.

Z. Connections. All developments shall be designed to maximize functional connections with adjoining developments, including shared access to arterial roads and highways, shared parking and service access, shared buffering and open space, and shared pedestrian circulation.

Division 4 - Performance Standards for Protecting Visual Resources and Enhancing the Community's Image

AA. Visually Sensitive Areas. Visually sensitive areas shall be as defined in XIII.UUU.

1. Residential developments shall be encouraged to maintain the scenic qualities of visually sensitive areas -2/+2(4). "+2" points shall be assigned only to developments that use density transfer to leave the visually sensitive area undeveloped or cluster development into a small portion of the visually sensitive area. "+1" shall be assigned where development is designed to retain scenic quality by placing structures against a forested background at the edge of the sensitive area and/or using architectural and landscaping techniques to minimize visual impact.

Fremont County Development Code 38
CC, Central Water Supply. For subdivisions provision of a central domestic water supply system that meets state design and construction requirements shall be encouraged. 0/+/2.4

EE, Individual Water Supplies. Where reliance on individual water supplies is permitted by VII CC., evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form of documented experience with existing wells at geologically similar, neighboring sites or records of on-site well tests.

FF, Central Sewerage. For the purposes of this performance standard, daily average sewage flow per dwelling unit shall be presumed to be 200 gallons.

1. Except where the system has insufficient capacity for the additional load, connection to an existing central sewerage system, and payment of all associated fees, shall be required for: a. all developments within 220 feet of an existing central sewerage system, where the development has an average density greater than one dwelling unit per 2.5 acres, and b. all developments within 440 feet of an existing central sewerage system, where the development has an average density less than one dwelling unit per 2.5 acres.

2. Development in water quality vulnerability areas identified in the comprehensive plan prior to the installation of a central sewerage system shall be permitted only under the following conditions.

a. For residential developments with an average proposed density of one dwelling unit per 2.5 acres or less, or nonresidential developments with an equivalent sewage flow per acre: approval of on-site sewage disposal system by the health department.

b. For residential developments with an average proposed density of one dwelling unit per 2.5 acres or more or nonresidential developments with an equivalent sewage flow per acre: execution and recording of an agreement in which the owners agree to place their names on a standing petition for the formation of a local improvement district or sewer district to provide future sewerage service to the area in the future, further agree not to protest formation of that district, and further agree to require participation in that petition and a waiver of right to protest as a condition of the sale of any lot or other interest in the development.

3. For subdivisions, provision of a central sewerage system that meets state and federal design and construction requirements shall be encouraged. 0/+/2.5.

GG, On-Site Sewage Disposal. All on-site sewage disposal systems shall be sited, designed, and constructed in compliance with state standards. Note that this requirement does include nonconforming uses applying for a Class II permit for a change in occupancy or replacement, as provided in I.F.3. and 4.

HH, Private Utilities.
DRAFT OF 12/96

1. Adequate rights-of-way or easements for service by proposed private utilities shall be provided. A written statement of compliance with this performance standard shall be obtained from each utility.

2. Written certification that capacity to serve the proposed development is available shall also be obtained from proposed private utilities.

3. Provision of underground power and telephone utilities in subdivisions shall be encouraged. 0/+2.3. Underground utilities shall be provided to each lot before road surfaces are constructed.

II. Construction in Easements. No building shall be placed in any utility or irrigation easement, public or private. Wire or rail fences, or solid wood fences with a removable section across the easement may be constructed across easements (note that some utilities and irrigation entities may prohibit fences permitted by this ordinance).

JJ. Off-Street Parking and Loading Areas. Off-street parking and loading areas shall be provided as required by Appendix J. Snow storage shall not be permitted to reduce the size of any required off-street parking or loading area.

KK. Access.

1. Points of access to public roads shall be constructed in compliance with the standards of Appendices J and K. Developments with points of access to a state or federal highway shall obtain approval for those points of access from the Idaho Transportation Department.

2. All developments are encouraged to minimize their number of points of access to arterial roads and highways, while complying with VIII.KK.3. - 2/0(5).

3. All developments containing six or more dwelling units, or with a distance of more than 660 feet from a public road which is maintained on a year round basis, shall provide a minimum of two points of ingress and egress from the public road or highway serving the development. "Loop" systems that return to a single point of access to the public road or highway may be acceptable for relatively small developments (1,000 or less projected ADT).

LL. Roads. There shall be safe all-weather road access to all developments and all lots in all developments (the requirement for all-weather road construction does not imply that roads must be maintained throughout the year). The design and construction of roads shall be in compliance with the detailed performance standards of Appendix K.

MM. Public Access.

1. No development shall eliminate historically existing public access through private lands to trailheads on public lands.

2. Provision of public access to public lands or water resources shall be encouraged. 0/+2(3). The access provided may be limited to foot travel only.

NN. Fire Protection. All applications for Class II permits shall be referred to the Island Park Fire Protection District for review and comment. If comments are not received before or at the scheduled hearing, it shall be assumed that the district had none.

1. Comments from the South Fremont Fire Protection District shall be considered in determining the development's compliance with VIII.I, VIII.BB, VIII.II, VIII.III, and VIII.OO.

2. Building heights shall be limited to those that can be effectively protected by existing fire fighting apparatus.

3. All developments not presently in the Island Park Fire Protection District shall petition for addition to that district, as provided by I.C. 31-1401, et. seq.

Division 6 - Additional Performance Standards for Large Scale Development

OO. Large-Scale Development. A large-scale development is a residential or mixed-use project, or a series of adjacent or related residential or mixed-use projects, that contain 100-60 or more residential lots or units, or a commercial, industrial, or mixed-use project, or series of adjacent or related commercial, industrial, or mixed-use projects, that is projected to generate 1,000 or more trips per day will contain more than 5,000 square feet of commercial or industrial space.

Fremont County Development Code 40
1. Large-scale developments shall provide, or make a fair, proportional contribution to the provision of, any additional new public facilities or improvements to existing public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this ordinance and may include: off-site runoff and erosion control measures; fire-fighting water supplies; central sewerage systems; off-site road improvements such as deceleration or acceleration lanes, left turn lanes, signs or signals, and bridges or culverts; solid waste transfer stations; emergency services buildings and apparatus, including fire engines or ambulances; and neighborhood parks (including space used for recreational trails) at a rate of two acres per thousand population.

2. The public facilities needs of the 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 planners and/or engineers to conduct this study, the purpose of which shall be to determine what new facilities needs may be attributed to the proposed development. The large-scale development study process shall be conducted as follows.

   a. The administrator shall determine whether a proposed development is a large-scale development upon the filing of an application for sketch plan review.

   b. The administrator shall not schedule a hearing on an application determined to be for a large-scale development; but shall place the initiation of a large-scale development study on the agenda of the next regular commission meeting, along with the sketch plan review, and:

   c. The commission shall review the application at that meeting. If it confirms the administrator's determination, the commission shall direct the administrator to begin a large-scale development study.

   d. Where a large-scale development study is required, the developer shall place a deposit with the county in the amount provided in the resolution establishing fees for administration of this ordinance. The administrator shall retain appropriate professional assistance for the study, drawing against the required deposit as necessary. All unused funds shall be returned to the developer upon completion of the study.

   e. The application shall be considered complete and a hearing scheduled only after completion of the large-scale development study.

3. A large-scale development study shall:

   a. project the additional need for public facilities that will be generated by the proposed development;

   b. inventory the facilities that will serve the proposed development and their existing condition and capacity;

   c. combine the projections and inventory to show what, if any, additional or improved facilities will be needed to serve the proposed development; and

   d. estimate the costs of those additional or improved facilities. Where it is anticipated that new or improved facilities will also serve other developments (existing or new), the study shall calculate the fair proportional contribution of the large-scale development to the total costs of the new or improved facilities.

4. Large-scale developments shall also submit an estimated number of employees and show how housing will be provided for them.

5. Provision of affordable housing for service industry employees shall be encouraged. 0/ +2(4)

Division 7 - Performance Standards for Residential Development

PP. Residential Development: Average Density. An average density is assigned to all undeveloped lands (unused portions of existing, occupied subdivision lots are not undeveloped lands) as shown in Table VIII.3. Average density varies by land type. The number of acres of a particular land type within a development is divided by the average density to calculate the number of development rights permitted on that portion of the site. For example, 30 acres of stream or lakeshore corridor would be permitted three (30/10) development rights. The development rights permitted on each land type are then summed to yield the number of dwelling units that may be constructed on a parcel pursuant to the Class I permit procedure, as provided in III.B.1. and III.H, or a Class II permit, as provided in III.B.3. and III.L,
when no density bonus is requested or awarded. Any increase in density shall be by exception, as permitted by VIII.QQ, or the result of a density bonus, as provided by VIII.TT.

QQ. Residential Development: Exception to Average Density.

1. One dwelling unit may be built on any undeveloped parcel that was in existence on the effective date of this ordinance, regardless of that parcel's size, if all requirements of the Class I permit procedure are fulfilled. Also, the development right (i.e., the one dwelling unit) assigned to such a parcel may be transferred. 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. No separate parcels exist within contiguous lands held by a single owner, regardless of how those lands are or have been described for any other purpose. Multiple subdivision lots held by a single owner are a single parcel for the purposes of development, but each existing, undeveloped subdivision lot is assigned one development right.

2. In order to promote land use compatibility, the present lot size of existing platted subdivisions may be extended to adjoining lands that are: a. less than 20 acres in extent, and b. surrounded on three sides by the existing subdivision/s and/or major natural barriers.

RR. Density Transfer to Cluster Developments. Development rights from any parcel may be transferred to any cluster development that meets the criteria established by VIII.UU.

1. Transfers may be made only from parcels of productive cropland, wetlands, stream corridors, wildlife habitat, or visually sensitive areas that are located within the Island Park Zoning District or the City of Island Park.

2. Where a transfer will result in development of a parcel including productive cropland, wetlands, stream corridors, wildlife habitat, or visually sensitive area, the transfer must protect land that is more productive, or has higher functional value as a wetland, stream corridor, wildlife habitat, or scenic area.

3. Where such a transfer of density is made, the developer shall provide a complete and accurate legal description of the parcel/s from which the transfer is made. Where the transfer involves multiple ownerships, copies of the instruments of conveyance shall be provided.

SS. Density Bonuses for Cluster Development. Cluster development shall be encouraged by the award of density bonuses.

1. One additional dwelling unit over base density the number of dwelling units permitted by Table VIII.3. shall be permitted for the first 10 cumulative points scored on the relative performance standards of this chapter. One additional dwelling unit is permitted for each cumulative point over 10.

2. The number of dwelling units permitted by transfer from any critical area (wetlands, stream and lakeshore corridors, slopes over 15%, etc.), productive croplands, or visually sensitive area shall be doubled.

TT. Maximum Density, With Bonuses. The minimum lot size shall be one acre. The total number of lots or residential units permitted shall be as calculated by VIII.PP.-VV., but regardless of any bonuses awarded, the maximum density of development shall be one-half dwelling unit per acre.

UU. Cluster Development Criteria. Cluster developments shall be designed to protect open space and limit the development of critical areas or visually sensitive areas by concentrating development into a relatively small portion of a site or transferring development rights from a sensitive site to another location. Cluster developments do not site dwellings in critical areas, but critical areas may be included as common or dedicated open space. All cluster developments shall comply with all absolute performance standards of this ordinance and have a positive score on its relative performance standards.

VV. Cluster Development in Undeveloped Plats.

1. Cluster developments may be sited within existing, but undeveloped, or largely undeveloped, subdivisions, provided that the existing plat shall be amended or replaced to reflect the new development pattern and unused streets and lots vacated to the maximum extent feasible.

2. Development rights may be transferred into cluster developments from platted lots. Where such a transfer results in the vacation of the undeveloped portion of a nonconforming plat, the density transferred shall be doubled.
## Table VIII.3. Residential Density Assignments by Land Type

<table>
<thead>
<tr>
<th>Site Characteristics</th>
<th>Average Density, One Dwelling Unit Per</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetlands, slopes over 30%</td>
<td>25 acres</td>
</tr>
<tr>
<td>Stream corridors, slopes of 15-30%</td>
<td>10 acres</td>
</tr>
<tr>
<td>Other areas</td>
<td>2.5 acres</td>
</tr>
</tbody>
</table>

**Minimum Lot Size, Maximum Number of Units, Including Bonus Units**

0.5 per acre

**Notes:** Where site characteristics overlap, the most restrictive density assignment shall apply. State health regulations may prevent a development from attaining the average density or minimum lot size permitted by these regulations. Remember that these densities are averages, allowing the developer substantial flexibility in the actual arrangement of lots.
CHAPTER IX - CITY OF ISLAND PARK

A. What This Chapter Does. The purpose of this chapter is to modify, replace, or add to the performance standards of Chapter VIII to create a set of performance standards specifically for use within the City of Island Park. This chapter also modifies the procedures of this ordinance for use within the City of Island Park.

B. Procedural Modifications. The purpose of these modifications is to have the provisions of this chapter administered by an administrator appointed by the City of Island Park, the Island Park Planning and Zoning Commission, and the Island Park City Council.

1. When this ordinance is used within the City of Island Park, the terms “Fremont County” and “county” shall be replaced by “City of Island Park” and “city.”

2. When this ordinance is used within the City of Island Park, the terms “board of county commissioners” and “board” shall be replaced “city council” and “council” and shall refer to the Island Park City Council.

3. When this ordinance is used within the City of Island Park, the term “administrator” shall refer to the administrator appointed by the City of Island Park to perform the duties described in I.D.

4. For commercial developments, the application materials required by III.F. shall include architectural elevations, a master signage plan, and any other information required to clearly demonstrate compliance with the requirements of this chapter.


D. Performance Standards for Residential Developments. This performance standard and IX.E. will be used in the City of Island Park instead of VIII.B. The compatibility of residential developments with neighboring uses shall be assessed using the following factors.

1. Is the proposed lot coverage and landscaping compatible with neighboring uses? -2(5/5) For single family dwellings, subject to Class I permit review only, it shall be assumed that any lot coverage less than 50% is compatible, provided that the setbacks of Table IX.1. are maintained from all property lines, or that the setbacks comply with a, or b., below.

<table>
<thead>
<tr>
<th>TABLE IX.1. - SPECIFICATION STANDARDS FOR SINGLE FAMILY DWELLINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>yard</strong></td>
</tr>
<tr>
<td>front yard, arterial streets</td>
</tr>
<tr>
<td>front yard, all other streets</td>
</tr>
<tr>
<td>rear yard</td>
</tr>
<tr>
<td>side yard</td>
</tr>
</tbody>
</table>

Fremont County Development Code 44
DRAFT OF 12/96

Note: All setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

a. In subdivisions platted prior to the effective date of this ordinance where recorded covenants dictate front, side, and rear setbacks for single family dwellings that are less than those adopted in Table IX.1., new development shall be found compatible (i.e. zero points will be assigned) where the setbacks provided by the covenants are observed, provided that: i. the subdivision was not vacant on the effective date of this ordinance, ii. existing dwellings have observed the setbacks provided by the covenants, iii. the front setback along arterial roads will not be reduced below 50 feet, and iv. no setback will be insufficient for access by fire fighters.

b. In subdivisions platted prior to the effective date of this ordinance where recorded covenants do not dictate front, side, and rear setbacks for single family dwellings, or where such covenants exist, but have not been enforced, new development with setbacks less than those adopted in Table IX.1., may be found compatible (i.e. zero points will be assigned) where it is consistent with previous development. It shall be the responsibility of the developer to demonstrate that this exception applies by providing a scaled drawing or aerial photograph of the subject lot and surrounding lots on which existing structures are accurately located, and the front, side, and rear setbacks shown. If the drawing shows that the proposed setbacks are consistent with, or greater than, those on at least 50% of the surrounding lots, the administrator may find they are compatible, provided that i. the front setback along arterial roads is not reduced below 50 feet; and ii. no setback will be insufficient for access by fire fighters.

2. Is the proposed building height compatible with neighboring uses? 2/0(5) For single family dwellings, subject to Class I permit review only, it shall be assumed that any building height of less than 30 feet is compatible, unless otherwise required for compliance with VIII.I.1.

3. Is the proposed building bulk compatible with neighboring uses? 2/0(5) Single family dwellings shall be assumed to be compatible (i.e. assigned "0" points).

4. Higher density residential developments should be sited and designed to route traffic directly to collector or arterial roads, rather than through neighboring areas of single-family homes. 2/0(5).

5. Is the proposed development sited and designed to minimize the obstruction of scenic views from existing uses or public recreation areas? 2/0(5)

6. Higher density residential developments shall install and maintain landscaped buffers in compliance with Appendix I.

7. Signs shall comply with the detailed performance standards of Appendix A.

F. Commercial Development Confined to Designated Nodes. Commercial development shall be confined to the designated commercial nodes established by IV.E.

EXCEPTION: Home occupations may be established in any dwelling, in compliance with VII.5.

F. Performance Standards for Commercial Development. Commercial development should follow the traditional small-scale resort pattern described in the Island Park Guide to Commercial Development. In order to allow reasonable flexibility in site planning and architectural design, however, most of these performance standards are relative, not absolute.

1. Is the scale of the proposed commercial use - as expressed in the site plan, lot coverage, building height, and building bulk - compatible with the character of Island Park? 2/2(5)

2. Is the activity level that will be generated by the proposed development - as measured by projected traffic and noise generation, the proposed level of outdoor illumination, the proposed number of signs, and similar factors - compatible with the character of Island Park and neighboring land uses? 2/2(5)

3. Commercial developments shall install and maintain landscaped buffers, in compliance with Appendix I.

4. Are the proposed site plan and architectural features consistent with the traditional resort style defined by the Island Park Guide to Commercial Development? 2/2(5)

Fremont County Development Code 45
5. Are the proposed signs consistent with the traditional resort style defined by the Island Park Guide to Commercial Development? 2/4/2(3)

6. Signs shall also comply with detailed performance standards of Appendix A.1.

G. Gravel Mining. Gravel mining shall not be permitted in the City of Island Park.

H. Large-Scale Development. A large-scale development is a residential or mixed-use project, or a series of adjacent or related residential or mixed-use projects, that will contain 60 or more residential lots or units, or a commercial, industrial, or mixed-use project, or series of adjacent or related commercial, industrial, or mixed-use projects, that will contain more than 5,000 square feet of commercial or industrial space.

1. Large-scale developments shall provide, or make a fair, proportional contribution to the provision of any new public facilities or improvements to existing public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this ordinance and may include: off-site runoff and erosion control measures; fire-fighting water supplies; central sewerage systems; off-site road improvements such as deceleration or acceleration lanes, left turn lanes, signs or signals, and bridges or culverts; solid waste transfer stations; emergency services buildings and apparatus, including fire engines or ambulances; and neighborhood parks (including space used for recreational trails) at a rate of two acres per thousand population.

2. The public facilities needs of the 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 planners and/or engineers to conduct this study, the purpose of which shall be to determine what new facilities needs may be attributed to the proposed development. The large-scale development study process shall be conducted as follows:

   a. The administrator shall determine whether a proposed development is a large-scale development upon the filing of an application for sketch plan review.

   b. The administrator shall place the initiation of a large-scale development study on the agenda of the next regular commission meeting, along with the sketch plan review.

   c. The commission shall review the application at that meeting. If it confirms the administrator’s determination, the commission shall direct the administrator to begin a large-scale development study.

   d. Where a large-scale development study is required, the developer shall place a deposit with the county in the amount provided in the resolution establishing fees for administration of this ordinance. The administrator shall retain appropriate professional assistance for the study, drawing against the required deposit as necessary. All unused funds shall be returned to the developer upon completion of the study.

   e. The application shall be considered complete and a hearing scheduled only after completion of the large-scale development study.

3. A large-scale development study shall:

   a. Project the additional need for public facilities that will be generated by the proposed development;

   b. Inventory the facilities that will serve the proposed development and their existing condition and capacity;

   c. Combine the projections and inventory to show what, if any, additional or improved facilities will be needed to serve the proposed development; and

   d. Estimate the costs of those additional or improved facilities. Where it is anticipated that new or improved facilities will also serve other developments (existing or new), the study shall calculate the fair proportional contribution of the large-scale development to the total costs of the new or improved facilities.

4. Large-scale developments shall also submit an estimated number of employees and show how housing will be provided for them.

5. Provision of affordable housing for service industry employees shall be encouraged. 0/4/2(4)
I. Nontraditional Commercial Developments: Permanent Open Space Trade-Off. The performance standards of this chapter are designed to promote small-scale commercial development in a traditional resort pattern. It is recognized, however, that proposals for nontraditional commercial development will be made, and that some such developments may prove beneficial to the people of Island Park. This performance standard provides for a trade-off between nontraditional commercial development (any commercial development that is not awarded a positive cumulative score on the relative performance standards of IX.E) and open space protection. A negative score on the relative performance standards of IX.E will be canceled where the development has an open space ratio of .25 or better, generated by the protection of adjacent open space. This will not cancel negative scores on other performance standards. Protected open space must consist of at least 40% critical or visually sensitive areas, as defined by this ordinance, and may be:

1. donated fee simple to a willing public land management agency with the stipulation that it be perpetually managed as open space;

2. left as part of the development site, subject to a conservation easement running in favor of the city, county, or a land trust designated by the city or county, or

3. part of an adjoining parcel, in another ownership, on which the developer acquires a conservation easement running in favor of the city, county, or a land trust designated by the city or county;

4. The open space ratio is divided into the total developed area to obtain the area of open space that must be protected. "Developed area" includes all buildings; access drives and internal circulation areas, including parking and loading areas; sidewalks and trails; active outdoor recreation areas, outdoor storage areas, and accessory spaces and structures. For example, a nontraditional commercial project proposing a developed area of 30,000 square feet, would have to permanently protect 28 acres of open space.

Fremont County Development Code 47
CHAPTER X - AIRPORT OVERLAY ZONING DISTRICT

A. What This Chapter Does. The purpose of the Airport Overlay Zoning District (AOZD) is to provide for the safety of aircraft pilots and passengers and protect a substantial investment of public funds by assuring that land development and construction activities within the AOZD are compatible with the safe, continued use of the airports serving Fremont County.

B. Height Limitation Zones. The AOZD is composed of several height limitation zones, which include all land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces appurtenant to Stanford Field and the Henrys Lake Airfield. These zones are shown on supplements to the Official Zoning Map of Fremont County, as established by IV.C. of this ordinance. An area located in more than one of these zones is considered to be only in the zone with the most restrictive height limitation.

1. Utility Runway Visual Approach Zone. The inner edge of the approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.

3. Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

4. Conical Zone. The conical zone is the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

C. Height Limitations. Except as provided in IX.C.5., no structure or tree shall be allowed to exceed the height limitations established here.

1. Utility Runway Visual Approach Zone. Slopes twenty feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. Transitional Zones. Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition, there are transitional sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

3. Horizontal Zone. 150 feet above the airport elevation.

4. Conical Zone. Slopes 20 feet outward for each foot upward beginning at the edge of the horizontal zone and at 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.

5. Exception from Height Limitations. Nothing in this ordinance shall prohibit the construction or maintenance of any structure of 30 feet or less in height, or the growth of any tree to a height up to 30 feet above the surface of the land within the horizontal and conical zones.

D. Use Restrictions. No use within any zone established by this chapter shall create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or in any way endanger or interfere with the operation of aircraft.

E. Permits: Additional Requirements. Permit requirements for all development activity are established in III.B. Within the AOZD, permit requirements shall be expanded to include the planting of any tree with a growth habit of more than 30 feet and the construction of any building or structure that is more than 30 feet in height and is exempted from the requirement for a permit by III.D. (this includes agricultural outbuildings and similar accessory structures), except as follows:

1. within the horizontal and conical zones: no permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones;

Fremont County Development Code 48
HENRYS LAKE AIRSTRIP MAP
2. within the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway: no permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones; and

3. in the areas lying within the limits of the transition zones, but beyond the perimeter of the horizontal zone: no permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

F. Variances: Additional Requirements. The variance procedure is described in III.N. Any application for a variance of the height limitations established in this chapter shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

G. Nonconforming Uses: Additional Requirements. Nonconforming uses and buildings are regulated by the provisions of Chapter IV and, within the AOZD, these additional requirements.

1. Nonconforming uses within the AOZD, may include trees, and shall be required to permit the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft. Such markers and lights shall be installed, operated, and maintained at the expense of the county.

2. The repair and, under specified circumstances, replacement of nonconforming uses and buildings is permitted by IV.E., but no nonconforming use, building, or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of this ordinance.

H. Obstruction Marking and Lighting. The approval of any application for a permit or variance may be conditioned on the installation, operation, and maintenance, at the owner's expense, of the markings and/or lights necessary to indicate the presence of an obstruction to aircraft pilots.
A. What This Chapter Does. This chapter establishes the Floodplain Overlay Zoning District (FOZD) and detailed performance standards for development in that district.


Division 1 - Administration of Federal Flood Insurance Program Requirements

C. Additional Permit Requirements. Development in the FOZD shall be by permit only, as provided in III.B. For the purposes of this chapter, development shall include any activity that may potentially affect flood flows. This includes all land disturbance (including clearing, grading, and the construction of fills), as well as building construction. Some developments that are exempt from permit requirements in other areas must obtain a permit in the FOZD.

D. Stream and Lakeshore Corridors. The stream and lakeshore corridor performance standards of this ordinance impose requirements that are more stringent than those of this chapter. The most stringent requirements apply.

E. Warning/Disclaimer of Liability. All applications for permits in the FOZD shall be accompanied by a signed and dated acknowledgement stating:

1. I understand that, while the degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, larger floods can and will occur.

2. I understand that the projected flood levels at my development site may be increased by man-made or natural causes.

3. I understand that this ordinance 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 ordinance does not create any liability on the part of Fremont County or any officer or employee thereof, or on the part of the Federal Insurance Administration, for flood damages.

F. Additional Application Requirements. All applications for permits in the FOZD shall be accompanied by the following information: 1. elevation of the lowest floor, including basements, of all proposed buildings; 2. elevation to which any existing or proposed building has been or will be floodproofed; 3. for all buildings other than a single family dwellings, certification by an engineer or architect that the floodproofing methods used comply with these performance standards; and 4. where alteration of a watercourse is proposed: a description of the extent to which the watercourse 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. The developer shall provide the base flood elevation data for all subdivisions or other developments that include 50 or more lots or dwelling units, or five or more acres.

G. Additional Duties of the Administrator. The administrator (see II.D.) shall serve as local floodplain ordinance administrator and perform the following duties: 1. determine that all required state and/or federal permits have been obtained before reviewing any application for a permit in the FOZD; 2. where base flood elevation data are not provided by FEMA: obtain and reasonably utilize any base flood elevation and floodway data available from state, federal, or other sources as a basis for the administration of this chapter; 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 floodproofing certifications required by X.N.3. ;5. notify downstream communities and the Idaho Department of Water Resources prior to the alteration or relocation of a watercourse, and submit evidence of that notification to the FEMA; and 6. maintain records of appeal actions and report all variances allowed to FEMA.

Division 2 - Performance Standards for Special Flood Hazard Areas

H. Anchoring. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. 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.

I. Construction Materials and Methods. 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. All electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities shall be designed, or elevated, or located, so as to prevent water from entering or accumulating within their components during flooding.

J. Utilities and Solid Waste.

1. New and replacement potable water systems shall be designed to prevent infiltration of flood waters into the system.

2. New and replacement sewage disposal systems shall be designed to prevent infiltration of flood waters into the system and discharge from the system into flood waters.

3. Commercial or industrial solid waste handling and storage facilities shall not be located in the FOZD.

K. Hazardous Substances. The storage and handling of hazardous substances in the FOZD shall be prohibited.

L. Site Planning. Design and construction of all subdivisions and uses for which a Class II 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.

M. Residential Development. Standards 1. and 2. apply only in areas where base flood elevation data have been provided by FEMA or, as required by X.F., the developer.

1. Construction or substantial improvement of any dwelling shall result in the lowest floor being elevated to or above base flood elevation.

2. 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 of floodwaters. Designs for meeting this requirement shall either be certified by an engineer or architect, or meet the following minimum standards: a. 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; and b. the bottom of such openings shall be no higher than one foot above grade. Such openings may be equipped with screens, louvers, or other coverings or devices, provided they permit automatic entry and exit of floodwaters.

3. Where base flood elevation data are not available through the flood insurance study or from another source, applications shall 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.

4. Manufactured homes that are placed, replaced, or substantially improved within the FOZD shall be elevated on and securely anchored to a permanent foundation, so that the lowest floor is at or above base flood elevation. Manufactured home (mobile home) parks shall not be permitted in the FOZD.

N. 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 floodproofed 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 of M.2., above for enclosed spaces below the lowest floor. Developers floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level.

O. Floodways. The 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 the high erosion potential. Encroachments into the floodway, including fill, new construction, substantial improvements, and other development shall be 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.

P. Maintenance of Flood Capacity. Continuing maintenance to prevent the reduction of flood carrying capacity in altered or relocated watercourses shall be required.

Fremont County Development Code 53
Q. Areas of Shallow Flooding. An AO or AH Zone on a FIRM. In these areas, base flood depth ranges from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

1. 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.

2. All new construction and substantial improvement of nonresidential buildings in AO zones shall:
   a. be graded and drained to guide floodwaters around and away from existing and/or proposed buildings; and
   b. have the lowest floor elevated above the highest 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 together with its appurtenant utility and sanitary facilities, be floodproofed so that any 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 3 - Variances in the Floodplain Overlay Zoning District

R. Additional Finding for Variances. The approval of any variance in the FOZD shall be based on all findings required by III.N.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.

S. Notice of Variance. Where a variance of the requirements of this chapter is approved, the administrator's notice of the decision (III.N.6.) shall clearly state that the county is not liable for any flood damages that result from the variance. Where a variance of the elevation requirements of this appendix chapter 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.
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CHAPTER XII - ADDITIONAL PERFORMANCE STANDARDS FOR SUBDIVISIONS AND MANUFACTURED HOME PARKS

A. What This Chapter Does. This chapter provides additional performance standards for land divisions and the development of manufactured home parks, which are also subdivisions. These performance standards apply in all zoning districts and to all subdivisions.

B. 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 Ill.C. Records of survey and plats shall meet all requirements of Title 50, Chapter 13 of the Idaho Code "Plats and Vacations" (I.C. 50-1301-1329), as amended, and all requirements of Appendix L.

Division 1 - Lot Splits

C. Requirements for Lot Splits. Lot splits require a Class I permit. All lot splits shall comply with the following requirements, in addition to all applicable performance standards of this ordinance.

1. Lot splits shall not be used a means to evade the requirements of this ordinance for subdivisions. The use of multiple lot splits to evade those requirements shall be a violation of this ordinance.

2. Any parcel created shall be capable of accommodating a use permitted by this ordinance, including the required sewage disposal facilities and water supply.

3. Any parcel created shall have safe direct access to an existing public or association-maintained private road, in compliance with the performance standards of this ordinance.

4. The county treasurer must certify that all real property taxes due on the parcel being split have been paid.

5. Approval of a lot split does not constitute or imply approval of any specific development on the parcel created, but the administrator may combine processing of Class I permits for a lot split and the construction or placement of a single family dwelling on the parcel created.

Division 2 - Subdivisions

D. Master Planning Required. Any application for a Class II permit for a subdivision may be disapproved solely on the basis that it fails to show an overall plan for the development of the entire contiguous holdings of the developer and/or owner.

E. Subdivision of Irrigated Lands. See VI.K., VII.L., or VIII.N.

F. Floodplain Subdivisions. Subdivisions that are in, or include a portion of, the FOZD shall comply with the detailed performance standards of Chapter XI.

G. Subdivision Design. Every lot created shall be capable of accommodating a use permitted by this ordinance, including the required sewage disposal facilities and water supply.

H. Subdivision Improvements. Subdivision improvements shall be provided, at the expense of the developer, as required by Chapter VI, VII, VIII, or IX as applicable. All required improvements shall be installed and maintained in compliance with the performance standards of this ordinance and Chapter XIII.

I. Property Taxes. The county treasurer must certify that all real property taxes due on the parcel being subdivided have been paid before a final plat may be recorded.

Division 3 - Manufactured Home Parks

K. Short-Term Occupancy. Manufactured home parks which permit short-term (less than one month) occupancy shall be classified as commercial rather than residential uses.

L. Skirting. All manufactured homes placed in a manufactured home park shall be skirted with a matching metal or wood skirting material.

M. Manufactured Home Park Improvements. The following improvements shall be provided in all manufactured home parks before any unit is offered for lease, leased, or occupied: 1. a central water system designed, constructed, and installed in compliance with state standards, and capable of providing adequate fire fighting flows throughout the park; 2. a central sewage disposal system designed, constructed, and installed in compliance with state standards; 3. underground electric power and telephone connections for each unit and, where available, cable television.
connections for each unit; 4. solid waste collection containers, in compliance with the performance standards of this ordinance; 5. drained and graded gravel or paved roads, as specified in Appendix K; 6. sidewalks along all roads; 7. street lights at all intersections; and 8. any other improvement required for compliance with this ordinance. Note that large manufactured home parks may be subject to the additional requirements imposed on large scale developments. All required improvements shall be installed and maintained in compliance with the performance standards of this ordinance and Chapter XIII.
CHAPTER XIII - REQUIRED IMPROVEMENTS: INSTALLATION AND MAINTENANCE

A. What This Chapter Does. This chapter requires the installation of improvements in subdivisions, manufactured home parks, and other developments at the developer's expense, sets improvement standards, permits the phased installation of improvements pursuant to formal development agreements, and requires the perpetual maintenance of required improvements.

B. Required Improvements Defined. A required improvement is any improvement required for compliance with any absolute performance standard of this ordinance or to be assigned a score of “0” or better on any relative performance standard of this ordinance. Required improvements specifically include (but are not limited to): 1. any runoff and erosion control measures, including plantings, required in an approved runoff and erosion control plan; 2. any open space or recreational area or facilities required of a large scale development; 3. landscaped buffers and any other improvements required to mitigate a nuisance; 4. water, sewer, and other utilities, including any extension of lines required to serve the development; 5. off-street parking and loading areas; and 6. roads, including bridges, culverts, and street identification and traffic control signs.

C. Installation at Developer's Expense. The installation of all required improvements shall be at the developer's expense.

D. Standards for Required Improvements. All required improvements shall be installed in compliance with this ordinance and any design and engineering standards separately adopted by the county or other agencies responsible for providing services to the development.

E. 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:

   a. 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 drawings of the initial phase/s;

   b. identifies all required improvements in the initial phase/s and establishes their estimated cost;

   c. sets a schedule for the completion of the required improvements in the initial phase/s and an anticipated schedule for future phases;

   d. guarantees completion, repair, and one year's maintenance of all required improvements in the initial phase/s using one of the methods listed in XII.G and provides a process for the submission of detailed plans, cost estimates, and the guarantee of improvements in future phases;

   e. provides a process by which the county may, if necessary, complete required improvements using the guarantee/s provided;

   f. provides a process by which either party may request re-negotiation of the development agreement;

   g. provides a process by which the development agreement may be transferred, with county approval, to the developer's successors; and

   h. provides that the development agreement and any vested rights it confers shall be void if the county is required to "call" a guarantee to complete required improvements or if the anticipated schedule required by c., above, is not met or re-negotiated. The developer shall have the right to re-negotiate the anticipated schedule without losing vested rights, provided that such negotiations are initiated, by the developer, within 90 days after failure to initiate or complete a phase as scheduled.

   i. An "initial" phase is any phase anticipated to begin within 18 months. The anticipated schedule may set times for the initiation or completion of a phase in terms of reasonable ranges of no more than 12 months: i.e. Phase I will be completed between June 1992 and June 1993.

F. 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. All such rights expire with the development agreement. Development
agreements do not insulate developments from changes in state or federal regulations or changes in building and fire codes.

G. 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 county has inspected and accepted the required improvements. A development agreement may provide for the phased release of some 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 county 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 standing letter of credit for an amount equal to 110% of the estimated cost. The letter of credit shall be released only after the county has inspected and accepted the required improvements. If any required improvements are not completed as provided in the development agreement, the county shall use as much as necessary of the credit available to complete those improvements.

H. Inspection Fees. Fees for the inspection of required improvements shall be set by resolution of the county commissioners. Inspection fees shall be paid before any work on required improvements is permitted.

I. 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 county commissioners, 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.

J. As-Built Drawings. Reproducible as-built drawings of all subdivision improvements shall be provided to the county at the developer’s expense.

K. 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 and the development is offered for lease, sale, or occupancy, a warranty agreement shall be submitted for approval. Enforcement of the warranty shall be assured by:

1. retention of 10% of an escrow account established to comply with IX.G.;

2. a continuing letter of credit, as provided in IX.G., 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.

L. Continuing Maintenance Required. The continuing maintenance of any improvement required for compliance with these regulations shall be required. Failure to maintain any required improvement shall be a violation of these regulations.

M. Maintenance Mechanism. Any development subject to the continuing maintenance requirement of XII.L that results, or may reasonably be expected to result, in the creation of multiple ownerships (subdivisions, condominiums) shall create a community association or similar mechanism to assure continuing maintenance. The developer shall submit the proposed declaration of covenants, articles of incorporation, and by-laws for the community association with the application for a permit and these documents shall be approved by the county’s legal counsel and recorded before any certificate of compliance is issued.

EXCEPTION: Creation of a community association shall not be required where the only improvement provided is future access to adjoining parcels.

N. Open Space Maintenance. The maintenance of any open space area required for compliance with these regulations shall include fencing, where required; control of noxious weeds; litter removal; and wildfire suppression. Maintenance activities shall not diminish the open space values (wetlands, slopes, etc.) being protected.

O. Maintenance of Landscaping. Maintenance of landscaped areas includes the installation and maintenance of an irrigation system, timely irrigation, weed and pest control, and all other activities required to maintain the function of the landscaped area.
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CHAPTER XIV - DEFINITIONS

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

B. Rules of Interpretation. 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.

C. Absolute. A performance standard with which all developments must comply. See V.B.

D. Accessory. Accessory buildings and uses are those customarily associated with and clearly subordinate to a principal building or use that exists on the same lot or parcel.

E. Adjacent. Adjacent includes all lots or parcels that directly border a lot or parcel, and all lots or parcels separated from that lot or parcel by only a public or private easement or right-of-way, including roads, railroads, and irrigation canals.

F. Administrator. The county employee responsible for administration of this ordinance.

G. Agriculture. Includes all land uses in SLUC 81-83, but does not include game ranching or farming, which is commercial use (SLUC 7515).

H. Approach Surface. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope established above. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.

I. Arterial. Includes all state and federal highways and other major roads, as shown in the comprehensive plan.

J. Board. The Fremont County Board of Commissioners. The elected officials responsible for adoption of this ordinance.

K. Building. As used in this ordinance, refers to any structure. Includes liquid or gas storage tanks.

L. Building Bulk. Building bulk may be measured and compared in terms of floor area ratio (the total square footage of all floors as a percent of lot size).

M. Building Height. The vertical distance from mean natural grade to the highest point on a building. Building height excludes chimneys, vents, and antennae.

N. Buffer. A landscaped area along the perimeter of a site. Buffers are encouraged by this ordinance to help assure land use compatibility.

O. Certificate of Compliance. A certificate issued by the administrator upon completion and acceptance of all required improvements. See III.U.

P. Commercial. Includes all land uses in SLUC 4923 and 4924, 52-59, 61-69, 71-79, and 8221, except as follows: 1. SLUC 637, which shall be considered an industrial use category, or 2. any use in SLUC 639, 64, 66, 72-79, or 8221 which 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.

Q. Commission. The Fremont County Planning and Zoning Commission established by II.B. of this ordinance.

R. 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.

S. Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

T. County. Refers to Fremont County, Idaho.

U. Density. The number of dwelling units per gross acre. Gross acreage includes the entire development (roads, common open spaces, etc.). Density is not synonymous with lot size.
V. Development. Development is used as a generic term covering any and all activities for which a permit is required by this ordinance. The developer is, by definition, the owner of the parcel on which a development is proposed, but owners may appoint a representative for proceedings required by this ordinance.


X. 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. The base flood is the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the “100-year flood.”

Y. 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. The flood insurance study is the official report of the Federal Insurance Administration, including flood profiles, flood boundary maps, and the water surface elevation of the base flood.

Z. Floodplain. Refers to the special flood hazard areas defined and mapped by the Federal Emergency Management Agency.

AA. Foot-Candle. Foot-candles are measures of the amount of ambient light.

BB. Hazardous Substances. Any material regulated by EPCRA, as amended.

CC. Higher Density Residential. Refers to multiple-family dwellings, including apartments and condominiums, and mobile home parks.

DD. Home Occupation. A commercial or industrial activity conducted in a dwelling or a building accessory to a dwelling. Home occupations, by definition, comply with the performance standards of Appendix G.

EE. Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which, in plan view, coincides with the perimeter of the horizontal zone.

FF. I.C. I.C. refers to the Idaho Code, the state statutes.

GG. Industrial. Includes all land uses in SLUC 21-51, 637, and 82-89, plus any use defined as industrial by XII.O, except: 1. SLUC 4923 and 4924; and 2. SLUC 8221 (except where covered by IX.L.2.). Irrigation with industrial wastewater is an industrial use.

HH. Large Scale Development. See VI.JJ., VII.KK., or VIII.MM.

II. LESA. Acronym for Land Evaluation, Site Assessment. Refers to the cropland evaluation system used to define the term “productive cropland” in this ordinance.

JJ. Livestock. As used in the performance standards regulating livestock in residential areas, includes cattle, goats, horses, llamas, or sheep kept for personal pleasure or consumption. As used in the performance standards for livestock in residential areas. Does not include pigs.

KK. Lot. Lot is used as both as 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.

LL. Lowest Floor. The lowest floor of the lowest enclosed area, including the basement, of a building. An unfinished or flood resistant enclosure, usable solely for parking, building access, or storage, in an area other than a 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 Chapter X.

MM. 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 or more square feet, and which is designed to be placed on a permanent foundation, permanently connected to all required utilities, and used as a permanent dwelling unit. Within the Floodplain Overlay Zoning District, 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 (use of such vehicles as a residence is prohibited by this ordinance), but recreational vehicles, travel trailers, and similar vehicles or trailers are not manufactured homes for flood insurance purposes.
NN. Manufactured Home Park. Any lot or parcel on which there are spaces for occupancy by more than one manufactured home that will not be placed on a permanent foundation. Such spaces are normally rented or leased, but rental or lease is not necessary for the purposes of this definition.

OO. Minimize. For the purposes of these regulations, "to minimize" (as in the number of access points or impacts on visually sensitive areas) means to show that no alternative plan for the proposed development will result in a smaller impact.

PP. Minor Utility Installations. Includes cable television, electric power, and 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.

QQ. New Construction. Buildings for which the "start of construction" was on or after the effective date of this ordinance.

RR. Nonconforming. Describes any use or building that was in existence on the effective date of this ordinance, but that would not comply with one or more of its requirements if submitted for approval. See I.F.

SS. Obstruction. In the AOZD, any structure, growth, or other object, including any mobile object, which exceeds any height limitation established in Chapter IX.

TT. Occupancy. The use of a building or lot. Occupancies are classified using the Standard Land Use Coding System (SLUC). A minor change in occupancy is a change within the two-digit SLUC code or a change to any occupancy that has identical parking requirements and similar traffic generation potential, creates no additional signage, and, has, as determined by the administrator, similar or lesser impacts on neighboring land uses.

UU. Open Space Use. Use for passive or active recreation for the public or the occupants of a development. Use as a marketing feature for the development. Use to provide environmental amenities for occupants of a development, including views, attractive natural vegetation, and the presence of wildlife.

VV. Original Parcel. An original parcel of land is any parcel that existed on the effective date of this ordinance.

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

XX. Plat. The legal map of a subdivision. A plat amendment is a minor change in the lot arrangement or routing of rights-of-way or easements in a previously recorded subdivision plat. It may result in the consolidation of lots, but does not result in the creation of any additional lots or parcels, or the addition of land to the subdivision. Plat amendments are instituted by the recording of an amended plat following the process provided in III.H.

YY. Primary Surface. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface is 250 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

ZZ. Private Utilities. Cable television, electric power, natural gas, and telephone services.

AAA. Productive Cropland. Productive cropland shall be identified using the Fremont County LESA System. Productive cropland shall include all lands in those farmland subgroups identified by the Land Evaluation System as having an average productivity index of over 75 when irrigated or over 55 when nonirrigated, with sites being rated for their best potential, irrigated or nonirrigated. Sites with a Site Assessment System score of less than 15 shall not, however, be considered productive croplands.

BBB. Recreational Vehicle. As per I.C. 49-2801, a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for recreational or emergency occupancy.

CCC. Relative. A relative performance standard encourages or discourages a certain kind or level of performance in development activity. See V.D.

DDD. Replat. A replat is any change in an existing subdivision that adds land to the subdivision or creates a new road or parcel within an existing subdivision. The procedures for a replat are the same as for an original subdivision.

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EEE. Residential Care Facility. A residential facility in which care and/or protection is provided for the elderly, children, or adults under a license issued by the Idaho Department of Health and Welfare pursuant to the Child Care Licensing Reform Act, the Alcoholism and Intoxication Treatment Act, and similar authorities. This definition does not include halfway houses or any other detention facility.

FFF. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length. A utility runway is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less. A visual runway is intended solely for the operation of aircraft using visual approach procedures.

GGG. Setback. All setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

1. The front setback is measured from the lot line paralleling a public street to the principal building. Corner lots have two front yards, but may treat either as a side yard for the purposes of this ordinance, except where the adjacent street is an arterial.

2. The rear setback is measured from the rear lot line to the 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.

HHH. Single Family Dwelling. A detached building designed for occupancy by one family. Also includes group homes, as required by I.C. 67-6530, et. seq. Includes both conventional dwellings and manufactured homes 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. where available, are permanently connected to central utilities. Recreational vehicle and travel trailers are not single family dwellings, and shall not be used as such, but are included within the definition of "manufactured home" for the purposes of Chapter X.

III. Site Plan. A site plan is a scale drawing, or a series of such drawings, that 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, sidewalks, landscaped buffers, and other features of the site. Where an erosion and runoff control plan is required, the site plan must be prepared on a detailed (contour intervals of two feet) topographic base.

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

KKK. Solid Waste. Material being stored, packaged, or processed for ultimate disposal or recycling. For the purposes of this ordinance, the waste normally generated by a farming operation (crop stubble and residue, manure, etc.) is not solid waste until transported from the farm on which it was generated.


MMM. Special Flood Hazard Area. Land subject to a one percent or greater chance of flooding in any given year. Designation on Flood Insurance Rate Maps (FIRM) always includes the letters A or V.

NNN. 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 was 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 stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation, or erection of temporary forms; nor does it include installation of accessory buildings.

OOO. Stream Corridor. See VI.F., VII.F., and VIII.E. for dimensions and exceptions. This ordinance also establishes lakeshore corridors.
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include: off-site runoff and erosion control measures; fire-fighting water supplies; central sewerage systems; off-site road improvements such as deceleration or acceleration lanes, left turn lanes, signs or signals, and bridges or culverts; solid waste transfer stations; emergency services buildings and apparatus, including fire engines or ambulances; and neighborhood parks (including space used for recreational trails) at a rate of two acres per thousand population.

2. The public facilities needs of the 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 planners and/or engineers to conduct this study, the purpose of which shall be to determine what new facilities needs may be attributed to the proposed development. The large-scale development study process shall be conducted as follows.

a. The administrator shall determine whether a proposed development is a large-scale development upon the filing of an application for sketch plan review.

b. The administrator shall not schedule a hearing on an application determined to be for a large-scale development, but shall place the initiation of a large-scale development study on the agenda of the next regular commission meeting, along with the sketch plan review, and

c. The commission shall review the application at that meeting. If it confirms the administrator's determination, the commission shall direct the administrator to begin a large-scale development study.

d. Where a large-scale development study is required, the developer shall place a deposit with the county in the amount provided in the resolution establishing fees for administration of this ordinance. The administrator shall retain appropriate professional assistance for the study, drawing against the required deposit as necessary. All unused funds shall be returned to the developer upon completion of the study.

e. The application shall be considered complete and a hearing scheduled only after completion of the large-scale development study.

3. A large-scale development study shall:

a. project the additional need for public facilities that will be generated by the proposed development;

b. inventory the facilities that will serve the proposed development and their existing condition and capacity;

c. combine the projections and inventory to show what, if any, additional or improved facilities will be needed to serve the proposed development; and

d. estimate the costs of those additional or improved facilities. Where it is anticipated that new or improved facilities will also serve other developments (existing or new), the study shall calculate the fair proportional contribution of the large-scale development to the total costs of the new or improved facilities.

4. Large-scale developments shall also submit an estimated number of employees and show how housing will be provided for them.

Division 6 - Performance Standards for Residential Development Density

KK. Residential Development: Average Density. An average density is assigned to all undeveloped lands (unused portions of existing, occupied subdivision lots are not undeveloped lands) as shown in Table VI.3. Average density varies by land type. The number of acres of a particular land type within a development is divided by the average density to calculate the number of development rights permitted on that portion of the site. For example, 30 acres of stream or lakeshore corridor would be permitted three (3/10) development rights. The development rights permitted on each land type are then summed to yield the number of dwelling units per acre that may be constructed on a parcel pursuant to the Class I permit procedure, as provided in III.B.1. and III.H, or a Class II permit, as provided in III.B.3. and III.L, when no density bonus is requested or awarded. Any increase in density shall be by exception, as permitted by VI.LL, or the result of a density bonus, as provided by VI.NN.

LL. Residential Development: Exception to Average Density. One dwelling unit may be built on any undeveloped parcel that was in existence on the effective date of this ordinance, regardless of that parcel's size, if all requirements of the Class I permit procedure are fulfilled. Also, the development right (i.e. the one dwelling unit) assigned to such a parcel may be transferred. The acceptable proof of the prior existence of a parcel shall be actual separate ownership,
IV The Categories and Code Numbers

A. A STANDARD SYSTEM FOR IDENTIFYING AND CODING LAND USE ACTIVITIES—ONE- AND TWO-DIGIT LEVELS

<table>
<thead>
<tr>
<th>Code</th>
<th>Category</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Residential.</td>
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<tr>
<td>2</td>
<td>Manufacturing.</td>
</tr>
<tr>
<td>3</td>
<td>Manufacturing (continued).</td>
</tr>
<tr>
<td>4</td>
<td>Transportation, communication, and utilities.</td>
</tr>
<tr>
<td>5</td>
<td>Trade.</td>
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<td>6</td>
<td>Services.</td>
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<td>Cultural, entertainment, and recreational.</td>
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<td>8</td>
<td>Resource production and extraction.</td>
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<tr>
<td>9</td>
<td>Undeveloped land and water areas.</td>
</tr>
</tbody>
</table>

- 1 NEC—Not elsewhere coded.

- 2 Manufacturing.

- 26 Paper and allied products—manufacturing.
- 27 Printing, publishing, and allied industries.
- 28 Chemicals and allied products—manufacturing.
- 29 Petroleum refining and related industries.
- 30 Rubber and miscellaneous plastic products—manufacturing.
- 31 Stone, clay, and glass products—manufacturing.
- 32 Primary metal industries.
- 33 Fabricated metal products—manufacturing.
- 34 Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks—manufacturing.
- 35 Miscellaneous manufacturing, NEC.
- 36 Railroad, rapid transit, and street railway transportation.
- 37 Motor vehicle transportation.
- 38 Aircraft transportation.
- 39 Marine craft transportation.
- 40 Highway and street right-of-way.
- 41 Automobile parking.
- 42 Communication.
- 43 Utilities.
- 44 Other transportation, communication, and utilities, NEC.

- 51 Wholesale trade—building materials, hardware, and farm equipment.
- 52 Retail trade—general merchandise.
- 53 Retail trade—food.
- 54 Retail trade—automotive, marine craft aircraft, and accessories.
- 55 Retail trade—appliances and accessories.
- 56 Retail trade—furniture, home furnishings, and equipment.
- 57 Retail trade—eating and drinking.
- 58 Other retail trade, NEC.
- 59 Finance, insurance, and real estate services.
- 60 Personal services.
- 61 Business services.
- 62 Repair services.
- 63 Professional services.
- 64 Contract construction services.
- 65 Governmental services.
- 66 Educational services.
- 67 Miscellaneous services.
- 68 Cultural activities and nature exhibitions.
- 69 Public assembly.
- 70 Amusements.
- 71 Recreational activities.
- 72 Resorts and group camps.
- 73 Parks.
- 74 Other cultural, entertainment, and recreational, NEC.
- 75 Agriculture.
- 76 Agricultural related activities.
- 77 Forestry activities and related services.
- 78 Fishing activities and related services.
- 79 Mining activities and related services.
- 80 Other resource production and extraction, NEC.
- 81 Undeveloped and unused land areas (excluding noncommercial forest development).
- 82 Noncommercial forest development.
- 83 Water areas.
- 84 Vacant floor area.
- 85 Under construction.
- 86 Other undeveloped land and water areas, NEC.
PPP. **Structure.** Any object, including any mobile object, constructed or installed by man, including, without limitation, buildings, towers, cranes, smokestacks, earth formations, liquid storage tanks, and overhead transmission lines. For the purposes of this ordinance, synonymous with “building”. See XIII.

QQQ. **Subdivision.** Means any division of an original parcel of land, or any land so divided, which creates more than one additional or more contiguous or adjacent parcel containing 160 acres or less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed, and shall include any subdivision, replat or any condominium, or any area, regardless of its size, which provides or will provide multiple spaces for recreational camping, vehicles or manufactured homes. A subdivision requires a Class II permit (see III.B.3). Note that creation of a single parcel of 160 acres or less requires a Class I permit (see III.B.1).

RRR. **Substantial Improvement.** Repair, reconstruction, or improvement of a building, the cost of which equals or exceeds 50% 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 first 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.

SSS. **Transitional Surfaces.** These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TTT. **Tree.** For the purposes of Chapter IX, any object of natural growth.

UUU. **UBC.** Acronym for the Uniform Building Code published by the International Conference of Building Officials.

VYY. **Uplight.** Uplighting occurs when signs or structures are illuminated by a spotlight shining on them from below. Uplighting can be attractive in urban environments, but is a definite enemy of a night sky on which one can see the stars.

WWW. **Use.** See XIV.III.

XXX. **Vacation.** The process provided by state law (see I.C. 50-1306A) and this ordinance (see III.AA.) for the elimination of a recorded subdivision plat.

YYY. **Variance.** According to I.C. 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 provision 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.

ZZZ. **Vested Right.** The right to proceed with development under a previous set of regulations, or the right to proceed under this ordinance, pursuant to a development agreement. See I.E.

AAAA. **Visually Sensitive Area.** Visually sensitive areas are broadly delineated on the natural resource inventory maps prepared for the county, using the system developed by the U.S. Forest Service. The delineation is based on the view from major public roads and bodies of water. For the purposes of VIII.Y., visually sensitive areas shall be limited to those designated FG-1/A, FG-1/B, FG-2/A, FG-2/B, MG-1/A, MG-1/B, MG-2/A, and MG-2/B on the natural resource inventory maps. Regardless of their designation, however, areas platted before the effective date of this ordinance or designated as commercial areas or nodes by IV.E, shall not be considered visually sensitive.

BBBB. **Water Quality Vulnerability Area.** As explained in the comprehensive plan, those areas which past studies have identified as needing central sewerage to avoid surface and ground water pollution.

CCCC. **Wetlands.** Wetlands shall be as defined in the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

DDDD. **Wildlife Habitat.** Any area that provides the environmental factors required for the survival of a particular species of wildlife. Critical wildlife habitat includes all important habitat areas shown on the natural resource inventory maps prepared for the county, or other areas so identified by the Idaho Fish and Game Department.

EEEE. **Yard.** The area between the lot lines and the principal building created by the required setbacks.
APPENDIX A - DETAILED PERFORMANCE STANDARDS FOR SIGNS

1. Purpose. This appendix establishes regulations for the location, type, and size of signs permitted in South Fremont, North Fremont, and Island Park Zoning Districts. The performance standards for signs in the City of Island Park are different. See Appendix A.1.

Division 1 - Permit Requirements

2. Permit Required. A Class I permit shall be required for the placement or installation of any sign, including the replacement of any existing sign, except as provided in A.3. The location, type, and size of all proposed signs shall be included in applications for special use permits.

3. Exceptions to Permit Requirement. The signs listed here are not exempt from any requirement of this ordinance, except the requirement for a permit. No permit shall be required for the placement or installation of: a. residential nameplates; b. construction and real estate signs; c. political signs placed no more than 60 days before the election to which they relate and removed within 10 days after that election; d. window signs; or e. traffic control signs or public notices placed by public agencies.

Division 2 - Performance Standards

4. Placement of Signs. No sign shall be placed: a. in or over any public right-of-way, except as provided in A.5; b. on any tree, cliff, or other natural feature; or on a utility pole; c. on a vehicle or trailer parked in a visible location for the primary purpose of displaying the sign; or d. where it creates a traffic safety hazard by obscuring traffic control signs or signals or obstructing vision at intersections or driveways.

5. Signs in Public Rights-of-Way. No sign shall be placed in any public right-of-way, except traffic control signs and public notices placed by public agencies. No sign shall extend over a public right-of-way, except that awnings and projecting signs may extend up to four feet over a public sidewalk, and suspended signs may be extend over a public sidewalk that is covered by an arcade or canopy. Any sign extending over a public sidewalk shall have a minimum clearance of eight feet.

6. Permitted Signs. The following signs shall be permitted. All other signs are expressly prohibited.

   a. Traffic control signs or public notices placed by public agencies.

   b. For all uses:

      i. one nameplate of no more than four square feet for each dwelling or one cornerstone of no more than four square feet for each commercial or public building;

      ii. one real estate sign, of no more than four square feet, for each lot or building currently offered for sale, lease, or rent; and

      iii. political signs totalling no more than six square feet, provided that such signs are placed no more than 60 days before the election to which they relate and removed within 10 days after the election. A commercial use may display additional political signs within the limits established by this appendix.

      iv. Any dwelling may display one temporary sign of no more than four square feet announcing the short-term sale of used household goods (a garage or yard sale), provided that sign is 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 one year period.

      v. Home occupation signs, as permitted by Appendix G.

   c. For commercial uses:

      i. one construction sign of no more than six square feet, provided that the sign is not placed until construction begins and that it is removed within 30 days after the end of construction;

      ii. necessary on-site directional signs of no more than four square feet each,

      iii. window signs that occupy no more than 20% of any window, and
iv. any combination of the following kinds of signs, provided that the total sign area does not exceed 10% of the area of the principal building facade facing a road frontage: 1. wall signs; 2. suspended signs; 3. projecting signs with no more than 16 square feet per side; or 4. one ground or pole sign for each road frontage of no more than 25 feet in height and with no more than 24 square feet per side.

v. Awnings may display the logo of the owner or operator.

vi. Buildings with canopies or arcades may use one suspended canopy sign of no more than four square feet for each use or occupancy with access from the canopied area or arcade.

d. Commercial uses with no highway frontage may have two directional signs of no more than 12 square feet each.

7. Illuminated Signs. Signs with a constant source of illumination shall be permitted for commercial uses. No flashing, blinking, or moving signs are permitted. Spotlights or other fixtures used for the illumination of a sign shall be placed in compliance with the provisions of this ordinance prohibiting light or glare that constitutes a nuisance and shall not constitute a traffic hazard.

8. Identification of Signs. All off-site signs shall bear a weatherproof label identifying their owner, including the owner's name, mailing address, and telephone number. Identification labels may be attached to the sign or its supporting structure.

9. Maintenance of Signs. All signs and their supporting structures shall be maintained so as not to create a health or safety hazard.

10. Abandoned Signs. Abandoned signs shall be removed within sixty days of the adoption of this ordinance, or within 60 days of the abandonment of the use to which the sign is appurtenant. Abandonment shall not be a matter of the owner's intent, but shall be considered to occur whenever a use ceases registration for more than one year. Any sign that is not structurally sound or that no longer serves to inform or attract the public shall be considered abandoned and its removal required.

Division 3 - Sign Definitions

11. Area. The area of a sign shall be measured as the area of a straight line geometric figure defined by and including the extreme limits of the copy or message on the sign. Contrasting frames or borders shall be measured as part of the copy.

11. Definitions Consolidated. Definitions for Appendices A. and A.1 are the same. They appear in Appendix A.1.

12. Awnings. A fabric shelter supported by a rigid framework attached to a building.

13. Construction Signs. Ground or wall signs that identify a building under construction. They include no advertising or promotional copy, but identify the building's planned use, owner or operators, designers, construction contractors, and financing.

14. Directional Signs. a. On-site directional signs are used 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. They include no advertising or promotional copy, but may include a logo. b. Off-site directional signs identify and provide directions to an off-highway use. They include no advertising or promotional copy, but may include a logo.

15. Ground Sign. A freestanding sign that does not exceed eight feet in height above grade.

16. Home Occupation Signs. See Appendix C.

17. Logo. A logo is a simple graphic symbol used to identify a use or product.

18. Nameplate. Wall signs that identify the occupants and address of a residence.

19. Pole Signs. Freestanding signs that exceed eight feet in height above grade.

20. Projecting Signs. Are attached to the wall of a building and project away from that wall. Projecting signs extend no more than six feet from the building wall, but shall be limited to a projection of no more than four feet over a public sidewalk. Projecting signs do not extend above the roofline of the building to which they are attached.

21. Real Estate Signs. Wall signs or ground signs which indicate that the property on which they are placed is for sale, lease, or rent.
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22. Sandwich Signs. Small freestanding signs placed on a sidewalk.

23. 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. The following kinds of signs are defined for use in the administration of this ordinance:

24. Suspended Signs. Are attached to the ceiling of an arcade or canopy and hang over a sidewalk with a vertical clearance of at least eight feet.

25. Traffic Control Signs. Standard regulatory signs, including stop and yield signs, speed limit signs, etc.

26. Well Signs. Are either painted directly on the wall of a building or attached to the wall of a building, and parallel with the wall to which they are 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 roofline of the building to which they are attached.

27. Window Signs. Appear 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.

APPENDIX A.1 - DETAILED PERFORMANCE STANDARDS FOR SIGNS IN THE CITY OF ISLAND PARK

1. Purpose. This appendix establishes standards for the location, type, and size of signs permitted in the City of Island Park.

Division 1 - Permit Requirements

2. Permit Required. A Class I permit shall be required for the placement or installation of any sign, except as provided in A.1.3. The location, type, and size of all proposed signs shall be included in applications for special use permits.

3. Exceptions to Permit Requirement. The signs listed here are not exempt from any requirement of this ordinance, except the requirement for a permit. No permit shall be required for the placement or installation of:

a. residential nameplates or building cornerstones;

b. traffic control signs or public notices placed by public agencies;

c. the maintenance, repair, or replacement of a sign; or

d. certain temporary signs, as permitted by this appendix, including: i. signs advertising residential garage or yard sales; ii. construction and real estate signs; and iii. political signs. All other temporary signs must obtain a Class I permit.

Division 2 - Performance Standards

4. Placement of Signs. No sign shall be placed: a. in or over any public right-of-way, except as permitted in A.5.; b. on any tree, cliff, or other natural feature, or on a utility pole; c. on a vehicle or trailer parked in a visible location for the primary purpose of displaying the sign; or d. where it creates a traffic safety hazard by obscuring traffic control signs or signals or obstructing vision at intersections or driveways.

5. Signs in Public Rights-of-Way. No sign shall be placed in any public right-of-way, except traffic control signs and public notices placed by public agencies. No sign shall extend over a public right-of-way, except that awnings and projecting signs may extend up to four feet over a public sidewalk, and canopy signs may be extend over a public sidewalk that is covered by a canopy or arcade. Any sign extending over a public sidewalk shall have a minimum clearance of eight feet.

6. Permitted Signs. Signs shall be permitted as listed here. All other signs are expressly prohibited.

a. Public agencies may install traffic control signs or public notices needed to protect public health and safety, and to inform the public of official events, including the hearings required by this ordinance.

b. All uses may display the following signs:

i. one nameplate of no more than four square feet for each dwelling or one cornerstone of no more than four square feet for each commercial or public building;
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ii. one real estate sign, of no more than four square feet, for each lot or building currently offered for sale, lease, or rent; and

iii. political signs totaling no more than six square feet, provided that such signs are placed no more than 60 days before the election to which they relate and removed within 10 days after that election. A commercial use may display additional political signs within the limits established by this appendix.

iv. Any dwelling may display one temporary sign of no more than four square feet announcing the short-term sale of used household goods (a garage or yard sale), provided that sign is 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 one year period.

v. Home occupations may display one wall sign of no more than four square feet. This is in addition to the residential nameplate permitted by A.6.b.i.

c. Commercial uses may display the following signs:

i. one construction sign of no more than 32 square feet, provided that the sign is not placed until construction begins and that it is removed within 30 days after the end of construction;

ii. necessary on-site directional signs of no more than four square feet each;

iii. window signs that occupy no more than 20% of any window; and

iv. any combination of the following types of signs may displayed on each side of a principal commercial building, provided that the total sign area on each side does not exceed 10% 15% of the total area of the building wall on that side.

- wall signs (the entire sign area permitted may be used in one or more wall signs);

- one projecting sign for each side of the building that faces (parallels) a public right-of-way, with no more than 24 square feet per side;

- suspended signs, or

- canopy signs of up to four square feet per side, which may be used by occupants of buildings with canopies or arcades.

- The 15% sign coverage permitted for each side of a principal commercial building may be used ONLY on that side. It is not cumulative or transferable from one side of a building to another or to other buildings.

v. one freestanding sign for each commercial use of no more than 25 feet in height, with the maximum size of the sign calculated using Table A.1.1.

Table A.1 -1 Freestanding Sign Size

<table>
<thead>
<tr>
<th>frontage on a public right-of-way</th>
<th>maximum permitted sign area</th>
</tr>
</thead>
<tbody>
<tr>
<td>up to 200 linear feet</td>
<td>50 square feet per side</td>
</tr>
<tr>
<td>201-300 linear feet</td>
<td>75 square feet per side</td>
</tr>
<tr>
<td>over 300 linear feet</td>
<td>100 square feet per side</td>
</tr>
</tbody>
</table>

vi. Awnings may display the logo of the owner or operator.
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d. Temporary signs may be used to publicize special events, including, but not limited to, carnivals, festivals, charitable events, races, rodeos, sales, and grand openings. The use of temporary signs shall be limited to:
  
i. one sign for each activity, which may be a banner or a wall, window, or freestanding sign that ...
  
ii. has a maximum size of 50 square feet (which is in addition to the total permanent sign area permitted).
  
iii. Each use shall be permitted to display special event signs for a maximum of 45 days in any one calendar year.
  
e. Commercial uses with no highway frontage may have two directional signs of no more than 12 square feet each.

7. Illuminated Signs. Commercial uses may display signs with a constant source of illumination. No flashing, blinking, or moving signs shall be permitted. Spotlights or other fixtures used for the illumination of a sign shall be placed in compliance with the provisions of this ordinance prohibiting light or glare that constitutes a nuisance and shall not constitute a traffic hazard.

  
a. IX.F.S. (see the main text of this ordinance) encourages businesses to choose sign locations, types, designs, and materials that are consistent with the traditional resort character of the Island Park area, as described in The Island Park Guide to Commercial Development.
  
b. Sign materials should be chosen to minimize glare that may adversely affect neighboring uses or motorists. Signs that do not comply with the anti-glare performance standards of this ordinance are a public nuisance, subject to removal.

9. Identification of Signs. All off-site signs shall bear a weatherproof label identifying their owner, including the owner’s name, mailing address, and telephone number. Identification labels may be attached to the sign or its supporting structure.

10. Maintenance of Signs. All signs and their supporting structures shall be maintained so as not to create a health or safety hazard.

11. Nonconforming Signs. See I.F.

12. Abandoned Signs. Abandoned signs shall be removed within sixty days after the adoption of this ordinance, or within 60 days after the abandonment of the use to which the sign is appurtenant. Abandonment shall not be a matter of the owner’s intent, but shall be considered to occur whenever a use ceases operation for more than 18 months. Any sign that is not structurally sound or that no longer serves to inform or attract the public shall be considered abandoned and its removal required.

Division 3 - Sign Definitions

13. Area. The area of a sign shall be measured as the area of the simplest possible straight line or circular geometric figure that is defined by and includes the extreme limits of the copy, message, or graphics on the sign. Contrasting frames or borders shall be measured as part of the sign area.

14. Awning. An awning is a fabric shelter over a window or door that is supported by a rigid framework attached to the building. Awnings may be used to display a logo.

15. Banner. A banner is a sign made of fabric, plastic, or a similar lightweight material and hung from a building, a framework attached to a building, or hung from a pole, or suspended between poles. Banners are permitted as temporary signs in the City of Island Park.

16. Canopy Signs. Canopy signs are attached to the ceiling of an arcade or canopy, perpendicular to the building, and hang over a sidewalk with a vertical clearance of at least eight feet. See sign definition graphic appears here

17. Construction Sign. A construction sign is a wall or freestanding sign that identifies a building under construction. These signs include no advertising or promotional material, but identify the building’s planned use, owners or operators, designers, construction contractors, and financiers. Construction signs are permitted for a limited time.

Fremont County Development Code Appendices A-5
SIGN DEFINITIONS

Wall Sign

Projecting Sign

Free Standing Sign

Window Sign

Canopy Sign

Awning Sign

Directional Sign
18. Cornerstone. A cornerstone is an integral part of a commercial or public building that identifies the date of its construction, and may also include the building's name. See Art. 1.6.b.i.

19. Directional Sign.
   
   a. On-site directional signs are used 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. They include no advertising or promotional copy, but may include a logo. See Art. 1.6.c.
   
   b. Off-site directional signs identify and provide directions to an off-highway use. They include no advertising or promotional copy, but may include a logo. See Art. 1.6.c.

20. Flags or Pennants. Attention-getting devices attached to poles, wires, or ropes. These are signs, but are not permitted by this ordinance. This definition does not include the official national, state, or local flags.

21. Freestanding Sign. Freestanding signs are not attached to a building. This term includes pole signs, ground or monument signs, banners that are not attached to a building, and sandwich signs. Freestanding signs are permitted by Art. 1.6.c.v. and, on a temporary basis, by Art. 1.6.d.

22. Home Occupation Sign. A sign identifying a home business. See Appendix G.

23. Logo. A logo is a simple graphic symbol used to identify a business, use, or product.

24. Nameplate. A wall sign that identifies the occupants and/or address of a residence. See Art. 1.6.b.i.

25. Projecting Sign. Projecting signs are attached to a building and project away from that building. Projecting signs may extend up to six feet from the building, but shall be limited to a projection of no more than four feet over a public sidewalk. Projecting signs do not extend above the roofline of the building to which they are attached. See Art. 1.6.e.

26. Real Estate Sign. Real estate signs are wall signs or ground signs which indicate that the property on which they are placed is for sale, lease, or rent. Real estate signs are permitted for a limited time. See Art. 1.6.b.i.

27. Roofline. For the purposes of this appendix, the highest point on a building's roof.

28. Sandwich Sign. Sandwich signs are small self-supporting freestanding signs that are temporarily placed on a sidewalk, plaza, or other open area. Sandwich signs are permitted on a temporary basis by Art. 1.6.d.

29. 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.

30. Suspended Sign. Suspended signs are hung under the eaves of a building, parallel to the building wall.

31. Traffic Control Signs. Standard regulatory signs, including stop and yield signs, speed limit signs, etc., as shown in the Uniform Manual of Traffic Control Devices.

32. Wall Signs. A wall sign is either 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 roofline of the building to which they are attached. See Art. 1.6.e.

33. Window Signs. Window signs appear 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. See Art. 1.6.e.

Fremont County Development Code Appendices A-7
APPENDIX B - MODEL HEARING NOTICES

1. Purpose. The purpose of this appendix is to provide models for the hearing notices required by this ordinance.

2. Notice for Class II Permit Application Hearing.

PUBLIC HEARING NOTICE - CLASS II PERMIT

John and Jane Doe of P.O. Box 22, Jackson, WY 83001 propose to subdivide the SE 1/4, SW 1/4 of Section 37, T. 19 N., R 47 E.B.M. into 16 residential lots. The average density of this development will be 0.4 dwelling units per acre. The property is located on the north side of Pine Marten Road, approximately 1.4 miles east of Fool Hen Creek. The present land use is pasture.

The Fremont County Planning and Zoning Commission will conduct a hearing on this proposal at 8:00 P.M., Monday, March 1, 1994 at the County Courthouse in St. Anthony. A copy of the application is available for public review at the Fremont County Planning Administrator's Office. Public comment is encouraged.


PUBLIC HEARING NOTICE - VARIANCE

Mr. and Mrs. J. Doe of P.O. Box 50999, Idaho Falls, ID 83405 have applied for a variance of Section ???.?? of the Fremont County Development Code. This proposed variance would permit a 12 foot encroachment in the required stream corridor setback along Turkey Creek. This proposed encroachment would permit construction of a deck attached to the cabin located on Lot 6 of the Gobbler Subdivision. The property is located on the east side of Cranberry Drive, 0.3 miles from the intersection of Cranberry Drive and the Turkey Creek Highway.

The Fremont County Planning and Zoning Commission will conduct a hearing on this proposal at 8:20 P.M., Monday, March 1, 1994 at the County Courthouse in St. Anthony. A copy of the application is available for public review at the Fremont County Planning Administrator's Office. Public comment is encouraged.
APPENDIX C - IDAHO ATTORNEY GENERAL'S TAKINGS CHECKLIST CRITERIA

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 context of specific affected property. The public review process used for evaluating proposed regulations is another tool that the agency should use aggressively to safeguard rights of private property owners. If property is subject to regulatory jurisdiction of multiple government agencies, each agency should 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 should carefully review the proposed action with legal counsel.

1. Does the Regulation or Action Result in a Permanent or 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).

2. 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 should be reasonably related to the adverse impacts created by the development. A court will also consider whether the action in question substantially advances a legitimate state interest.

For example, the United States Supreme Court determined in Nollan v. California Coastal 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 v. City of Tigard, 114 U.S. 2309 (1994).

3. 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 limitations on the use of the property. See Lucas v. South Carolina Coastal 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 not 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. United States, 18 F.3d 1560 (Fed. Cir. 1994). The remaining use 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.

Carefully review regulations requiring that all of a 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.

4. 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 reduction 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 5. above, these economic factors are normally applied to the property as a whole.
5. 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 others 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. The 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. 2309 (June 24, 1994). The United States Supreme Court has also held that barring the inheritance (an essential attribute of ownership) of certain interests in land held by individual members of an Indian tribe constituted a “taking.” Hodel v. Irving, 481 U.S. 704 (1987).

6. 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 it does not substantially advance a legitimate governmental purpose. Nollan v. California Coastal Commission, 107 S. Ct. 3141 (1987); Dolan v. City of Tigard, 114 U.S. 2309 (June 24, 1994).

In Nollan, 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 no 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, and the permit 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 takings. The greater the deprivation of use, the greater the likelihood that a “taking” will be found.
1. **Purpose.** The purpose of this appendix is to provide ordinance users with a copy of a section of the Idaho Code for reference purposes.

2. **I.C. 31-3805, Delivery of water.** (1) When either a subdivision within the meaning of Chapter 13, Title 50, Idaho Code, or a subdivision subject to a more restrictive county or city zoning ordinance is proposed within the state of Idaho, and all or any part of said subdivision would be located within the boundaries of an existing irrigation district or other canal company, ditch association, or like irrigation water delivery entity, hereinafter called "irrigation entity" for the purposes of this section, no subdivision plat will be accepted, approved, and recorded unless:

   (a) The water rights appurtenant and the assessment obligation of the lands in said subdivision which are within the irrigation entity have been transferred from said lands or excluded from an irrigation district by the owner thereof; or by the person, firm, or corporation filing the subdivision plat; or

   (b) The owner or person, firm or corporation filing the subdivision plat has provided for underground tile or other like satisfactory underground conduit to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity, with the following appropriate approvals:

      (i) For proposed subdivisions within the incorporated limits of a city, the irrigation system must be approved by the city zoning authority and the city council with the advice of the irrigation entity charged with the delivery of water to said lands.

      (ii) For proposed subdivisions located outside incorporated cities but within one (1) mile outside the incorporated limits of any city, both city and county zoning authorities and city council and county commissions must approve such irrigation system in accordance with section 50-1306, Idaho Code. In addition, the irrigation entity charged with the delivery of water to said lands must be advised regarding the irrigation system.

      (iii) For proposed subdivisions located in counties with a zoning ordinance, the delivery system must be approved by the appropriate county zoning authority, and the county commission with the advice of the irrigation entity charged with the delivery of water to said lands.

      (iv) For proposed subdivisions located in counties without a zoning ordinance, such irrigation system must be approved by the irrigation entity charged with the delivery of water to said lands.

   (2)(a) In the event that the provisions of either subsections (1)(a) or (1)(b) of this section have not been complied with, the assessments of the irrigation entity for operation, maintenance, construction, and other valid charges permitted by statute shall in no way be affected. However, any person, firm or corporation or any other person offering such lots in such subdivision for sale, or selling such lot shall, prior to the sale, advise the purchaser in writing as follows:

      (i) that water deliveries have not been provided; and

      (ii) that the purchaser of the lot must remain subject to all assessments levied by the irrigation entity; and

      (iii) that the individual purchaser shall be responsible to pay such legal assessments; and

      (iv) that the assessments are a lien on the land within the irrigation entity; and

      (v) that the purchaser may at a future date petition the appropriate irrigation entity for exclusion from the irrigation district.

   (b) A disclosure statement executed by the purchasers and duly acknowledged, containing the representations required in this subsection of this section, shall be obtained by the seller at the time of receipt of the earnest money from the purchaser, and affixed to the proposed sales contract and a copy thereof shall be forwarded to the appropriate irrigation entity.

3. **I.C. 31-3806, Civil Action to enforce.** (1) If the owner of the property, or the person, firm or corporation filing the subdivision plat fails to comply with either subsection (1)(a) or (1)(b) of Section 31-3805, Idaho Code, prior to sale of lots in the subdivision to purchasers, the owner of the property, or the person, firm or corporation filing the subdivision plat shall be liable to any purchaser for the costs of the lot’s exclusion plus all assessments due and owing of the actual cost of installation of an irrigation delivery system not to exceed one thousand five hundred dollars
($1,500) per lot. The purchaser shall have a right to enforce this obligation in a civil action and the purchaser shall have the right to elect exclusion or installation of the system in such action.

(2) Any person, firm or corporation who shall omit, neglect, or refuse to provide the purchaser or the irrigation district within whose boundaries the land is located, a copy of the disclosure statement required by subsections (2)(a) and (2)(b) of section 31-3805, Idaho Code:

(a) Shall be liable to the purchaser as provided in subsection (1) of this section.

(b) Shall be liable to the irrigation district for its reasonable expense, including employee time, of locating the purchaser and providing the information required in the form and for advising affected purchasers of the lack of a water delivery system and for any assessments on the property that are past due at the time of discovery of the violation. The irrigation district affected shall have a right to claim such expenses in a civil action.

(3) In any civil action filed under subsection (1) or (2) of this section, the prevailing party shall be awarded its reasonable costs and attorney's fees and the purchaser and irrigation district shall have two (2) years from the date of discovery of the violation to initiate any action.
APPENDIX E - MODEL RESOURCE MANAGEMENT EASEMENT

1. Purpose. This appendix provides a model for the resource management easements required in the South and North Fremont Zoning Districts.


("Grantors") are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Fremont County, dated (date), approving a (Class I/Class) 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 an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include 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 conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantors' use of Grantors' property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with 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 the heirs, successors, and assigns of Grantors 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 Grantors have executed this easement on (date).

(signature), Grantor

STATE OF IDAHO
County of Fremont

This instrument was acknowledged before me on (date) by (grantors)

(signature), Notary Public, My Commission Expires (date)
APPENDIX F - DETAILED PERFORMANCE STANDARDS FOR NOISE

1. Maximum Sound Levels. No development that create excessive levels of sound beyond its property line shall be permitted. Excessive sound, measured at the property line of the receiving use, exceeds the standards of Table F.1.

Table F.1. - Detailed Performance Standards for Noise

<table>
<thead>
<tr>
<th>receiving use</th>
<th>MAXIMUM SOUND LEVEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>residential</td>
<td>60 dBA, 7:00 A.M. to 10:00 P.M.</td>
</tr>
<tr>
<td></td>
<td>50 dBA, 10:00 P.M. to 7:00 A.M.</td>
</tr>
<tr>
<td>commercial, industrial</td>
<td>70 dBA, any time</td>
</tr>
</tbody>
</table>

Note: "dBA" is the measure of sound levels in A-weighted decibels.

2. Applicability. This performance standard applies to sounds generated by the occupancy or operation of a development, including sound generated by the operation of trains, motor vehicles, and heavy equipment on the site. It does not apply to the movement of trains on existing railroad rights-of-way, the movement of motor vehicles on public roads, the operation of farm machinery, the operation of watercraft, or other sources of noise that are not attributable to a particular development.

3. Temporary Exception. The maximum sound levels of Table 2 may be exceeded by temporary construction and maintenance activities, but any excessive noise generated by such activities shall be restricted to the hours between 7:00 A.M. and 10:00 P.M.
APPENDIX G - DETAILED PERFORMANCE STANDARDS FOR HOME OCCUPATIONS

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

2. Maximum Floor Area. Home occupations may be located within dwellings or accessory buildings, but no home occupation shall occupy a floor area larger than that of the dwelling to which it is accessory.

3. Nonresident Employees. No home occupation shall have more than one employee who is not a member of the resident family.

4. Off-Street Parking. Home occupations shall provide off-street parking for all employees and any vehicles associated with the home occupation in compliance with the requirements of Appendix J.

5. Outdoor Storage. The storage of any materials or solid waste associated with a home occupation shall be:
   a. within an enclosed structure, or
   b. within an area that is effectively screened from public view.

6. Signs. Home occupations shall display only the following signs:
   a. one nonilluminated wall sign of no more than six square feet, and
   b. one nonilluminated on-site directional sign of no more than four square feet.

7. Residential Care Facilities.
   a. To qualify as a home occupation, a residential care facility must have eight or fewer residents and two or fewer resident staff.
   b. Residential care for the elderly, children's institutions, as defined by the Child Care Licensing Reform Act, and similar home occupations shall be certified or licensed as required by law.
APPENDIX H - DETAILED PERFORMANCE STANDARDS FOR GRAVEL MINING

1. Purpose. The purpose of this appendix is to provide reasonable assurance that future gravel mining operations will not adversely affect neighboring uses.

2. Road Capacity. No gravel mining shall be permitted where existing roads or bridges do not have adequate capacity to support the anticipated truck traffic.

3. Buffer Required. Wherever a proposed gravel mine is within 660 feet of an existing residence or a platted residential subdivision, a buffer area of at least 50 feet shall be provided between all operating areas of the mine, including parking, storage, etc., and the existing residence or residential subdivision. No existing vegetation that has buffering capacity shall be removed from a required buffer.

4. Operating Hours. Wherever a proposed gravel mine is within 660 feet of an existing residence or a platted residential subdivision, mining operations shall be limited to the daylight hours. The noise level at the property line shall be limited to 70 dBA, L-10.

5. Groundwater Protection. No gravel mine shall penetrate an aquifer. A variance of this performance standard may be considered, but only where a professionally-prepared plan for the prevention of aquifer pollution is implemented. Any such plan shall, at a minimum, require the diversion of surface runoff from the excavation, the installation and maintenance of vegetative filter strips around the excavation, and the minimization of the area of aquifer surface exposed at any one time.

6. Reclamation. The reclamation plan (reclamation plans are required by I.C. 47-1501, et. seq.) for the gravel mine shall show how the site will be reclaimed to a condition where it can be used for a compatible use. Reclamation that fulfills the requirements of state law shall generally be acceptable outside areas of city impact. In those areas of city impact, where there is a comprehensive plan, the reclaimed site shall be suitable for a use permitted by that plan.
APPENDIX I - DETAILED PERFORMANCE STANDARDS FOR BUFFERING

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

2. Minimum Buffer Requirements. The width of required buffers shall vary with the nature of the uses being separated, the height of the buildings being separated, and the construction of the buffer, as shown in Table I.1. shows. The basic buffer width given in that table is the width required where the buffer consists of a level or gently sloping area 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.

3. Height Adjustment. The basic buffer width shall be increased by the height adjustment factor, where one is established by Table I.1. The height adjustment factor is a ratio expressing the number of feet that must be added to the basic buffer width for each foot in height over 25 feet of the principal building being buffered.

4. 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.

5. 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 by this section are cumulative and may result in a total reduction of up to 30%. The buffer width reductions permitted by I.4. are also cumulative with those permitted here.

   a. 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.

   b. Understory Trees. The required buffer width shall be reduced by 10% where five or more understory trees per hundred lineal feet are planted or retained.

   c. Shrubs. The required buffer width shall be reduced by 10% where 20 or more shrubs per hundred lineal feet are planted or retained.

6. 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 I.4. and/or I.5.

7. Buffer Crossings/Inclusions. Buffers may be crossed by access driveways, utility lines, sidewalks, and pedestrian trails. A sidewalk or pedestrian trail may also run along the length of a buffer, with its width, up to a maximum five feet, being included in the required buffer width. Buffers may also include permitted signs.

8. Plant Materials Specifications. Plant materials installed in required buffers shall be warranted for one year and meet the following specifications:

   a. all trees, major and understory, shall be containerized or bagged and burlapped stock in good condition with a caliper of at least 1.5 inch, measured one foot above grade, for deciduous trees, and a height of at least six feet for coniferous trees; and

   b. all shrubs shall be minimum one gallon containerized stock in good condition.

9. Maintenance. Perpetual maintenance of required buffers is required by XIII.O.
TABLE 1.1 - BUFFERING REQUIREMENTS

<table>
<thead>
<tr>
<th>type of development</th>
<th>type of development or area</th>
<th>basic buffer width (feet)</th>
<th>height adjustment</th>
<th>headlight buffer?</th>
<th>security fence required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>industrial</td>
<td>residential, platted residential lots</td>
<td>50</td>
<td>1:1</td>
<td>for parking</td>
<td>yes</td>
</tr>
<tr>
<td>industrial</td>
<td>any public way</td>
<td>12</td>
<td>none</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td>industrial or commercial</td>
<td>adjoining visually sensitive area</td>
<td>50</td>
<td>1:1</td>
<td>no</td>
<td>no</td>
</tr>
<tr>
<td>commercial</td>
<td>residential, platted residential lots</td>
<td>20</td>
<td>.75:1</td>
<td>for parking</td>
<td>no</td>
</tr>
<tr>
<td>commercial outdoor materials</td>
<td>storage, handling, or sales areas, over 10,000 SF</td>
<td>residential, platted residential lots</td>
<td>50</td>
<td>none</td>
<td>yes</td>
</tr>
<tr>
<td>commercial outdoor materials</td>
<td>storage, handling, or sales areas, any size</td>
<td>any public way</td>
<td>12</td>
<td>none</td>
<td>no</td>
</tr>
<tr>
<td>higher density residential</td>
<td>lower density residential, platted residential lots</td>
<td>20</td>
<td>.80:1</td>
<td>for parking</td>
<td>no</td>
</tr>
<tr>
<td>residential</td>
<td>visually sensitive area</td>
<td>20</td>
<td>none</td>
<td>none</td>
<td>no</td>
</tr>
</tbody>
</table>

SF = square feet. Where requirements overlap the strictest applies.
APPENDIX J - DETAILED PERFORMANCE STANDARDS FOR
OFF-STREET PARKING AND LOADING

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

2. Off-Street Parking Required. All buildings and uses shall provide the minimum number of off-street parking spaces required by Table J.1. Parking spaces shall have graded and drained gravel or paved surfaces.

3. Off-Street Parking Requirements for Uses Not Listed. The classification of uses and the off-street parking requirements for uses not listed in Table J.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 III.

4. 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: a. the total number of spaces provided is not less than the sum of the parking spaces required for all buildings or uses served, and b. a contract providing for shared parking for a period of 10 or more years is executed before approval of a permit and recorded before issuance of a certificate of compliance. 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 unit, which shall be within 100 feet of the unit served.

5. 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 a. be divided from the road by a curbed barrier of at least four feet in width; b. be at least 60 feet in length and 12 feet wide; c. accommodate one way traffic only; d. include a depressed curb section for handicapped access; and e. be marked by pedestrian crossing signs facing both traffic lanes.

6. Off-Street Loading Areas.

a. Agricultural Storage Facilities. Certain agricultural storage facilities, like potato cellars generate substantial traffic during harvest, and may affect the flow of traffic on public roads. Setting specific setback or loading area standards for such uses is difficult, but all proposals for Class I permits for new agricultural storage facilities shall include an on-site circulation plan showing how trucks will flow through the site and demonstrating that potentially adverse impacts on public roads will be minimized. Where storage facilities are part of a commercial or industrial development, the circulation plan must be submitted with the application for Class II permit review.

b. Commercial and Industrial Uses. All commercial and industrial buildings and uses, except those to which a. applies, shall provide one safe, properly signed off-street loading area for each 10,000 square feet of gross floor area. Off-street loading areas shall: a. be on the same lot and under the same ownership as the building or use they serve, b. be designed to accommodate the largest vehicle that may reasonably be anticipated for use on the site, and c. have the following minimum dimensions: i. vertical clearance: 14 feet; ii. width: 12 feet; and iii. depth (length): 35 feet. No vehicle parked in a required off-street loading space shall extend into a public right-of-way.

7. 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.

a. 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 onto a public road.

b. Parking and loading areas shall be sited and designed to minimize the number of access points to arterial roads.

c. No access driveway 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 nearest side of the driveway.

d. No access driveway to an arterial road shall be within 60 feet of its intersection with any local street, or 200 feet of its intersection with another arterial.

e. Clear vision triangles shall be provided for all access driveways, as described in Appendix K.10.

Fremont County Development Code Appendices J-1
### TABLE J.1 – MINIMUM OFF STREET PARKING REQUIREMENTS FOR RESIDENTIAL, RETAIL, AND SERVICE USES

<table>
<thead>
<tr>
<th>land use</th>
<th>parking spaces</th>
<th>land use</th>
<th>parking spaces per 1000 feet of gross floor area</th>
</tr>
</thead>
<tbody>
<tr>
<td>dwellings (SLUC 11, 14)</td>
<td>2 per unit</td>
<td>retail automotive, marine (SLUC 55)</td>
<td>5</td>
</tr>
<tr>
<td>lodging places (SLUC 15)</td>
<td>1 per unit plus 1</td>
<td>eating and drinking places (SLUC 58)</td>
<td>15</td>
</tr>
<tr>
<td>theaters and similar places of assembly (including SLUC 72)</td>
<td>.33 per seat</td>
<td>financial, real estate, and insurance services (SLUC 61)</td>
<td>3</td>
</tr>
<tr>
<td>elementary and junior high schools</td>
<td>1 per classroom plus 1, (auditoriums used for public events are places of assembly)</td>
<td>beauty and barber services (SLUC 623)</td>
<td>6</td>
</tr>
<tr>
<td>hospitals, rest homes, and similar uses (SLUC 6513, 6516)</td>
<td>2 per bed</td>
<td>other personal services, misc. services (SLUC 62, 69)</td>
<td>3</td>
</tr>
<tr>
<td>building materials, farm equipment, and furniture (SLUC 5211-5240, 5252, 57)</td>
<td>1</td>
<td>health services, except hospitals (SLUC 51)</td>
<td>5</td>
</tr>
<tr>
<td>hardware, apparel, and misc. retail uses (SLUC 5251, 56, 59)</td>
<td>3</td>
<td>professional services (SLUC 65)</td>
<td>3</td>
</tr>
<tr>
<td>general merchandise, groceries, bakeries (SLUC 53, 54)</td>
<td>4</td>
<td>shopping centers</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>mixed office uses</td>
<td>3</td>
</tr>
</tbody>
</table>

Notes: 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 not have fixed seating, one space shall be provided for each 25 square feet of assembly area. Off street parking requirements for different uses in the same building shall be calculated separately.
DRAFT OF 12/96

f. Access driveways for single family dwellings shall be a minimum of 10 feet wide, with a curb radius of five feet. Access driveways for other uses shall be designed to accommodate the reasonably anticipated level of use. No access driveway shall approach a public road at a grade of more than 12%.

g. Where required for drainage, access driveways shall be constructed over a minimum 12 inch culvert capable of supporting a load of 40,000 pounds.

8. 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.

   a. Minimum aisle widths shall be: i. for two-way circulation and/or 90 degree parking: 24 feet; ii. for one-way circulation and 60 degree angle parking: 18 feet; iii. for one-way circulation and 45 degree angle parking: 15 feet; and iv. for one-way circulation and 30 degree angle parking: 13 feet.

   b. Where one-way circulation is used, directional signs shall be installed at all access points to the parking area.

   c. No parking area shall be designed so that circulation from one portion of the area to another relies on a public street.

9. Protecting Pedestrians in Off-Street Parking and Loading Areas. There shall be safe pedestrian access around or through all parking and loading areas.
DRAFT OF 12/96

APPENDIX K - DETAILED PERFORMANCE STANDARDS FOR
THE DESIGN AND CONSTRUCTION OF ROADS

1. Purpose. The purpose of this appendix is to provide standards for the construction or reconstruction of roads. These standards are for 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.

2. Large-Scale Development. Any requirement of this appendix may be altered as a result of a large-scale development study required by this ordinance.

Division 1 - Street Design

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

TABLE K.1 – LOCAL ROAD STANDARDS

<table>
<thead>
<tr>
<th>slope</th>
<th>units served</th>
<th>minimum right-of-way width</th>
<th>minimum surface width</th>
<th>maximum cul-de-sac length</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-8%</td>
<td>&gt;16</td>
<td>60 feet</td>
<td>24 feet</td>
<td>660 feet</td>
</tr>
<tr>
<td>0-8%</td>
<td>&lt;16</td>
<td>60 feet</td>
<td>24 feet, 16 feet one way</td>
<td>880 feet</td>
</tr>
<tr>
<td>8-15%</td>
<td>&gt;16</td>
<td>40 feet</td>
<td>20 feet two-way, 16 feet one way</td>
<td>660 feet</td>
</tr>
<tr>
<td>8-15%</td>
<td>&lt;16</td>
<td>40 feet</td>
<td>16 feet with pull-outs every 400 feet</td>
<td>880 feet</td>
</tr>
<tr>
<td>&gt; 15%</td>
<td>any number, construction discouraged</td>
<td>40 feet</td>
<td>14 feet, with pull-outs every 400 feet</td>
<td>660 feet</td>
</tr>
</tbody>
</table>

Notes: "Slope" refers to the slope on which the road is proposed, not to the grade of the road itself. Where one-way circulation systems are used, the developer shall install "one-way" and "do not enter" signs in the appropriate locations at all intersections.

4. Right-of-Way Treatment. The entire required right-of-way should not be cleared. Grading should be confined to the minimum area necessary for construction of a properly drained road surface. Where a road passes through timber or brushy vegetation that creates a wildfire hazard, the entire right-of-way shall be treated as a fuel reduction area where trees or brush are thinned to a density where crowns do not overlap or touch and ladder fuels are removed. Construction slash shall be removed from the right-of-way along with other fuels.

5. Surface Construction. Road surfaces shall be laid over a properly compacted subgrade and consist of: a. a subbase of a minimum six inches of coarse aggregate; and b. a base of a minimum two inches of crushed coarse aggregate. Roads may be paved, but paving is not required by this ordinance.

6. 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 drainageways shall be reseeded after construction.

7. Maximum Grade. The maximum grade of any road shall be eight percent, except at intersections. See K.11.

8. Culs-De-Sac. Culs-de-sac may be used, with the maximum length permitted by Table K-1 and a radius of 60 feet. Other 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.

9. Minimum Centerline Radius of Curves. The minimum centerline radius of curves shall be 100 feet.

Division 2 - Intersection Design

10. Clear Sight Distance. Clear vision triangles shall be provided as follows:
   a. at intersections: the clear vision triangle includes the area defined by extending a line between two points, one on each lot line paralleling the road, each of which is 30 feet from the lot corner at the intersection; and
   b. 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 road, 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.
   c. No solid fence or wall, planter, hedge, shrub, or other visual obstruction more than three feet in height above the grade of the adjoining roads shall be permitted within a clear vision triangle.
   d. No parking shall be permitted in a clear vision triangle.
   e. Trees shall be permitted in clear vision triangles, but only if all branches are removed to a height of at least seven feet above grade.

11. Grade at Intersection. The maximum grade at, and within 50 feet along both approaches to, any intersection shall be three percent.

12. Alignment of Intersection. All intersections shall be at a 90° angle, ±5° with both approaches running at 90°, ±5°, for at least 50 feet before the intersection.

13. Minimum Centerline Offset of Intersections. Intersections shall either be aligned, or the minimum centerline offset of intersections between them shall be 125 feet, except for intersections with arterials, where it shall be 200 feet.

14. 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 development.

Division 3 - Additional Standards

15. 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.
   a. All bridges and culverts on natural watercourses shall be designed to pass a 100-year flood without damage to the bridge or its approaches, without diverting floodwaters onto neighboring properties, and without increasing the level of the base flood downstream.
   b. 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.
   c. Culverts not included in K.15.a. shall be designed to pass the runoff from the 10 year, 6 hour storm.
   d. All culverts and bridges shall be designed to support a minimum gross vehicle load of 40,000 pounds.
   e. There shall be a minimum 50-foot, 90° approach to all bridges.
APPENDIX L - DETAILED PERFORMANCE STANDARDS FOR
THE PLATTING OF LOT SPLITS AND SUBDIVISIONS

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

Division 1 - Preliminary Plats

2. Preliminary Plat Part of Application. A preliminary plat is one part of the application for a Class II permit to subdivide (see III.I. of this ordinance) and shall accompany the official application form and all other materials required for a complete application.

3. 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 development will be phased or occur in the form of multiple subdivisions over several years. An application for a subdivision permit may be rejected as incomplete solely because it covers insufficient area.

4. Contents of Preliminary Plats. Preliminary plats shall include:

   a. 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;

   b. the name, address, and registration number of the engineer or land surveyor who prepared the preliminary plat;

   c. a north point and both graphic and written scales;

   d. 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;

   e. the location, 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 or easements;

   f. the location and size of all existing utility lines in or adjacent to the proposed subdivision;

   g. the exterior boundaries of the proposed subdivision;

   h. the location, exterior dimensions, and number of proposed lots and blocks, or other parcels created by the subdivision;

   i. 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;

   j. the names of all proposed streets and widths and boundaries of all proposed street rights-of-way and utility easements;

   k. the location of all irrigation structures, watercourses, and wetlands within or adjacent to the proposed subdivision;

   l. 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; and

   m. any other information required by this ordinance.

5. Scale and Dimensions. Preliminary plats shall be prepared at a scale of one inch equals one hundred feet, with 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.

Fremont County Development Code Appendices L-1
6. 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:

a. 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;

b. 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;

c. a north point and both graphic and written scales;

d. 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;

e. the point of beginning for the subdivision survey, which shall be a section or quarter section corner;

f. the location and a description of all existing monuments found during the course of the survey;

g. 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;

h. the exterior boundaries of the subdivision, with all bearings and distances, including curve data for curving boundaries;

i. 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;

j. the location and a description of all monuments established during the course of the survey;

k. 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;

l. 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;

m. the names of all streets and widths and boundaries of all street rights-of-way and utility easements, including bearings and distances and curve data for curving boundaries;

n. 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;

o. a public notary's acknowledgment of the owner's certificate;

p. a signed and dated certificate of consent in which all mortgagors, lienholders, and other parties with any real property interest, including the holders of mineral rights, in the property consent to its subdivision;

q. a public notary's acknowledgment of the certificate of consent;

r. a certificate for signature by the county assessor and county treasurer, stating that the plat properly describes the property being divided and that all real property taxes due on the land being subdivided have been paid;

s. certificates for plat approval by the commission and board;

t. a statement of "sanitary restriction", as required by I.C. 50-1326;

u. a certificate for use by the county recorder in recording the plat after its approval; and

v. any other information required for compliance with this ordinance.
7. 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 sheets 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.

8. Copy. The developer shall also provide the county with one reproducible copy of the final plat suitable for photographic reproduction and reduction.

Division 3 - Plat Amendments

9. Plat Amendments. Plat amendments should be submitted in substantially the same form as a final plat (see Division 2 of this appendix).

a. The amendment plat shall be clearly identified as such.

b. The amendment plat shall show the dimensions and acreage of all parcels that have been modified. New parcels may not be created by amendment.

c. The amendment plat shall include a key. That key shall show all changes made as an overlay over the final plat originally recorded.

d. The certificate of consent (see L.5.p.) must be signed by all owners of record affected by the amendment.

e. Plat amendments are reviewed by the administrator rather than the commission before being presented to the board. The certificates of approval (see L.5.s) should be for the administrator and the board.
This ordinance shall be in full force and effect, THIRTY (30) days after its passage and publication, all as provided by law.

PASSED THIS ___ DAY OF ______, 1997, BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO.

GRANT CHANDLER, CHAIRMAN

ATTEST:

MICKIE FUNKE, CLERK