

HAILEY ORDINANCE NO. 821

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, REPEALING IN ITS ENTIRETY HAILEY ORDINANCE NO. 698, HAILEY'S PREVIOUS SUBDIVISION ORDINANCE, AND ADOPTING AND PROVIDING NEW COMPREHENSIVE REQUIREMENTS, REGULATIONS, AND PROCEDURES GOVERNING THE SUBDIVISION OF PROPERTY, INCLUDING PLATTING, REPLATTING, AND RECORDATION OF SUBDIVISION PLATS; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCEDURE; PROVIDING FOR ISSUANCE OF PERMITS; PROVIDING FOR DEVELOPMENT STANDARDS; PROVIDING FOR REQUIRED IMPROVEMENTS; PROVIDING FOR LOT LINE ADJUSTMENTS; PROVIDING FOR CONDOMINIUMS; PROVIDING FOR TOWNHOUSES; PROVIDING FOR STREET VACATIONS; PROVIDING FOR AMENDED PLATS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR APPEALS AND MEDIATION; PROVIDING FOR ENFORCEMENT; SETTING FORTH CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A GENERAL REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, it has become apparent to the Hailey City Council that Hailey's previous Subdivision Ordinance requires numerous revisions and additions in order to make subdivision requirements and procedures more effective and workable; and

WHEREAS, the Council has found that the proposed amendments are in accordance with the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, that Hailey Ordinance No. 698 is hereby repealed in its entirety and replaced with the following Subdivision Ordinance:

SECTION 1 - DEFINITIONS.

1.1 INTERPRETATION OF TERMS OR WORDS.

Words and phrases used in this Ordinance shall have the meanings set forth in this Article. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1.1.1 The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, or any other entity capable of owning or holding any interest in real property, as well as an individual.

1.1.2 The word "shall" is a mandatory requirement, and the word "may" is permissive.

1.1.3 The present tense includes the future tense, the singular includes the plural, and the plural number includes the singular, unless the context clearly indicates otherwise.

Administrator. The Hailey Planning and Zoning Administrator

Alley. A minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Area Development Plan. A plan encompassing all Contiguous Parcels controlled by the same Developer, which includes:

- Legal description of Contiguous Parcels
- Name(s) of Developer(s) of Contiguous Parcels
- Streets, whether public or private
- Water main lines and sewer main lines
- Other utilities including power, telephone, cable, gas
- Parks, if required under this Ordinance
- Grading and drainage
- Easements
- Hazardous or natural resource areas

Area Median Income (“AMI”). The combined gross income for all persons living in a Dwelling Unit as calculated by the United States Department of Housing and Urban Development annually for Blaine County.

Building Envelope. A platted boundary within which all buildings upon a lot must be located.

City. The City of Hailey, Idaho.

City Engineer. The Hailey City Engineer.

City Standards. Those standards for improvements as set forth in the “City of Hailey Improvement Standard Drawings” and “Standard Specifications” adopted in Section 5 of the Subdivision Ordinance

Commission. The Planning and Zoning Commission of the City of Hailey, Idaho.

Community Housing Fund. An interest bearing account held in trust by the City for the creation of community housing for the benefit of the City.

Community Housing Plan. The plan that specifically describes the Market Rate Units and the Community Housing Units to be constructed in any development, or alternatives to Community Housing Units, and that is approved by the City in accordance with the standards set forth in Section 4.11.4 of this ordinance.

Community Housing Unit. A Dwelling Unit that is restricted by size, type and/or cost, and that is for sale exclusively to individual(s) meeting income, occupancy and/or other affordable

community housing criteria established in a Community Housing Plan approved by the City of Hailey as set forth in Section 4.11 of this ordinance.

Comprehensive Plan. The Comprehensive Plan of the City of Hailey, as adopted by resolution or ordinance by the City pursuant to Idaho Code §§67-6501 *et seq.*, and as may be subsequently amended.

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

Contiguous Parcels. Two or more parcels of real property that share at least one common boundary of any length, or any portion of a boundary, with a separate parcel of real property, or are separated only by intervening streets or other City-owned parcels not more than 100 feet in width, controlled by the same Developer.

Council. The City Council of the City of Hailey, Idaho.

County Recorder. The County Recorder of Blaine County, Idaho.

Dedication. The deliberate appropriation of land by its owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public use to which the property has been devoted.

Deed Restriction. A method by which occupancy and resale of real property is controlled in a deed to create Community Housing Units.

Developer. Any individual, firm, association, syndicate, corporation, trust, partnership, limited liability company, or other legal entity having an ownership or contractual interest in the land sought to be subdivided under this Ordinance.

Double Frontage Lot. A lot other than a corner lot having frontage on two (2) parallel or approximately parallel streets.

Driveway. A vehicular access constructed on private property providing access to not more than two residential dwelling units.

Dwelling Unit. A building or separate portion thereof having a single kitchen and providing complete independent living facilities for one or more person including permanent provisions for living, sleeping, eating, cooking and sanitation, to be occupied exclusively as a residence. Every dwelling unit shall have at least one habitable room that shall have not less than 120 square feet of gross floor area, or other area as specified in the IBC or IRC.

Fill. Deposit of earthen material or other materials typically associated with new construction (*e.g.*, landscaping, pavers, pavement and culverts).

Final Plat. The Plat which, if approved, will be submitted to the County Recorder for recording.

Fire Chief. The Fire Chief of the City of Hailey.

Fire Lane. A road or other passageway developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.

Flag Lot. A lot or parcel of land that has a narrow projection or “flagpole” to the public or private right-of-way.

Floodplain. A relatively flat area or low land adjoining a body of water which has been or maybe inundated by water from the One Hundred (100) Year Flood, that is specifically defined as the “Special Flood Hazard Areas Inundated by 100-Year Flood” on the Flood Insurance Rate Map/Flood Hazard Boundary and Floodway Map (Community Panel Numbers 160022-0662, 160022-0664, 160022-0668, 160022-0856 and 160022-0857), dated March 17, 1997, or as modified by FEMA by an interpretation of on-site elevations..

Floodway. That portion of the flood hazard area that includes the channel and the portion of the adjacent area which conveys the major portion of the flow for the one-hundred (100) year flood, that is specifically defined as the “Floodway Areas in Zone AE” on the Flood Insurance Rate Map/Flood Hazard Boundary and Floodway Map (Community Panel Numbers 160022-0662, 160022-0664, 160022-0668, 160022-0856 and 160022-0857), dated March 17, 1997 or as modified by FEMA by an interpretation of on-site elevations.

Green Space. Land dedicated or restricted as Parks, Pathways, connective greenways, recreational assets and/or open space.

Historic Structure. Any building or structure that was originally constructed, in whole or in part, prior to 1941, regardless whether the building or structure was constructed or relocated within the Townsite Overlay District, unless the Hailey Historic Preservation Commission has recommended that the building or structure does not maintain the historic architectural qualities, historic associations or archeological values of other Historic Structures within the Townsite Overlay District or does not comply with the “congruous” definition in the Townsite Overlay Design Review Guidelines.

IBC. The International Building Code as adopted by state law and/or the City, and as may be subsequently amended.

IFC. The International Fire Code as adopted by state law and/or the City, and as may be subsequently amended.

IRC. The International Residential Code as adopted by state law and/or the City, and as may be subsequently amended.

Income Category. A grouping of household incomes based on a percentage of AMI.

Category 2: 51-60% of AMI

Category 3: 61-80% of AMI

Category 4: 81-100% of AMI

Category 5: 101-120% of AMI

Category 6: 121-140% of AMI

Infrastructure. The public and private capital improvements within the City that provide water, sewer, transportation, communication, electrical, gas or similar services to the public.

Local Housing Authority. An independent public body corporate and politic created under the Housing Authorities and Cooperation Law, Idaho Code Section 50-1901, *et. seq.*, including the Blaine-Ketchum Housing Authority or other entity created by the City of Hailey, providing oversight, review and general assistance in the provision of Community Housing Units to the City.

Lot. Plot, parcel, or tract of land with fixed boundaries of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot may consist of:

- a. A single Lot of Record;
- b. A combination of complete Lots of Record, or portions of Lots of Record;

Lot Line Adjustment. A modification of easement lines, the creation or modification of a building envelope, or modification of boundary lines between existing lots, parcels of land, or properties, which does not reduce the area, frontage, width, depth, or building set-back lines of each lot, parcel of land, or property below the minimum zoning requirements and which does not create additional lots or new streets. A Lot Line Adjustment is not available when the development standards under Section 4 of this ordinance are not met. The modification of original Hailey Townsite lot lines that results in more than one platted lot shall not be considered a Lot Line Adjustment.

Market Rate Unit. A Dwelling Unit in a residential or mixed use development that is not a Community Housing Unit.

Master Plan. The Hailey Parks, Lands and Trails Master Plan, adopted by resolution, as may be amended from time to time.

Mean High Water Mark. The mark on all watercourses, where the presence and action of waters is so common and continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation and destroy its value for agricultural purposes. In areas where riprap bank stabilization has occurred the measurement shall begin on the landward side of such stabilization work.

Original Parcel. A parcel of land that is owned or otherwise controlled, in any manner, directly or indirectly, (i) by the same individual(s) or entity(ies), including but not limited to corporation(s), partnership(s), limited liability company(ies) or trust(s), or (ii) by different individuals or entities, including but not limited to corporations, partnerships, limited liability companies or trusts where a) such individual(s) or entity(ies) have a controlling ownership or contractual right with the other individual(s) or entity(ies), or b) the same individual(s) or entity(ies) act in any manner as an employee, owner, partner, agent, stockholder, director, member, officer or trustee of the entity(ies).

Park. A parcel of land dedicated to the City or privately owned and clearly accessible to the public free of charge for non-exclusive recreation and/or cultural use. A Park is maintained for the primary purposes of diverse recreational and social opportunities. A Park may include one of the following:

- a. Neighborhood Park. A parcel of land generally one or more acres in size dedicated to the City for non-exclusive public recreation and/or cultural use.
- b. Mini Park. A parcel of land, between one-quarter acre and one acre in size, that is privately owned and maintained, unless otherwise allowed by the Council, but that is used for non-exclusive public recreation and/or cultural purposes.
- c. Park/Cultural Space. A parcel of land less than one-quarter acre in size and located in the Business (B), Limited Business (LB) and Transitional (TN) zoning districts, that is privately owned and maintained but that is used for non-exclusive public recreation and/or cultural purposes. A Park/Cultural Space may include courtyards, plazas, gardens, expanded sidewalks and covered areas, provided access to the Park/Cultural Space is available from a public street or property and is normally open to the exterior (*e.g.*, not enclosed in a building).

Parking Access Lane. A way or means of vehicular and pedestrian approach for all uses to provide access to an off-street parking lot from a public or private street into private property.

Parks and Lands Board. The Hailey Parks and Lands Board, a recommending body whose members are appointed by the City Council.

Pathways. A meaningful pedestrian circulation system dedicated or granted by easement for public use, such as sidewalks and trails that are physically separated from vehicular traffic thoroughfares, which connects to major trail systems, Parks, schools, shopping areas and community assets.

Plat. A map of a plot of land divided into building lots or other parcels.

Planning Staff. The individuals employed or hired by the City to conduct the planning functions of the City.

Record Grade. Natural grade existing prior to any site preparation, grading, or filling, unless a new record grade is approved at the time of subdivision approval and noted on the filed preliminary or final plat.

Right-of-way. A strip of land used by the City of Hailey over which a public road or other access passes.

Setback. The distance, measured at right angles to a given lot line, between the lot line and an imaginary line parallel to the lot line, defining an area between such lines within which no building or applicable structure may be placed.

Sidewalk. A pathway for non-motorized vehicles, normally designated for pedestrians and which is separated from motorized vehicle travel lanes (*e.g.*, by curb, landscaping, etc.).

Street. A way for vehicular traffic which affords the principal means of access to abutting property.

Street: Arterial or Major. A fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for travel between large areas.

Street: Collector or Secondary. A street which carries traffic from local or minor streets and which serves for the circulation of traffic in residential areas or developments.

Street: Cul-de-sac or Dead-end. A street with only one outlet.

Street: Local or Minor. A street used primarily for access to the abutting properties.

Street: Private. A street which provides public and emergency vehicular and pedestrian access, but is not accepted for a dedication or maintenance by the City.

Street Superintendent. The Hailey Street Superintendent.

Subdivision. Any division of land or real property into two (2) or more parts, or a modification of boundaries of a parcel of land that includes a new street.

Subdivision Ordinance. Hailey Ordinance Number 821, and as subsequently amended.

Townhouse Development. A multi family residential project of two or more townhouse units, where permitted under the Hailey Zoning Ordinance, which may be constructed as either or both of the following:

- a. Building(s) containing two (2) or more townhouse units erected generally in a row, with each unit being separated from the adjoining unit or units by a party wall or walls, subject to building and fire code requirements and all other applicable codes and ordinances, and with party walls extending from the basement floor to the roof along the dividing townhouse subplot line. Each unit has its own access to the outside, and no unit is located over another unit in part or in whole.
- b. "Cottages" which are buildings containing single townhouse units on individual townhouse sublots, provided the separation between units and/or buildings complies with applicable building and fire code requirements and all other applicable codes and ordinances.

Townhouse Sub-Lot. The lot resulting from platting a residential townhouse development. Townhouse sub-lots shall have a minimum area equal to that of the perimeter of each individual townhouse unit, and an additional area three feet in width adjacent to any opening, measured at the foundation. Said sub-lots shall not be buildable for structures other than a townhouse unit as defined herein. Platting of sub-lots shall follow the procedures set forth in the subdivision ordinance and other applicable codes in effect. All other detached and/or accessory buildings shall be contained within the perimeter of the townhouse sub-lot, except as otherwise permitted herein.

Townhouse Unit. A dwelling including a minimum of one (1) bathroom and a single kitchen, designed for or occupied as a unit by one family for living and cooking purposes, located in a townhouse development on a platted townhouse sub-lot.

Vehicle. Any motorized device designed for the purpose of carrying or conveying persons or materials. For the purpose of this ordinance those devices directly powered by human action, such as a bicycle, shall not be considered vehicles.

Zoning Ordinance. Hailey Ordinance Number 532, and as subsequently amended.

SECTION 2 – ADMINISTRATION

2.1 GENERAL.

For the purpose of carrying out the provisions of this Ordinance, an Administrator, Commission and Hearing Examiner are hereby created, and the City adopts procedures for the administration of applications under this Ordinance.

2.2 ADMINISTRATOR.

The Council shall designate an Administrator to administer this Ordinance. The Administrator may be provided with the assistance of such other persons as the Council may direct. The duties of the Administrator shall include, but not be limited to:

- 2.2.1 Advise interested citizens of the Subdivision Ordinance provisions.
- 2.2.2 Inform the news media regarding land use and zoning matters of public interest.
- 2.2.3 Aid applicants in the preparation of required forms and permit applications. Where practical, related permits may be combined for the convenience of the applicant.
- 2.2.4 Recommend enforcement of this Ordinance in accordance with Section 12 of this Ordinance.
- 2.2.5 Receive, file, and transmit to the Hearing Examiner, Commission and Council all applications, past history, transcripts, and other communications on which they must act. Advise the Hearing Examiner, Commission and the Council of pertinent provisions of this Ordinance regarding proposals.

- 2.2.6 Maintain permanent and current records of applications and of the hearings and action thereon.
- 2.2.7 Inspect all filed plats pursuant to the Subdivision Ordinance.
- 2.2.8 Provide a liaison between the Commission and Council.
- 2.2.9 Make interpretations of the Subdivision Ordinance.
- 2.3 PLANNING AND ZONING COMMISSION.

The Council shall establish bylaws for the Hailey Planning and Zoning Commission for the purpose of providing direction to the members of the Commission in the performance of their duties.

2.3.1 Number of Members, Appointment, Compensation, Etc.

The membership and appointment of the Commission shall be governed by the provisions of Idaho Code §67-6504 as amended, and applicable ordinances of the City of Hailey.

The Commission shall consist of no more than five (5) voting members. Each member shall be appointed by the Mayor and confirmed by the Council. The Council, in creating the Commission, shall provide that the areas and interests within its jurisdiction are broadly represented on the Commission. Each member shall have been a resident of the City for the two (2) years prior to appointment to the Commission. Each member shall be a resident of the City at the time of appointment, except that one (1) member may reside outside the corporate limits of the City, but within the City's Area of Impact, in which case the member shall have been a resident of Blaine County for the two (2) years prior to appointment.

Each member must remain a resident of the City, or, in the case of the City's Area of Impact, within the impact area, during the term of his or her membership on the Commission.

Each member shall serve for a term of three (3) years. The terms shall be staggered in groups of two (2), two (2), and one (1), respectively, and shall be filled in the same manner as original appointments, but replacements shall serve only until the expiration of the original term.

No person may serve more than 2 full consecutive terms without specific concurrence by two-thirds (2/3) of the Council adopted by motion and recorded in the minutes.

2.3.2 Causes for Removal from the Commission.

Commission members may be removed from the Commission for cause by a majority vote of the Council. Causes for removal of members from the Commission by the Mayor and Council may include, but are not limited to:

- a. Failure to maintain reasonable familiarity with state statutes and local ordinances and rules affecting the Commission, or failure to abide by those rules.

- b. Failure to disclose a conflict of interest as defined under Idaho Code.
- c. When a member becomes incapacitated for the office for a protracted period, or moves from the City of Hailey or the Area of Impact or becomes for some other reason no longer qualified for office and fails to resign.
- d. Failure to attend three consecutive regular meetings, or three of any seven consecutive meetings, without the recorded consent of the Chair, shall be construed by the Chair as grounds for removal. The Chair would then recommend removal of the Commissioner to the Council.
- e. Other good cause.

2.3.3 Resignation, Vacation of Office, Appointment of New Members.

Members proposing to resign shall give reasonable notice of such intent to the Mayor. When a member dies or resigns, or when the term of a member is 90 days from its scheduled expiration, the Hailey Planning and Zoning Administrator will immediately notify the Mayor that a vacancy either exists or could exist. The Administrator shall then advertise the vacancy in the official newspaper of the City for a period of not less than one month, and shall receive letters of interest and résumés from all individuals interested in service on the Commission prior to recommending qualified individuals to the Council. The Mayor shall consider relative experience, years in the community, communication skills, dedication to the community and the location of the applicant's residence in selecting individuals for appointment. A majority vote of the Council is required to confirm the appointment before the appointment is effective.

2.4 HEARING EXAMINER

2.4.1 Qualifications and Designation of Hearing Examiners

Hearing Examiners shall be professionally trained or licensed planners, engineers, or architects, pursuant to Idaho Code §67-6520, as amended. Hearing Examiners shall have experience in the field of planning and zoning. The Mayor shall appoint and the Council shall confirm the Hearing Examiners. The Council shall determine compensation and other contractual terms with Hearing Examiners, and shall have the power, subject to any contractual terms, to dismiss any Hearing Examiner.

2.4.2 Referral of Applications to Hearing Examiners

- a. Short Plats filed pursuant to Section 3.4 of this Ordinance may be referred to the Hearing Examiner. The Administrator and Chair of the Commission, jointly, shall have discretion and authority to refer such an application to the Commission.
- b. An application which otherwise shall be referred to the Hearing Examiner, may be heard by the Commission when such an application is submitted concurrently with other applications which shall be heard by the Commission, as determined by the Administrator and Chair of the Commission, jointly.

- c. If no Hearing Examiner is appointed or there is a vacancy in the position of Hearing Examiner, the applications determined and defined herein shall automatically be referred to the Commission.

2.4.3 Notice, Hearing and Records

Except as otherwise provided in this Ordinance, the requirement for notice, hearing, and records for an application before the Hearing Examiner shall be as provided in this Ordinance and state law for the hearing of such applications before the Commission.

2.4.4 Duties of the Administrator

Upon receipt of an application which shall be referred to the Hearing Examiner, the Administrator or Planning Staff shall review the application for completeness. The Administrator may require additional information to be submitted by the applicant pursuant to provisions of this Ordinance where such information is deemed necessary to further the evaluation by the Hearing Examiner. Upon finding that the application is complete, the Administrator shall certify the same. The Administrator shall refer the certified application and all information attached thereto to the Hearing Examiner. The certification of an application by the Administrator shall be considered the effective date of the application, at which time the rights of the applicant shall vest.

2.4.5 Conduct of Hearings

The Hearing Examiner shall review all information supplied by the Administrator prior to the hearing. The hearing shall be conducted in accordance with this Ordinance and applicable State law upon a finding that notice was adequate and in compliance with requirements contained in this Ordinance and State law. Reasonable time limits may be established at the outset of the hearing, and both the applicant and other members of the public shall be given an opportunity to be heard. Hearings may be continued in record of all hearings before the Hearing Examiner shall be kept and maintained pursuant to Idaho Code by the Planning and Zoning Department.

2.4.6 Standards and Criteria

In hearing an application, the Hearing Examiner shall apply the standards and other criteria that are applicable under this Ordinance, other ordinances, the Comprehensive Plan and State law.

2.4.7 Hearing Examiner's Findings and Decision

- a. After a hearing is closed, the Hearing Examiner shall prepare a written document (hereinafter referred to as "findings of fact, conclusions of law and decision") pursuant to Idaho Code §67-6535(b), as amended.
- b. The findings of fact, conclusions of law and decision as prepared by the Hearing Examiner shall be signed and filed with the Administrator and shall be available

to the applicant and the public no more than forty-five (45) days after the close of the hearing.

2.4.8 Appeals from Decisions of the Hearing Examiner

The findings of fact, conclusions of law and decision of the Hearing Examiner may be appealed to the Commission in the manner prescribed by Section 2.6 of this Ordinance, provided a notice of appeal is timely filed as required by that Section.

2.5 CONFLICT OF INTEREST

A member or employee of the Council or Commission or a Hearing Examiner shall not participate in any proceeding or action when the member or employee, or their employer, business partner, business associate, or any person related to them by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of the Section shall be a misdemeanor.

2.6 APPEALS

A party aggrieved by a final decision of the Administrator, Hearing Examiner or Commission may appeal in writing any final decision by filing a Notice of Appeal with the Hailey City Clerk within fifteen (15) days from the date of the decision. An appeal of a final decision by the Administrator or the Hearing Examiner shall be heard by the Commission. An appeal of a final decision by the Commission or an appeal of a decision heard on appeal by the Commission shall be heard by the Council. Any appeal shall not be a de novo hearing and shall be based solely on the record before the Administrator, Hearing Examiner or Commission, as the case may be. The record shall consist of all the documents presented to Administrator, Hearing Examiner or Commission (such as the application, supporting documents, letters and studies), the minutes of any meeting and the findings of fact and conclusions of law. The Appellant may also have a verbatim transcript of the hearing before the Hearing Examiner or Commission prepared to be submitted on appeal. The cost of the preparation of the record and transcript shall be paid by the Appellant. The appeal shall specifically state the decision appealed, the issues to be raised on appeal and reasons for the appeal. If no appeal is filed within the fifteen (15) day period, the decision shall be deemed final.

At the time of the filing of the Notice of Appeal, the Appellant shall pay the costs of preparing the transcript and record estimated by the Administrator and the fee for filing an appeal, as established by ordinance. The Administrator will prepare one original transcript (if applicable) and record and 8 copies of the transcript (if applicable) and record. If the costs of preparing the transcript and record exceed the estimated costs paid by the Appellant, the Appellant shall pay the difference before a hearing on the appeal is heard.

Once the transcript and record have been prepared, the Administrator shall schedule a hearing on appeal with the Commission or Council for the next available hearing date. If

the Appellant desires to file a brief in support of the appeal, the Appellant shall file an original brief and 8 copies of the brief with the Administrator five business days before the scheduled appeal hearing. If the brief is not timely filed, the Commission and the Council may elect not to consider the brief. The Appellant and Appellant's representative and a City representative shall only be entitled to present argument before the Commission or Council.

Any aggrieved party is entitled to judicial review of any preliminary plat or final plat decision by the Council in accordance with the provisions of Idaho Code §§67-5201, *et. seq.*

Failure to file an appeal of a preliminary plat decision will constitute a waiver of all issues which could be reviewed during an appeal of a preliminary plat decision.

2.7 MEDIATION

- a. The mediation of land use decisions will be governed by the provisions in Idaho Code §67-6510, as amended, and this ordinance.
- b. If mediation occurs after a final decision, any resolution of differences through mediation must be the subject of another public hearing, consistent with the type of hearing which resulted in the original decision, before the decision-making body.
- c. The Council shall act on the mediation recommendations within 60 days of the receipt of the recommendation. The mediation process shall not be part of the official record regarding consideration of the application upon which the mediation is based.

2.8 APPLICATIONS

- 2.8.1 Applications for permits or approvals under this Ordinance shall be submitted to the Administrator upon forms furnished by the City along with applicable fees established by ordinance. The original application shall be kept on file at City Hall.
- 2.8.2 The certification of an application under this Ordinance by the Administrator shall be considered the effective date of the application, at which time the rights of the applicant shall vest. The Administrator shall certify the date when an application is deemed complete for the purpose of beginning the review process.
- 2.8.3 The Administrator shall issue a determination whether the application is complete within 30 days of the receipt of the application. If an application is incomplete but following receipt of additional materials is found to be complete by the Administrator, the Administrator shall issue a certification within 15 days. The Administrator shall, upon certification of an application as complete, schedule review of an application at the earliest available meeting date of the Council, Commission or Hearing Examiner, as the case may be. Unless the Council, Commission or Hearing Examiner finds that additional

time is needed, findings of fact, conclusions of law and decision/recommendation shall be issued and mailed within 30 days of the decision/recommendation.

- 2.8.4 Applications for public school facilities shall be given priority consideration and shall be scheduled for the earliest reasonable meeting of the appropriate reviewing body, regardless of the timing of its submission relative to other applications which are not related to public school facilities, pursuant to Idaho Code §67-6519, as amended.

2.9 PERMITS

No permit for the construction of any building shall be issued upon any land for which all improvements required for the protection of health and the provision of safety, (including but not necessarily limited to an approved potable water system, an approved wastewater system to accept sewage, and asphalt paving of the streets) have not been installed, inspected and accepted by the City of Hailey, with the following exception:

Building permits may be issued for any building in a development for which plats have been recorded and security provided, but the streets have not yet been completed with asphalt due to winter conditions. In such instances, the street shall be constructed as an all-weather surface to City Standards to the satisfaction of the City Engineer, and shall be kept clear to the satisfaction of the Fire Chief. Final inspection approval or certificate of occupancy shall not be granted until all improvements, including asphalt, have been installed, inspected and accepted.

SECTION 3 – PROCEDURE

No plat shall be recorded or offered for record with the County Recorder until the final plat has been approved by the Council, or in the case of a Lot Line Adjustment, the Administrator or Hearing Examiner, and shall bear thereon the approval of the Mayor and Council, as attested by the City Clerk, and the City Engineer.

3.1 Commission or Hearing Examiner Preliminary Plat Approval Review.

In seeking to subdivide land or other property into building lots or other parcels and to dedicate streets, alleys, or other land for public use, the Developer shall submit six (6) copies of a preliminary plat to the Commission or, in the case of a Short Plat, two (2) copies to the Hearing Examiner. The Administrator shall place the application on the next Commission or Hearing Examiner agenda for which space is available and when all notice requirements can be met.

The Administrator shall place public notice of the application and public hearing in a newspaper of general circulation, and to owners of property located within three - hundred (300) feet of the boundaries of the proposed subdivision, and all easement holders within the subject property, no less than fifteen (15) days prior to the scheduled date of hearing. The applicant shall provide the mailing addresses of all property owners within 300 feet of the outer boundaries of the parcel proposed for subdivision.

3.1.1 The Preliminary plat, prepared by a Professional Land Surveyor, and formally filed shall have a scale no smaller than 1" = 100' and shall contain at least the following information:

The proposed name of the subdivision.

The name and address of the Developer, the engineer or surveyor of the subdivision.

The location of the subdivision as forming a part of some larger tract or parcel of land referred to in the records of the County Recorder.

North point, scale and date.

Zoning districts(s) and boundaries, including any overlay district(s) and boundaries.

The zoning requested for each area if a map amendment is requested.

The boundary lines of the tract to be subdivided shall be accurate in scale and bearing.

A contour map at a one foot (1') contour interval to show the general topography and record grade of the tract.

The location, widths and other dimensions of all existing or platted streets and other important features such as power lines, water courses, easements, topography, substantial vegetation, wetlands, floodplain and floodway areas, avalanche areas, buildings, structures, or any other natural or man made features, within, contiguous to, or in the general area of the property to be subdivided.

The location, widths and other dimensions of proposed streets, alleys, easements, parks, lots and Green Space.

The plan and cross section of proposed streets and alleys showing widths of roadways, location of sidewalks, curb and gutter, location and species of street trees, drainage areas, parking areas, snow storage areas, or any other improvement proposed or required for the rights-of-way.

The proposed names of all the streets whether new or continuous. The new street names must not be the same or similar to any other street names used in Blaine County.

The location of existing and proposed sanitary sewer mains (including profile view), sewer services, storm drains, water supply mains, water services including

water vaults and meters, fire hydrants and culverts within the property and immediately adjacent thereto.

The proposed lot and block numbers.

The size of each lot shown in both square feet and acres.

All parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the purpose indicated, and planned improvements to that parcel or parcels.

3.1.1.1 The following items must also be submitted along with the preliminary plat before such application will be certified as complete:

The names and mailing addresses of all property owners, along with the legal descriptions of all properties, within 300 feet of the outer boundaries of the parcel proposed for subdivision. The names and mailing addresses of all easement holders within the subject property. This information shall be provided in a format acceptable to the Administrator.

A phasing plan if the Developer intends to develop the project in phases. The Plan must include the numbers of lots in each phase, the infrastructure planned for completion with each phase, the amenities to be constructed with each phase, the deadline for completion of each phase, and all other information pertinent to the completion of the development.

A draft of any private restrictions proposed to be recorded for the purpose of providing regulations governing the use, building lines, Green Spaces or any aspect of their development, use and maintenance.

An Area Development Plan if applicable pursuant to Section 4.6.4.

A Community Housing Plan, if applicable, pursuant to Section 4.11.

Such other information as may be required by the Commission, Hearing Examiner or Administrator.

An application fee as established by ordinance.

3.1.2 If the subject property is located within or partially within the Flood Hazard Overlay District, an application for Flood Hazard Development Permit shall be submitted along with the preliminary plat for concurrent review by the Commission or Hearing Examiner.

3.1.3 Following receipt of a completed application, the applicant shall be required to diligently pursue the application by providing revised plans, plat maps, etc. when requested by Planning Staff, the Hearing Examiner or the Commission, in a timely fashion. If the applicant fails to meet this requirement, the City shall, in writing, request the applicant to

withdraw its application. After such request to withdraw, if the applicant fails to take any further action on the application for a period of twelve (12) consecutive months, the application shall automatically expire. When such application has expired, the applicant must re-apply and pay any applicable fees.

3.1.4 The Commission shall hold a public hearing and recommend to approve, conditionally approve, or deny the preliminary plat application, or in the case of a short plat the Commission or Hearing Examiner shall hold a public hearing and approve, conditionally approve, or deny the preliminary plat. The Commission or Hearing Examiner may table or continue the application, when specific information has been requested from the applicant. A denial of the proposed short plat by the Commission or Hearing Examiner is a denial of the application, and, unless appealed to the Council, the application will be terminated and the application fee forfeited.

3.2 Council Preliminary Plat Approval.

3.2.1 Following the recommendation for preliminary plat approval, conditional approval or denial by the Commission, the applicant shall re-submit drawings, as necessary, showing modifications to the plans required by the Commission.

3.2.2 Following receipt of a completed application, the applicant shall be required to diligently pursue the application by providing revised plans, plat maps, etc. when requested by Planning Staff, the Commission or Council, in a timely fashion. Where the applicant fails to meet this requirement, the city shall, in writing, request the applicant to withdraw its application. After such request to withdraw, if the applicant fails to take any further action on the application for a period of twelve (12) consecutive months the application shall automatically expire. When such application has expired, the applicant must re-apply and pay any applicable fees.

3.2.3 Following receipt of the revised plans, or if no revisions are required, the application will be noticed, under the same procedure specified in Section 3.1, above, for the next available meeting of the Council. The Council shall hold a public hearing and approve, conditionally approve, or deny the preliminary plat application. The Council may table or continue the application, when specific information has been requested from the applicant. The Council shall review any and all conditions placed on any plat approval and accept, reject or modify those conditions. The Council may place additional conditions of approval on the application.

3.2.4 One (1) copy of the approved preliminary plat will be kept on file for public examination at the office of the City Engineer and one (1) copy at the office of the Administrator. The approval of the preliminary plat shall be valid for a period of one (1) calendar year unless an extension of time is applied for and granted by the Council, or unless otherwise allowed for within a phasing agreement.

3.2.5 Following preliminary plat approval, the applicant shall install improvements as required under Section 5 of this Ordinance and by the Commission, Hearing Examiner, or Council. A separate fee for inspection of improvements by City personnel shall be paid by the Developer before the final plat is recorded or any posted security released. Before the inspection, the Developer shall provide the City with the cost estimate of the subdivision improvements that require inspection by city personnel. Upon review and approval of the cost estimate by the City Engineer, the Developer shall pay to the City of Hailey \$1,000 or 1.5% of the estimated cost, whichever is greater, as a fee for the inspection of the subdivision improvements and other related services.

3.3 Final Plat Approval.

The final plat, prepared by a Professional Land Surveyor, must be submitted within one (1) calendar year from the date of approval of the preliminary plat, unless otherwise allowed for within a phasing agreement or as otherwise provided herein. Plats not submitted for final approval within one (1) year or according to the phasing agreement, shall be considered expired and preliminary plat approval shall become null and void. The Council may extend the deadline for submitting the final plat upon holding a public hearing.

3.3.1 The applicant shall submit six (6) copies of the final plat. The Administrator shall place the application for final plat approval on the next Council agenda for which space is available and all notice requirements can be met.

3.3.2 The Administrator shall review the final plat application to ensure that the application submitted is consistent with the approved preliminary plat. The conditions imposed on the preliminary plat approval must be either completed or shown on plans or the plat prior to any public notice for final plat approval.

3.3.3 The Administrator shall place public notice of the application and public hearing in a newspaper of general circulation, and to owners of property located within three hundred (300) feet of the boundaries of the proposed subdivision, and all easement holders within the subject property, no less than fifteen (15) days prior to the scheduled date of hearing.

3.3.4 The Council shall hold a public hearing and approve, conditionally approve, or deny the final plat application. In the event that the Council finds that final plat does not substantially conform to the approved preliminary plat, the Council shall consider the plat an amended preliminary plat and remand it to the Commission or Hearing Examiner for preliminary plat review.

3.3.5 The Administrator shall ensure that any conditions imposed by the Council, or required by this Ordinance, shall be met by the applicant prior to signature of the plat sheets for the purpose of recordation. Any final plat must be recorded within one (1) calendar year of the date of final plat approval, unless otherwise allowed for within a phasing agreement. Plats not recorded within one (1) year from the date of approval by the Council, or according to the phasing agreement, shall be considered expired and such

approval shall become null and void. The Council may extend the deadline for recording the plat upon holding a public hearing.

The final plat submitted for signature shall conform to the requirements found in Idaho Code §§50-1301 *et seq.*, as amended, and to the requirements set forth by Blaine County for digital plat submittals. The plat shall also contain the following information:

The exterior boundary of the subdivision shall be tied to not less than two (2) recognized County or City survey monuments, and the plat shall identify the monuments and other information as necessary to comply with Blaine County's requirements for digital plat submittals.

All lots shall be numbered by progressive numbers in each block separately; blocks shall also be numbered consecutively throughout all adjoining plats of the same master name.

The size of each lot shall be shown in both square feet and acres.

All plat notes required by the Council shall be shown on the face of the plat.

Upon the back sheet(s), the required forms shall be lettered for the following: Registered Professional Engineer and/or Land Surveyor's "Certificate of Survey"; owner's dedication certificate with Notary Public's Acknowledgment; the approval of the Mayor and Council of Hailey as attested by the City Clerk; approval by the City Engineer and other certificates required by Idaho Code; and acceptance of the plat by the Blaine County Recorder's and Blaine County Treasurer's offices.

The final plat shall be accompanied by copies of any private restrictions proposed to be recorded for the purpose of providing regulations governing the use, building lines, Green Spaces or any aspect of their development, use and maintenance. Any approved Area Development Plan for contiguous parcels shall be recorded concurrently with the final plat.

- 3.3.6 The Administrator shall ensure that any conditions imposed by the Council shall be met by the applicant prior to signature of the plat sheets for the purpose of recordation. Thereafter, the City shall release either the signed plats or the performance bond upon the application by the Developer.
- 3.3.7 The Developer may, in lieu of actual construction, provide to the City such security as may be acceptable to the City, in a form and in an amount equal to the cost of the engineering and the improvements not previously installed by the Developer, plus fifty percent (50%), which security shall fully secure and guarantee completion of the required improvements within a period of one (1) year from the date the security is provided. If any extension of the one year period is granted by the City, each additional year, or portion of each additional year, shall require an additional twenty percent (20%) to be added to the amount of the original security initially provided.

3.4 Short Plat Procedure.

3.4.1 Applications for division of property which create four or fewer residential building parcels, two non-residential parcels, and applications for platting townhouse or condominium units in existing or approved structures, can, at the sole discretion of the Administrator, be reviewed through an abbreviated process. This process shall be known as a short plat procedure. The process shall be as follows:

3.4.2 Short plat applications shall be heard by the Hearing Examiner, except that the Administrator and Chair of the Commission, jointly, shall have discretion and authority to refer a short plat application to the Commission. The Developer shall submit the preliminary plat to the Hearing Examiner or Commission for approval. The Hearing Examiner or Commission shall hold a public hearing and approve, conditionally approve, or deny the preliminary plat application. The preliminary plat application shall meet all criteria established in this Ordinance.

3.4.3 Following the preliminary plat approval or conditional approval by the Hearing Examiner or the Commission, as required under this Ordinance, the applicant may submit a final plat to be noticed for a public hearing at the next available meeting of the Council. The Council shall hold a public hearing and approve, conditionally approve, or deny the final plat application. The final plat application shall meet all criteria established in this Ordinance.

3.4.4 Notwithstanding exceptions for the abbreviated process granted herein, short plats shall be required to meet all other requirements of this Ordinance.

3.5 Suspension of applications.

Upon adoption by the Council of an ordinance specifying good cause therefore, including without limitation the absence of additional water or sewer capacity or other circumstances indicating that additional development would negatively affect the welfare of the residents of Hailey, the consideration and approval of new subdivisions may be suspended. Any such suspension or moratorium may be lifted by the adoption of a further ordinance upon determination that the circumstances requiring the suspension have been remedied or no longer exist, or may automatically expire in accordance with the original ordinance.

SECTION 4 - DEVELOPMENT STANDARDS

4.0 General Standards. The configuration and development of proposed subdivisions shall be subject to and meet the provisions and standards found in this Ordinance, the Zoning Ordinance and any other applicable Ordinance or policy of the City of Hailey, and shall be in accordance with general provisions of the Comprehensive Plan.

4.1 Streets. Streets shall be provided in all subdivisions where necessary to provide access and shall meet all standards below.

- 4.1.1 All streets in the subdivision must be platted and developed with a width, alignment, and improvements such that the street is adequate to safely accommodate existing and anticipated vehicular and pedestrian traffic and meets City standards. Streets shall be aligned in such a manner as to provide through, safe and efficient access from and to adjacent developments and properties and shall provide for the integration of the proposed streets with the existing pattern.
- 4.1.2 Cul-de-sacs or dead end streets shall be allowed only if connectivity is not possible due to surrounding topography or existing platted development. Where allowed, such cul-de-sacs or dead end streets shall comply with all regulations set forth in the IFC and other applicable codes and ordinances. Street rights-of-way extended into un-platted areas shall not be considered dead end streets.

More than one access may be required based on the potential for impairment of a single access by vehicle congestion, terrain, climatic conditions or other factors that could limit access.

- 4.1.3 Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than eighty (80) degrees. Where possible, four way intersections shall be used. A recommended distance of 500 feet, with a maximum of 750 feet, measured from the center line, shall separate any intersection. Alternatively, traffic calming measures including but not limited to speed humps, speed tables, raised intersections, traffic circles or roundabouts, meanderings, chicanes, chokers, and/or neckdowns shall be a part of the street design. Alternate traffic calming measures may be approved with a recommendation by the City Engineer. Three way intersections shall only be permitted where most appropriate or where no other configuration is possible. A minimum distance of 150 feet, measured from the center line, shall separate any two three-way intersections.
- 4.1.4 Street center lines which deflect more than five (5) degrees shall be connected by a curve. The radius of the curve for the center line shall not be more than 500 feet for an arterial street, 166 feet for a collector street and 89 feet for a residential street. Alternatively, traffic calming measures including but not limited to speed humps, speed tables, raised intersections, traffic circles or roundabouts, meanderings, chicanes, chokers, and/or neckdowns shall be a part of the street design. Alternate traffic calming measures may be approved with a recommendation by the City Engineer.
- 4.1.5 Street Right-of-way width is to be measured from property line to property line. The minimum right of way, unless specifically approved otherwise by the Council, shall be as specified in City Standards for the type of street.
- 4.1.6 Roadway, for the purpose of this section, shall be defined as the area of asphalt from curb face to curb face or edge to edge. Roadway includes areas for vehicle travel and may include parallel or angle in parking areas. The width of roadways shall be in accordance with the adopted City Standards for road construction.
- 4.1.7 Road Grades shall be at least two percent (2%) and shall not generally exceed six percent

(6%). Grade may exceed 6%, where necessary, by 1% (total 7%) for no more than 300 feet or 2% (total 8%) for no more than 150 feet. No excess grade shall be located within 200 feet of any other excess grade nor shall there be any horizontal deflection in the roadway greater than 30 degrees within 300 feet of where the excess grade decreases to a 2% slope.

- 4.1.8 The Developer shall provide storm sewers and/or drainage areas of adequate size and number to contain any runoff within the streets in the subdivision in conformance with the applicable Federal, State and local regulations. The developer shall provide copies of state permits for shallow injection wells (drywells). Drainage plans shall be reviewed by City Staff and shall meet the approval of the City Engineer. Developer shall provide a copy of EPA's "NPDES General Permit for Stormwater Discharge from Construction Activity" for all construction activity affecting more than one acre.
- 4.1.9 The Developer shall provide and install all street and traffic control signs in accordance with City Standards.
- 4.1.10 All streets and alleys within any subdivision shall be dedicated for public use, except as provided herein. New street names (public and private) shall not be the same or similar to any other street names used in Blaine County.
- 4.1.10.1 Private streets may be allowed (a) to serve a maximum of five (5) residential dwelling units, (b) within Planned Unit Developments, or (c) within commercial developments in the Business, Limited Business, Neighborhood Business, Light Industrial, Technological Industry, and Service Commercial Industrial districts. Private streets are allowed at the sole discretion of the Council, except that no Arterial or Major Street, or Collector or Secondary Street may be private. Private streets shall have a minimum total width of 36 feet, shall be constructed to all other applicable City Standards including paving, and shall be maintained by an owner's association.
- 4.1.10.2 Private streets, wherever possible, shall provide interconnection with other streets.
- 4.1.10.3 The area designated for private streets shall be platted as a separate parcel according to subsection 4.5.3 below. The plat shall clearly indicate that the parcel is unbuildable except for ingress/egress, utilities or as otherwise specified on the plat.
- 4.1.10.4 Private street names shall not end with the word "Road", "Boulevard", "Avenue", "Drive" or "Street". Private streets serving five (5) or fewer dwelling units shall not be named.
- 4.1.10.5 Private streets shall have adequate and unencumbered 10-foot wide snow storage easements on both sides of the street, or an accessible dedicated snow storage easement representing not less than twenty-five (25%) of the improved area of the private street.
- 4.1.10.6 Subdivisions with private streets shall provide two (2) additional parking spaces per dwelling unit for guest and/or overflow parking. These spaces may be located (a) within the residential lot (*e.g.*, between the garage and the roadway), (b) as parallel spaces

within the street parcel or easement adjacent to the travel lanes, (c) in a designated guest parking area, or (d) as a combination thereof. Guest/overflow parking spaces are in addition to the minimum number of parking spaces required pursuant to Article IX of the Hailey Zoning Ordinance. The dimension of guest/overflow parking spaces shall be no less than 10' by 20' if angle parking, or 10' by 24' if parallel. Guest overflow parking spaces shall be improved with asphalt, gravel, pavers, grass block, or other all-weather dustless surface. No part of any required guest/overflow parking spaces shall be utilized for snow storage.

- 4.1.11 Driveways may provide access to not more than two (2) residential dwelling units. Where a parcel to be subdivided will have one lot fronting on a street, not more than one additional single family lot accessed by a driveway may be created in the rear of the parcel. In such a subdivision, where feasible (*e.g.*, no driveway already exists), both lots shall share access via a single driveway. Driveways shall not be named.
- 4.1.11.1 Driveways shall be constructed with an all weather surface and shall have the following minimum roadway widths:
- | | |
|----------------------------------|---------|
| Accessing one residential unit: | 12 feet |
| Accessing two residential units: | 16 feet |
- No portion of the required fire lane width of any driveway may be utilized for parking, above ground utility structures, dumpsters or other service areas, snow storage or any other obstructions.
- 4.1.11.2 Driveways longer than 150 feet must have a turnaround area approved by the Fire Department. Fire lane signage must be provided as approved by the Fire Department.
- 4.1.11.3 Driveways accessing more than one residential dwelling unit shall be maintained by an owner's association, or in accordance with a plat note.
- 4.1.11.4 The area designated for a driveway serving more than one dwelling unit shall be platted as a separate unbuildable parcel, or as a dedicated driveway easement. Easements and parcels shall clearly indicate the beneficiary of the easement or parcel and that the property is unbuildable except for ingress/egress, utilities or as otherwise specified on the plat. A building envelope may be required in order to provide for adequate building setback.
- 4.1.11.5 No driveway shall interfere with maintenance of existing infrastructure and shall be located to have the least adverse impact on residential dwelling units, existing or to be constructed, on the lot the easement encumbers and on adjacent lots.
- 4.1.12 A parking access lane shall not be considered a street, but shall comply with all regulations set forth in the IFC and other applicable codes and ordinances.
- 4.1.13 Required fire lanes, whether in private streets, driveways or parking access lanes, shall comply with all regulations set forth in the IFC and other applicable codes and ordinances.

4.2 Sidewalks and Pathways.

- 4.2.1 Sidewalks. Sidewalks adjacent to public streets shall be constructed on both sides of a public street, shall be a minimum of six feet (6') in width and shall be constructed of concrete installed to City Standards or of a superior material as approved by the Council, following a recommendation by the Commission or Hearing Examiner. Sidewalks adjacent to private streets within and adjacent to all subdivisions in the Business, Limited Business, Service Commercial Industrial and Light Industrial districts shall be constructed on at least one side of the street, shall be a minimum of five (5') in width and shall be constructed of concrete installed to City Standards or of a superior material as approved by the Council, following a recommendation by the Commission or Hearing Examiner. Sidewalks with curb and gutter shall be provided in Business, Limited Business, Technological Industry, Service Commercial Industrial, and Light Industrial Districts. Sidewalks shall accommodate anticipated pedestrian traffic, and shall include street trees (with irrigation) and other pedestrian amenities where required by the Council upon recommendation by the Commission or Hearing Examiner, and shall be in accordance with established City standards and sidewalk master plan, if available.
- 4.2.2 Pathways. The Developer shall install all non-vehicular pathways, to City Standards, in all areas within or adjacent to the property to be developed where Pathways are depicted upon the Master Plan.
- 4.2.3 The Developer may, at Developer's option, propose alternatives to either the standard sidewalk configuration required in Section 4.2.1, or the planned non-vehicular pathway required in Section 4.2.2. The Hearing Examiner or Commission and Council shall ensure that the alternative configuration shall not reduce the level of service or convenience to either residents of the development or the public at large.
- 4.2.4 After receiving a recommendation by the Hearing Examiner or Commission, the Council may in its discretion approve and accept voluntary cash contributions in-lieu of the improvements described in this Section 4.2, which contributions must be segregated by the City and not used for any purpose other than the provision of these improvements. The contribution amount shall be 150% of the estimated costs of concrete sidewalk and drainage improvements provided by a qualified contractor, plus associated engineering costs, as approved by the City Engineer. Any approved in-lieu contribution shall be paid before the City signs the final plat. In-lieu contributions for sidewalks shall not be accepted in Business, Limited Business, Neighborhood Business Technological Industry and Service Commercial Industrial districts.

4.3 Alleys and Easements.

- 4.3.1 Alleys shall be provided in all Business District and Limited Business District developments where feasible.
- 4.3.2 The minimum width of an alley shall be 26 feet.
- 4.3.3 All alleys shall be dedicated to the public or provide for public access.

- 4.3.4 All infrastructure to be installed underground shall, where possible, be installed in the alleys platted.
- 4.3.5 Alleys in commercial areas shall be improved with drainage as appropriate and which the design meets the approval of the City Engineer. The Developer shall provide storm sewers and/or drainage areas of adequate size and number to contain any runoff within the streets in the subdivision upon the property in conformance with the latest applicable Federal, State and local regulations. The developer shall provide copies of state permits for shallow injection wells (drywells). Drainage plans shall be reviewed by City Staff and shall meet the approval of the City Engineer.
- 4.3.6 Dead-end alleys shall not be allowed.
- 4.3.7 Where alleys are not provided, easements of not less than ten (10) feet in width may be required on each side of all rear and/or side lot lines (total width = 20 feet) where necessary for wires, conduits, storm or sanitary sewers, gas and water lines. Easements of greater width may be required along lines, across lots, or along boundaries, where necessary for surface drainage or for the extension of utilities.
- 4.3.8 Easements. Easements, defined as the use of land not having all the rights of ownership and limited to the purposes designated on the plat, shall be placed on the plat as appropriate. Plats shall show the entity to which the easement has been granted. Easements shall be provided for the following purposes:
- 4.3.8.1 To provide access through or to any property for the purpose of providing utilities, emergency services, public access, private access, recreation, deliveries or such other purpose. Any subdivision that borders on the Big Wood River shall dedicate a 20-foot wide fisherman's access easement, measured from the Mean High Water Mark, which shall provide for non-motorized public access. Additionally, in appropriate areas, an easement providing non-motorized public access through the subdivision to the river shall be required as a sportsman's access.
- 4.3.8.2 To provide protection from or buffering for any natural resource, riparian area, hazardous area, or other limitation or amenity on, under, or over the land. Any subdivision that borders on the Big Wood River shall dedicate a one hundred (100) foot wide riparian setback easement, measured from the Mean High Water Mark, upon which no permanent structure shall be built, in order to protect the natural vegetation and wildlife along the river bank and to protect structures from damage or loss due to river bank erosion. A twenty-five (25) foot wide riparian setback easement shall be dedicated adjacent to tributaries of the Big Wood River. Removal and maintenance of live or dead vegetation within the riparian setback easement is controlled by the applicable bulk requirement of the Flood Hazard Overlay District. The riparian setback easement shall be fenced off during any construction on the property.
- 4.3.8.3 To provide for the storage of snow, drainage areas or the conduct of irrigation waters. Snow storage areas shall be not less than twenty-five percent (25%) of parking, sidewalk

and other circulation areas. No dimension of any snow storage area may be less than 10 feet. All snow storage areas shall be accessible and shall not be located over any above ground utilities, such as transformers.

4.4 Blocks.

- 4.4.1. The length, width and shape of blocks shall be determined with due regard to adequate building sites suitable to the special needs of the type of use contemplated, the zoning requirements as to lot size and dimensions, the need for convenient access and safe circulation and the limitations and opportunities of topography.

4.5 Lots.

- 4.5.1 All lots shown on the subdivision plat must conform to the minimum standards for lots in the District in which the subdivision is planned. The City will generally not approve single-family residential lots larger than one-half acre (21,780 square feet). In the event a single-family residential lot greater than one-half acre is platted, irrigation shall be restricted to not more than one-half acre, pursuant to Idaho Code §42-111, and such restriction shall be included as a plat note. District regulations are found in the Zoning Ordinance.

- 4.5.1.1 If lots are more than double the minimum size required for the zoning district, the Developer may be required to arrange lots in anticipation of future resubdivision and provide for future streets where necessary to serve potential lots, unless the plat restricts further subdivision.

- 4.5.2 Double frontage lots shall be prohibited except where unusual topography, a more integrated street plan, or other conditions make it undesirable to meet this requirement. Double frontage lots are those created by either public or private streets, but not by driveways or alleys. Subdivisions providing a platted parcel of 25 feet or more between any street right-of-way and any single row of lots shall not be considered to have platted double frontage lots. The 25-foot wide parcel provided must be landscaped to provide a buffer between the street and the lot(s).

- 4.5.3 No unbuildable lots shall be platted. Platted areas that are not buildable shall be noted as such and designated as “parcels” on the plat. Green Space shall be clearly designated as such on the plat.

- 4.5.4 A single flag lot may be permitted at the sole discretion of the Hearing Examiner or Commission and Council, in which the “flagpole” projection is serving as a driveway as provided herein, providing connection to and frontage on a public or a private street. Once established, a flag lot may not be further subdivided, but a lot line adjustment of a flag lot is not considered a further subdivision. The “flagpole” portion of the lot shall be included in lot area, but shall not be considered in determining minimum lot width. The “flagpole” shall be of adequate width to accommodate a driveway as required by this

ordinance, fire and other applicable codes. Flag lots within the Townsite Overlay District are not allowed, except where parcels do not have street access, such as parcels adjacent to the ITD right-of-way.

- 4.5.5 All lots shall have frontage on a public or private street. No frontage width shall be less than the required width of a driveway as provided under Sections 4.1.11.1 and 4.5.4 of this Ordinance. Townhouse Sub-Lots are excluded from this requirement; provided, however, that Townhouse Developments shall have frontage on a street.
- 4.5.6 In the Townsite Overlay District, original Townsite lots shall be subdivided such that the new platted lots are oriented the same as the original lots, i.e. lots shall be subdivided in such a way as to maintain frontage on both the street and alley. Exceptions may be made for corner properties with historic structures.
- 4.6 Orderly Development.
- 4.6.1 Development of subdivisions shall be phased to avoid the extension of City services, roads and utilities through undeveloped land.
- 4.6.2 Developers requesting phased subdivisions shall enter into a phasing agreement with the City. Any phasing agreement shall be approved and executed by the Council and the Developer on or before the preliminary plat approval by the Council.
- 4.6.3 No subdivision shall be approved which affects the ability of political subdivisions of the state, including school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional public costs upon current residents, unless the Developer provides for the mitigation of the effects of subdivision. Such mitigation may include, but is not limited to the following:
- Provision of on-site or off-site street or intersection improvements.
 - Provision of other off-site improvements.
 - Dedications and/or public improvements on property frontages.
 - Dedication or provision of parks or green space.
 - Provision of public service facilities.
 - Construction of flood control canals or devices.
 - Provisions for ongoing maintenance.
- 4.6.4 When the Developer of Contiguous Parcels proposes to subdivide any portion of the Contiguous Parcels, an Area Development Plan shall be submitted and approved. The Commission and Council shall evaluate the following basic site criteria and make appropriate findings of fact:
- a) Streets, whether public or private, shall provide an interconnected system and shall be adequate to accommodate anticipated vehicular and pedestrian traffic.
 - b) Non-vehicular circulation routes shall provide safe pedestrian and bicycle ways and provide an interconnected system to streets, parks and green space, public lands, or other destinations.

- c) Water main lines and sewer main lines shall be designed in the most effective layout feasible.
- d) Other utilities including power, telephone, cable, and gas shall be designed in the most effective layout feasible.
- e) Park land shall be most appropriately located on the Contiguous Parcels.
- f) Grading and drainage shall be appropriate to the Contiguous Parcels.
- g) Development shall avoid easements and hazardous or sensitive natural resource areas.

The Commission and Council may require that any or all Contiguous Parcels be included in the subdivision.

4.7 Perimeter Walls, Gates and Berms.

The City of Hailey shall not approve any residential subdivision application that includes any type of perimeter wall or gate that restricts access to the subdivision. This regulation does not prohibit fences on or around individual lots. The City shall also not allow any perimeter landscape berm more than 3' higher than the previously existing (original) grade.

4.8 Cuts, Fills, Grading and Drainage.

4.8.1 Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the site, as well as to minimize cuts; fills, alterations of topography, streams, drainage channels; and disruption of soils or vegetation. Fill within the floodplain shall comply with the requirements of the Flood Hazard Overlay District of the Zoning Ordinance.

4.8.1.1 A preliminary soil report prepared by a qualified engineer may be required by the Hearing Examiner or Commission and/or Council as part of the preliminary plat application.

4.8.1.2 A preliminary grading plan prepared by a civil engineer may be required by the Hearing Examiner or Commission and/or the Council as part of the preliminary plat application, to contain the following information:

- Proposed contours at a maximum of two (2) foot contour intervals;
- Cut and fill banks in pad elevations;
- Drainage patterns;
- Areas where trees and/or natural vegetation will be preserved;
- Location of all street and utility improvements including driveways to building envelopes; and
- Any other information which may reasonably be required by the Administrator, Hearing Examiner, Commission and/or Council.

4.8.2 The proposed subdivision shall conform with the following design standards:

- 4.8.2.1 Grading shall be designed to blend with natural land forms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways.
- 4.8.2.2 Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for Green Space for the benefit of future property owners within the subdivision.
- 4.8.2.3 Where existing soils and vegetation are disrupted by subdivision development, provision shall be made by the Developer for revegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction, including temporary irrigation for a sufficient period to establish perennial vegetation. Until such time as the vegetation has been installed and established, the Developer shall maintain and protect all disturbed surfaces from erosion.
- 4.8.2.4 Where cuts, fills or other excavation are necessary, the following development standards shall apply:
- 4.8.2.4.1 Fill areas for structures or roads shall be prepared by removing all organic material detrimental to proper compaction for soil stability.
- 4.8.2.4.2 Fill for structures or roads shall be compacted to at least 95 percent of maximum density as determined by American Association State Highway Transportation Officials (AASHTO) and American Society of Testing & Materials (ASTM).
- 4.8.2.4.3 Cut slopes shall be no steeper than two horizontal to one vertical. Subsurface drainage shall be provided as necessary for stability.
- 4.8.2.4.4 Fill slopes shall be no steeper than three horizontal to one vertical. Neither cut nor fill slopes shall be located on natural slopes of three to one or steeper, or where fill slope toes out within twelve (12) feet horizontally of the top of existing or planned cut slope.
- 4.8.2.4.5 Tops and toes of cut and fill slopes shall be set back from structures and property lines as necessary to accommodate drainage features and drainage structures.
- 4.8.2.5 The Developer shall provide storm sewers and/or drainage areas of adequate size and number to contain the runoff upon the property in conformance with the applicable Federal, State and local regulations. The Developer shall provide copies of state permits for shallow injection wells (drywells). Drainage plans shall be reviewed by Planning Staff and shall meet the approval of the City Engineer. Developer shall provide a copy of EPA's "NPDES General Permit for Stormwater Discharge from Construction Activity" for all construction activity affecting more than one acre.

4.9 Overlay Districts.

4.9.1 Flood Hazard Overlay District

4.9.1.1 Subdivisions or portions of subdivision located within the Flood Hazard Overlay District shall comply with all provisions of Section 4.10 of the Zoning Ordinance.

4.9.1.2 Subdivisions located partially in the Flood Hazard Overlay District shall have designated building envelopes outside the Flood Hazard Overlay District to the extent possible.

4.9.1.3 Any platted lots adjacent to the Big Wood River or its tributaries shall have designated building envelopes.

4.9.2 Hillside Overlay District

4.9.2.1 Subdivisions or portions of subdivisions located within the Hillside Overlay District shall comply with all provisions of Section 4.14, of the Zoning Ordinance.

4.9.2.2 Subdivisions located partially in the Hillside Overlay District shall have designated building envelopes outside the Hillside Overlay District.

4.9.2.3 All approved subdivisions shall contain a condition that a Site Alteration Permit is required before any development occurs.

4.10 Parks, Pathways and Other Green Spaces.

4.10.1 Parks and Pathways. Unless otherwise provided, every subdivision shall set aside a Park and/or Pathway(s) in accordance with standards set forth herein.

4.10.1.1 Parks. The Developer of any subdivision, or any part thereof, consisting of three (3) or more residential lots, including residential townhouse sub-lots and residential condominium units, without regard to the number of phases within the subdivision, shall set aside or acquire land area within, adjacent to or in the general vicinity of the subdivision for Parks. Parks shall be developed within the City of Hailey and set aside in accordance with the following formula:

$$P = x \text{ multiplied by } .0277$$

“P” is the Parks contribution in acres

“x” is the number of single family lots, residential townhouse sub-lots or residential condominium units contained within the plat. Where multi-family lots are being platted with no fixed number of units, “x” is maximum number of residential lots, sub-lots, and units possible within the subdivision based on current zoning regulations

In the event the subdivision is located in the Business (B), Limited Business (LB), Neighborhood Business (NB), or Transitional (TN) zoning districts, the area required for a Park shall be reduced by 75%, but in no event shall the area required for a Park/Cultural Space exceed 17.5% of the area of the lot(s) being developed.

4.10.1.2 Pathways. The Developer of any subdivision, or any part thereof, shall provide Pathways for all trails and paths identified in the Master Plan that are located on the property to be subdivided or on City property adjacent to the property to be subdivided, and sidewalks required by this ordinance.

4.10.2 Multiple Ownership. Where a parcel of land is owned or otherwise controlled, in any manner, directly or indirectly,

- a. by the same individual(s) or entity(ies), including but not limited to corporation(s), partnership(s), limited liability company(ies) or trust(s), or
- b. by different individuals or entities, including but not limited to corporations, partnerships, limited liability companies or trusts where a) such individual(s) or entity(ies) have a controlling ownership or contractual right with the other individual(s) or entity(ies), or b) the same individual(s) or entity(ies) act in any manner as an employee, owner, partner, agent, stockholder, director, member, officer or trustee of the entity(ies),

multiple subdivisions of the parcel that cumulatively result in three (3) or more residential lots, townhouse sub-lots or condominium units, are subject to the provisions of this ordinance, and shall provide the required improvements subject to the required standards at or before the platting or development of the lots, sub-lots or units.

4.10.3 Parks and Lands Board. The Parks and Lands Board shall review and make a recommendation to the Hearing Examiner or Commission and Council regarding each application subject to the provisions of Section 4.10 of this ordinance. Such recommendation will be based on compliance with the Master Plan and provisions of this ordinance.

4.10.4 Minimum Requirements

- a. Private Green Space. Use and maintenance of any privately owned Green Space shall be controlled by recorded covenants or restrictions which run with the land in favor of the future owners of the property within the tract and which cannot be modified without the consent of the Council.
- b. Neighborhood Park. A Neighborhood Park shall include finished grading and ground cover, large grassy areas, trees and shrubs, sheltered picnic table(s), trash container(s), dog station(s), bike racks, park bench(es), parking as required by ordinance, and two or more of the following: play structure, restrooms, an athletic field, trails, hard surface multiple use court (tennis or basketball courts), or gardens that demonstrate conservation principles. Neighborhood Parks shall provide an average of 15 trees per acre, of which at least 15% shall be of 4" caliper or greater. A maximum of 20% of any single tree species may be used. Landscaping and irrigation shall integrate water conservation. A Neighborhood Park shall be deeded to the City upon completion, unless otherwise agreed upon by the Developer and City.
- c. Mini Park. A Mini Park shall include finished grading and ground cover, trees and shrubs, picnic table(s), trash container(s), dog station(s), bike racks and park

bench(es). All Mini Parks shall provide an average of 15 trees per acre, of which at least 15% shall be of 4" caliper or greater. A maximum of 20% of any single tree species may be used. Landscaping and irrigation shall integrate water conservation.

- d. Park/Cultural Space. A Park/Cultural Space shall include benches, planters, trees, public art, water features and other elements that would create a gathering place. Connective elements, such as parkways or enhanced sidewalks may also qualify where such elements connect two or more Parks or Park/Cultural Spaces.
- e. Pathway. Pathways shall have a minimum twenty foot (20') right-of-way width and shall be paved or improved as recommended by the Parks and Lands Board. Construction of Pathways shall be undertaken at the same time as other public improvements are installed within the development, unless the Council otherwise allows when deemed beneficial for the project. The Developer shall be entitled to receive a Park dedication credit only if the Developer completes and constructs a Pathway identified in the Master Plan, or completes and constructs a Pathway not identified in the Master Plan where the Pathway connects to existing or proposed trails identified in the Master Plan. The City may permit easements to be granted by Developers for Pathways identified in the Master Plan, thereby allowing the Developer to include the land area in the determination of setbacks and building density on the site, but in such cases, a Park dedication credit will not be given. A Developer is entitled to receive a credit against any area required for a Park for every square foot of qualified dedicated Pathway right-of-way

4.10.5 Specific Park Standards. All Parks shall meet the following criteria for development, location and size (unless unusual conditions exist that prohibit meeting one or more of the criteria):

4.10.5.1 Shall meet the minimum applicable requirements required by Section 4.10.4.

4.10.5.2 Shall provide safe and convenient access, including ADA standards.

4.10.5.3 Shall not be gated so as to restrict access and shall not be configured in such a manner that will create a perception of intruding on private space. If a Park is privately owned and maintained, the use of the park shall not be exclusive to the homeowners, residents or employees of the development.

4.10.5.4 Shall be configured in size, shape, topography and improvements to be functional for the intended users. To be eligible for Park dedication, the land must, at a minimum, be located on slopes less than 25 degrees, and outside of drainways, floodways and wetland areas. Mini Parks shall not be occupied by non-recreational buildings and shall be available for the use of all the residents or employees of the proposed subdivision.

4.10.5.5 Shall not create undue negative impact on adjacent properties and shall be buffered from conflicting land uses.

- 4.10.5.6 Shall require low maintenance, or provide for maintenance or maintenance endowment.
- 4.10.6 Specific Pathway Standards. All Pathways shall meet the following criteria for development, location and size (unless unusual conditions exist that prohibit meeting one or more of the criteria):
- 4.10.6.1 Shall meet the minimum applicable requirements required by Section 4.10.4.
- 4.10.6.2 Shall be connected in a useful manner to other Parks, Pathways, Green Space and recreation and community assets.
- 4.10.7 Specific Green Space Standards. If green space is required or offered as part of a subdivision, townhouse or condominium development, all green space shall meet the following criteria for development, location and size (unless unusual conditions exist that prohibit meeting one or more of the criteria):
- 4.10.7.1 Shall meet the minimum applicable requirements required by Section 4.10.4.
- 4.10.7.2 Public and private green spaces on the same property or adjacent properties shall be complementary to one another. Green space within proposed developments shall be designed to be contiguous and interconnecting with any adjacent Green Space (both existing and potential future space).
- 4.10.7.3 The use of the private green space shall be restricted to Parks, Pathways, trails or other recreational purposes, unless otherwise allowed by the City.
- 4.10.7.4 The private ownership and maintenance of green space shall be adequately provided for by written agreement.
- 4.10.8 In-Lieu Contributions.
- 4.10.8.1 After receiving a recommendation by the Parks and Lands Board, the Council may at their discretion approve and accept voluntary cash contributions in lieu of Park land dedication and Park improvements.
- 4.10.8.2 The voluntary cash contributions in lieu of Park land shall be equivalent to the area of land (*e.g.*, square footage) required to be dedicated under this ordinance multiplied by the fair market value of the land (*e.g.*, \$/square foot) in the development at the time of preliminary plat approval by the Council. The City shall identify the location of the property to be appraised, using the standards in Sections 4.10.5.4 and 4.10.5.5 of this ordinance. The appraisal shall be submitted by a mutually agreed upon appraiser and paid for by the applicant.
- 4.10.8.3 Except as otherwise provided, the voluntary cash contribution in lieu of Park land shall also include the cost for Park improvements, including all costs of acquisition, construction and all related costs. The cost for such improvements shall be based upon

the estimated costs provided by a qualified contractor and/or vendor. In the Business (B), Limited Business (LB), Neighborhood Business (NB) and Transitional (TN) zoning districts, in-lieu contributions will not include the cost for Park improvements.

4.10.8.4 In-lieu contributions must be segregated by the City and not used for any other purpose other than the acquisition of Park land and/or Park improvements, which may include upgrades and replacement of Park improvements. Such funds should be used, whenever feasible or practicable, on improvements within walking distance of the residents of the subdivision.

4.11 Inclusionary Community Housing.

4.11.1 Purpose. The purpose of this Section 4.11 is to ensure that new residential development in the City includes a reasonable supply of affordable inclusionary community housing for sale, to help meet the additional demand for more housing needs of the community's citizens with incomes between 50% and 140% of the Area Median Income.

4.11.2 Establishment of Inclusionary Community Housing. Except as otherwise provided herein, all residential subdivisions, including conversion of rental units to condominiums or townhouses, new condominium and townhouse subdivisions, and amendments to plats that convert non-residential units or lots to residential units or lots, resulting in five or more lots or Dwelling Units shall provide Community Housing Units equivalent to a minimum of twenty percent (20%) of the total number of lots or Dwelling Units approved, unless alternatives are otherwise approved. If this Section results in requiring a fraction of a Community Housing Unit, a full unit shall be built or an alternative to provision of an on-site unit shall be provided in compliance with Section 4.11.5 of this ordinance.

If one of the applications described in this section is made and if a subsequent application described in this section cumulatively results in five or more lots or Dwelling Units on the Original Parcel, then the subsequent applicant shall be subject to the provisions of this ordinance and shall construct the required Community Housing Units and/or alternatives in accordance with this ordinance for all the lots or Dwelling Units on the Original Parcel.

If one of the applications described in this section is made and it is apparent that a subdivision of five or more lots may be further subdivided, any approved plat or other recordable instrument describing the entire Original Parcel shall contain a note or provision (unless the Original Parcel is subject to a recorded restriction prohibiting future subdivision), advising future owners of all or part of the Original Parcel that a subsequent application described in this section cumulatively resulting in five or more lots or Dwelling Units will subject all or part of the Original Parcel to the requirement of providing Community Housing Units or alternatives in accordance with this ordinance.

4.11.3 Procedure.

4.11.3.1 Submittal Requirements. For any application under Section 4.11 of this ordinance, the applicant shall submit a Community Housing Plan setting forth the following:

4.11.3.1.1 General Requirements.

- a. Requirement Calculations. Calculations determining the Community Housing Units that indicate each step of the calculation.
- b. Method. The method by which Community Housing Units are to be provided, or if found acceptable to the City, alternatives as set forth in Section 4.11.5 of this ordinance.
- c. Analysis of Standards. A complete written description of how the application meets the standards set forth in Section 4.11.4 of this ordinance.

4.11.3.1.2 Construction or Provision of On-Site or Off-Site Community Housing Units. If On-Site or Off-Site Community Housing Units are proposed, the Community Housing Plan shall include:

- a. Unit descriptions. A schematic site plan and building floor plan (if applicable) showing the location of Community Housing Unit(s) within the development, identifying the number of Community Housing Units proposed, the number of bedrooms and size (square feet) of each unit, and proposed sales price of each unit. A tabulation of this information shall also be submitted.
- b. External unit design. Schematic exterior elevations with description of materials to be used, and schematic landscape design, for the Community Housing Units and the Market Rate Units.
- c. Schedule. A schedule for construction and conveyance of the Community Housing Units.
- d. Targeted income categories. The income categories for the Community Housing Units.
- e. Deed and CCR's. Draft deed(s) for the Community Housing Units in accordance with Local Housing Authority Guidelines, and, if applicable, draft Covenants, Conditions and Restrictions (CCR's) governing the Market Rate Units and Community Housing Units.

4.11.3.1.3 Payment of In-Lieu Fee. If the payment of an in-lieu fee is proposed, the Community Housing Plan shall include:

- a. The timing and amount of in-lieu payments.
- b. The calculations of the in-lieu payments.

4.11.3.1.4 Conveyance of Land. If the conveyance of land is proposed, the Community Housing Plan shall include:

- a. A survey or plat depicting the location, size and topography of the land proposed for conveyance.

- b. A title commitment or report demonstrating clear title, liens, encumbrances, easements and other information contained on a standard title commitment.
- c. An appraisal, at the applicant's sole expense, of the fair market value of the land, at time of the submittal of the Community Housing Plan, by a licensed real estate appraiser.
- d. A description of the land to be conveyed and of the timing of the land to be conveyed.
- e. Any additional information or studies determined by the Administrator to be necessary to verify whether the land is suitable for development.

4.11.3.1.5 Consolidated Community Housing Units. If the consolidation of Community Housing Units is proposed, the Community Housing Plan shall include:

- a. A description of how two or more Developers plan on consolidating fractional Community Housing Units.
- b. The agreement between the Developers providing for the consolidation of fractional Community Housing Units.
- c. The information described in Section 4.11.3.1.2, above.

4.11.3.1.6 Reconfiguration of Fractional Housing Units. If the reconfiguration of fractional housing units is proposed, the Community Housing Plan shall include:

- a. A description of how fractional housing units will be reconfigured.
- b. A description of how the square footage of the reconfigured housing units will comply with the minimum square footage established by the Local Housing Authority, or by the City.
- c. The information described in Section 4.11.3.1.2, above.

4.11.3.2 Pre-Application Meeting. The applicant shall conduct a pre-application conference with the Local Housing Authority to determine general compliance with Section 4.11.4.2 of this ordinance.

4.11.3.3 Commission Review. During the public hearing process for any application requiring the provision of Community Housing Units, the Commission shall review the submitted Community Housing Plan and consider other relevant testimony presented to the Commission. For any application under Section 4.11 of this ordinance, the Commission shall consider the standards in Section 4.11.4 when it makes its findings of fact and conclusions of law, and shall recommend an approval, conditional approval or denial of the application.

4.11.3.4 Council Review. Upon receipt of the Commission's findings of fact and conclusions of law and during the public hearing process for any application requiring the provision of Community Housing Units, the Council shall review the submitted Community Housing Plan, and consider other relevant testimony. For any application under Section 4.11 of this ordinance, the Council shall consider the standards in Section 4.11.4 when it makes its findings of fact and conclusions of law, and shall approve, conditionally approve or deny the application. If the application is approved or conditionally approved, an

agreement incorporating the Community Housing Plan shall be executed by the applicant and the City, be binding on the parties and their successors, heirs and assigns, run with the land, and be recorded with the County Recorder, Blaine County, State of Idaho.

4.11.4 Standards. The applicant shall have the burden of establishing that the proposed Community Housing Plan meets the following standards:

4.11.4.1 Except as otherwise provided herein, the number of Community Housing Units shall be constructed on-site equivalent to a minimum of twenty percent (20%) of the actual number of lots or Dwelling Units approved, unless one or more alternatives under Section 4.11.5 of this ordinance are approved.

Exceptions:

- a) In the Business, Limited Business, Neighborhood Business, and Transitional Districts within the Townsite Overlay District, residential or mixed-use subdivisions, including conversion of rental units to condominiums or townhouses, new condominium and townhouse subdivisions, and amendments to plats that convert non-residential units or lots to residential units or lots, resulting in ten (10) or more lots or Dwelling Units shall provide Community Housing Units equivalent to a minimum of ten percent (10%) of the total number of lots or Dwelling Units approved, unless alternatives are otherwise approved. (Subdivisions including less than ten (10) lots or Dwelling Units are not required to provide Community Housing Units.) If this Section results in requiring a fraction of a Community Housing Unit, a full unit shall be built or an alternative to provision of an on-site unit shall be provided in compliance with Section 4.11.5 of this ordinance.
- b) Within all other zoning districts (not referenced in 4.11.4.1.a above), the requirement for Community Housing Units under this ordinance may be reduced by one percent (1%) for every ten percent (10%) of the total units within the development (including Market Rate and Community Housing Units) that are less than one thousand (1,000) square feet gross floor area in size, excluding garage. (See table below.) For example, a development with 60% of its dwelling units less than 1,000 square feet gross floor area in size, excluding garage, shall be required to provide 14% Community Housing Units.

<u>% of units < 1000 sf</u>	<u>% CH required</u>
0	20
10	19
20	18
30	17
40	16
50	15
60	14
70	13
80	12
90	11
100	10

- 4.11.4.2 Community Housing Units shall be provided with sales prices that will allow the purchase of Community Housing Units by households with incomes between 50% and 140% of AMI. Unless otherwise approved in a Community Housing Plan, Income Categories to be served shall accommodate the range of Income Categories 2 through 6, with the average of all units equivalent to the approximate mid-point (approximately Income Category 4). The Income Categories to be served shall be determined based in part on the availability of Community Housing Units for the various Income Categories at the time projected for occupancy. The number and type(s) of Community Housing Units shall be appropriate to the location of the development and the type and design of the development (*e.g.*, mixed use, single family, etc.).
- 4.11.4.3 The sale of Community Housing Units shall be restricted to owner occupancy pursuant to the adopted guidelines of the Local Housing Authority, or other criteria set forth by the Council.
- 4.11.4.4 Community Housing Units on-site shall harmonize and be dispersed throughout any approved subdivision with Market Rate Units. The size of a Community Housing Unit and its bedroom sizes, exterior materials, design appearance and landscaping shall be similar to the Market Rate Units in the development. Unit size shall meet the minimum requirements of the adopted guidelines of the Local Housing Authority, except as otherwise allowed by the Council.
- 4.11.4.5 On-site and off-site Community Housing Units shall be constructed and offered for sale before the issuance of the fifth (or multiples of five) certificate of occupancy for the Market Rate Units in the subdivision. (For example, in a project with ten Market Rate Units and two Community Housing Units, the first Community Housing Unit shall be constructed and offered for sale before the issuance of the fifth certificate of occupancy for the Market Rate Units, and the second Community Housing Unit shall be constructed and offered for sale before the issuance of the tenth certificate of occupancy for the Market Rate Units.) The Developer may not post financial security in lieu of actual construction of the Community Housing Units to meet this standard.
- 4.11.4.6 The Deed Restriction for Community Housing Units shall be in perpetuity for individual(s) meeting criteria approved by the City of Hailey, or restricted as may be otherwise approved by the Council.
- 4.11.4.7 The dues or assessments that may be imposed by a homeowner's association against the Community Housing Units shall be controlled so that Community Housing Units shall remain affordable to the owner. Amendment of provisions for assessments in a subdivision's covenants, conditions and restrictions may require consent of the Local Housing Authority or City.
- 4.11.4.8 If a Community Housing Plan proposes an alternative to the provision of on-site Community Housing Units, the alternative shall comply with all applicable requirements described in Section 4.11.5.1.

4.11.5 Alternatives/Waiver.

4.11.5.1 Alternatives. If the applicant elects to seek alternatives to the provision of all or part of the Community Housing Units required under this ordinance and upon recommendation of the Commission, and if the Council finds:

- a. the application site is inappropriate and impractical for all or part of the required Community Housing Units,
- b. it is more practical for fractional Community Housing Units to be consolidated to create whole Community Housing Units or to be reconfigured, or
- c. a more viable project can be created on another site,

then one or more of the following alternatives to the provision of required Community Housing Units on-site may be considered:

4.11.5.1.1 Payment of in-lieu fee. The City may consider payment of a fee in-lieu of providing the Community Housing Unit(s) required on-site by this ordinance or a fee in-lieu of providing land as an alternative under Section 4.11.5.1.2. For example, the City may accept payment of an in-lieu fee for a subdivision where a fraction of a Community Housing Unit would be required.

- a. Payment of a fee in-lieu of providing Community Housing Unit(s) shall be made to the City at the time of application for any building permit for the market rate portion of the development.
- b. Payment of a fee in-lieu of providing land shall be made before the final plat for the development is recorded. Interest shall accrue on such an in-lieu fee between the date the Community Housing Plan is submitted and the date the in-lieu fee is paid, at the rate of interest established by Idaho Code § 28-22-104(2), as amended.

A fee schedule for Community Housing Units shall be adopted by resolution of the Mayor and Council, and shall be reviewed and updated within one (1) year of its original adoption, and annually thereafter. A fee collected pursuant to this Section and any interest accumulated thereon shall be returned to the applicant upon written request if the fee has not been spent within seven (7) years from the date the fee was paid. If the Council has, however, designated the fee for expenditure on a specific community housing project, the Council may extend the time period for a refund by three (3) additional years.

4.11.5.1.2 Conveyance of land. The City may consider conveyance of land in-lieu of providing the Community Housing Unit(s) required on-site by this ordinance, and/or payment to the City equivalent to the fair market value of the land that would otherwise be required hereunder. For example, the City may accept conveyance of land in-lieu of units for a land-only subdivision where no Dwelling Units are to be built by the Developer, or may accept payment for a fraction of a lot equivalent to the fair market value of the lot multiplied by the fraction of the lot.

- a. Land conveyed to the Local Housing Authority shall occur at the time the final plat for the development is recorded.

- b. Land shall be conveyed to the Local Housing Authority and must be land within the City, unless otherwise accepted by the Council.
- c. The City may require, as a condition of approval, that land conveyed pursuant to this section be fully developed and ready for construction, with roads, water supply, sewage disposal and other basic services in place. A soils report or other necessary environmental report may also be required, addressing whether the land is suitable for the type of construction contemplated and identifying any special construction techniques necessary for development.
- d. The land conveyed must have appropriate zoning under applicable local law so as to provide for the required Community Housing Unit(s).

Land conveyed pursuant to this section may be subsequently sold by the City in accordance with Idaho law, provided all proceeds from the sale of the land shall be deposited in the Community Housing Fund. Land accepted pursuant to this provision or proceeds therefrom, or an in-lieu fee for the land, may only be used for the production of Community Housing Units. Any payment equivalent to the fair market value of the land that would be required to be conveyed under this alternative shall be deposited, held, used and refunded in accordance with the provisions of Sections 4.11.5.1.1 and 4.11.7.

4.11.5.1.3 Off-site Community Housing Units. The City may consider the construction of off-site Community Housing Units in-lieu of providing the Community Housing Unit(s) required on-site by this ordinance. Upon presentation by the applicant of compelling reasons why the provision of off-site Community Housing Units are preferable to on-site units, the City may consider accepting the development of off-site Community Housing Unit(s) as part of a Community Housing Plan. For example, the City may accept off-site units where a proposed subdivision is located in near proximity to a high concentration of deed restricted or rent restricted units. The City shall approve the location of all off-site units. If the off-site units are not adjacent or in near proximity to the development, the City may require that if Community Housing Units are to be built off-site, 150% of the required number of units shall be built.

4.11.5.1.4 Consolidated Community Housing Units. If the requirement for provision of Community Housing Units results in a fraction of a Community Housing Unit, the City may approve construction of consolidated Community Housing Units where two or more Developers may cooperatively consolidate fractional Community Housing Units to create and construct a whole Community Housing Unit. The City shall approve the location and timing of construction of all consolidated units. For example, the City may accept consolidated units where several Developers are each required to provide a fraction of a Community Housing Unit, and the Developers negotiate the provision of one or more whole units on-site at one of the subject developments, or off-site at another location acceptable to the City.

4.11.5.1.5 Reconfiguration of Fractional Housing Units. If the requirement for provision of Community Housing Units results in a fraction of a Community Housing Unit, the City may approve the creation of units that may be smaller than the recognized minimum square footage for various unit types in different income categories as established by the Local Housing Authority, or the City. For example, if the requirement for Community

Housing Units equals 1.6 units, the City may accept two studio units (where each unit is considered .8 Community Housing Unit by the Local Housing Authority) instead of one whole unit plus an in-lieu fee or other alternative for the fractional (.6) unit, provided the reconfigured units meet the guidelines of the Local Housing Authority, or the City.

4.11.5.1.6 Alternative Deed Restrictions. Except as otherwise provided herein, if the requirement for Community Housing Units under this ordinance results in six (6) or more Community Housing Units, the Developer may propose to construct 50% or more of the required units in accordance with Section 4.11.4.2 of this ordinance, and the remainder of the units under an alternative type of Deed Restriction. Alternative types of Deed Restrictions shall be reviewed and adopted by the Council. If this alternative is approved, the density increase set forth in 4.11.6.2 shall be reduced from 20% to 10%.
Exception:

- a) In the Business, Limited Business, Neighborhood Business, and Transitional Districts within the Townsite Overlay District, if the requirement for Community Housing Units under this ordinance results in two (2) or more Community Housing Units, the Developer may propose to construct 50% or more of the required units in accordance with Section 4.11.4.2 of this ordinance, and the remainder of the units under an alternative type of Deed Restriction. Alternative types of Deed Restrictions shall be reviewed and adopted by the Council.

4.11.5.2 Waiver. An applicant may apply for a waiver of community housing requirements under this ordinance. Such a request must, however, demonstrate by detailed, verifiable financial information that all economically viable use of the property has been lost as a result of the Community Housing Unit(s) requirements of this ordinance.

4.11.6 Developer Concessions. Developers providing Community Housing Units or alternatives as set forth within this Section shall be eligible for the following concessions:

4.11.6.1 Deferred fees. Developers may defer water and sewer hookup fees and building permit fees for the Community Housing Units only, until the time of issuance of a certificate of occupancy for the Community Housing Units.

4.11.6.2 Density Increase. For developments providing Community Housing Units on-site or providing alternative(s) as set forth in 4.11.5.1, unless otherwise provided herein, density may be increased and minimum lot size may be decreased by up to twenty percent (20%) in accordance with the following table:

Zone District	Minimum Lot Size for Single Family	Townhouse Maximum Units/Acre	Multi-family Maximum Units/Acre
LR-2	10,000	N/A	N/A
LR-1	6,667	N/A	N/A
GR	5000	12	12
TN	5000	12	12
LB	5000	24	24
NB	6000	18	18
B	4,500 (no increase) 4,500 or 6,000 (no increase) based on underlying district	12 12 or 24 based on underlying district	24 Based on underlying district
TO			
SCI	N/A	24	24

For developments providing the alternative as set forth in Section 4.11.5.1.1, a density increase shall only be available if the in-lieu fee is for less than one Community Housing Unit.

4.11.6.3 Parks Dedication Requirement. The requirement for parks contribution set forth in Section 4.10.1.1 of this Ordinance shall be calculated according to the base density allowance for each zoning district set forth in the Hailey Zoning Ordinance No. 532 (not the increased density set forth in the tables above), or according to the actual number of lots or Dwelling Units approved, whichever is less.

4.11.7 Establishment of Community Housing Fund. Any and all in-lieu fees for Community Housing Units or for land shall be deposited in the Community Housing Fund to be held and invested by the City Treasurer in accordance with state law. In-lieu fees deposited in the Community Housing Fund, including any interest earned on such fees, shall be used solely for any and all costs associated with increasing and improving the supply of Community Housing Units for sale to households with incomes between 50% and 140% of AMI within the City of Hailey. In-lieu fees may be used, but not limited to the payment for acquisition of property and property rights, costs of construction including costs associated with planning, administration and design, as well as actual building or installation costs, and/or any other costs associated with the construction or financing of community housing. In-lieu fees may be used to match state and/or federal grants and in projects approved under applicable local law. The City holds the final authority on the use of the funds.

4.11.8 Review. This Inclusionary Community Housing section may be reviewed at any time upon the request of the Commission, the Council, the Local Housing Authority, or other third party.

SECTION 5 - IMPROVEMENTS REQUIRED.

- 5.1 It shall be a requirement of the Developer to construct the minimum improvements set forth herein and any required improvements for the subdivision, all to City Standards, which are attached hereto as Exhibit "A." Alternatives to the minimum improvement standards may be recommended for approval by the City Engineer and approved by the City Council at its sole discretion only upon showing that the alternative is clearly superior in design and effectiveness and will promote the public health, safety and general welfare.
 - 5.1.1 Six (6) copies of all improvement plans shall be filed with the City Engineer and made available to each department head. Upon final approval two (2) sets of revised plans shall be returned to the Developer at the pre-construction conference with the City Engineer's written approval thereon. One set of final plans shall be on-site at all times for inspection purposes and to note all field changes upon.
 - 5.1.2 Prior to the start of any construction, it shall be required that a pre-construction meeting be conducted with the Developer or his authorized representative/engineer, the contractor, the City Engineer and appropriate City departments. An approved set of plans shall be provided to the Developer and contractor at or shortly after this meeting.
 - 5.1.3 The Developer shall guarantee all improvements pursuant to this Section for no less than one year from the date of final acceptance by the City, except that parks shall be guaranteed and maintained by the Developer for a period of two years.
- 5.2 The Developer shall construct all streets, alleys, curb and gutter, lighting, sidewalks, street trees and landscaping, and irrigation systems to meet City Standards, the requirements of this ordinance, the approval of the Council, and to the finished grades which have been officially approved by the City Engineer as shown upon approved plans and profiles. The Developer shall pave all streets and alleys with an asphalt plant-mix, and shall chip-seal streets and alleys within one year of construction.
 - 5.2.1 Street cuts made for the installation of services under any existing improved public street shall be repaired in a manner which shall satisfy the Street Superintendent, shall have been approved by the Hailey City Engineer or his authorized representative, and shall meet City Standards. Repair may include patching, skim coats of asphalt or, if the total area of asphalt removed exceeds 25% of the street area, the complete removal and replacement of all paving adjacent to the development. Street cut repairs shall also be guaranteed for no less than one year.
 - 5.2.2 Street name signs and traffic control signs shall be erected by the Developer in accordance with City Standard, and the street name signs and traffic control signs shall thereafter be maintained by the City.
 - 5.2.3 Street lights in the Recreational Green Belt, Limited Residential, General Residential, and Transitional zoning districts are not required improvements. Where proposed, street

lighting in all zoning districts shall meet all requirements of Chapter VIII B of the Hailey Zoning Ordinance.

- 5.3 The Developer shall construct a municipal sanitary sewer connection for each and every developable lot within the development. The Developer shall provide sewer mains of adequate size and configuration in accordance with City standards, and all federal, state, and local regulations. Such mains shall provide wastewater flow throughout the development. All sewer plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.
- 5.4 The Developer shall construct a municipal potable water connection, water meter and water meter vault in accordance with City Standards, or other equipment as may be approved by the City Engineer, for each and every developable lot within the development. The Developer shall provide water mains and services of adequate size and configuration in accordance with City Standards, and all federal, state, and local regulations. Such water connection shall provide all necessary appurtenances for fire protection, including fire hydrants, which shall be located in accordance with the IFC and under the approval of the Hailey Fire Chief. All water plans shall be submitted to the City Engineer for review and approval. At the City Engineer's discretion, plans may be required to be submitted to the Idaho Department of Environmental Quality (DEQ) for review and comments.
 - 5.4.1 Within the Townsite Overlay District, where water main lines within the alley are less than six (6) feet deep, the developer shall install insulating material (blue board insulation or similar material) for each and every individual water service line and main line between and including the subject property and the nearest public street, as recommended by the City Engineer.
- 5.5 The Developer shall provide drainage areas of adequate size and number to meet the approval of the Street Superintendent and the City Engineer or his authorized representative.
- 5.6 The Developer shall construct each and every individual service connection and all necessary trunk lines, and/or conduits for those improvements, for natural gas, electricity, telephone, and cable television to the property line before placing base gravel for the street or alley.
- 5.7 The Developer shall improve all parks and Green Space areas as presented to and approved by the Hearing Examiner or Commission and Council.
- 5.8 All improvements are to be installed under the specifications and inspection of the City Engineer or his authorized representative. The minimum construction requirements shall meet City Standards or the Department of Environmental Quality (DEQ) standards, whichever is the more stringent.
- 5.9 Installation of all infrastructure improvements must be completed by the Developer, and

inspected and accepted by the City prior to signature of the plat by City representatives, or according to a phasing agreement. A post-construction conference shall be requested by the Developer and/or contractor and conducted with the Developer and/or contractor, the City Engineer, and appropriate City departments to determine a punch list of items for final acceptance.

- 5.9.1 The Developer may, in lieu of actual construction, provide to the City security pursuant to Section 3.3.7, for all infrastructure improvements to be completed by Developer after the final plat has been signed by City representatives.
- 5.10 Prior to the acceptance by the City of any improvements installed by the Developer, three (3) sets of “as-built plans and specifications” certified by the Developer’s engineer shall be filed with the City Engineer

SECTION 6 - LOT LINE ADJUSTMENTS.

- 6.1 Developers making an application for the adjustment or elimination of a lot line or lines shall be required to file a preliminary plat with the Administrator for review. Upon a finding by the Administrator or Hearing Examiner that the plat conforms to the definition of a Lot Line Adjustment and is in compliance with the provisions of this Ordinance, the Administrator or Hearing Examiner may approve the preliminary plat. Thereafter, the Developer shall submit a final plat, to be drawn in compliance with the requirements of this Ordinance, to the Administrator for final review. The Administrator shall inform the City Clerk of final approval in writing prior to signature of the plat sheets for the purpose of recordation.
- 6.2 Upon a finding by the Administrator or Hearing Examiner that the application does not conform to the definition of a Lot Line Adjustment or is not in compliance with this Ordinance, the Administrator or Hearing Examiner shall deny the application and shall state the reasons therefore in writing, and a copy signed by the Administrator or Hearing Examiner attached to one copy of the plat shall be returned to the applicant. Any questions with regard to the interpretation and/or applicability of this section shall be referred to the Council by the Administrator or Hearing Examiner for determination.

SECTION 7 - CONDOMINIUMS.

The purpose of this section is to set forth special provisions for property created or converted pursuant to the Condominium Property Act, Idaho Code §§55-1501 *et seq.*, as amended.

- 7.1 Plat Procedure. The Developer of a condominium project shall submit with the preliminary plat application as required by this Ordinance a copy of the proposed by-laws and condominium declarations of the proposed condominium development. The documents shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, common area, recreational facilities, and Green Space. The Developer may submit a final plat application following inspection and approval by the Building Inspector of the footings and setbacks of the condominium

building. Prior to final plat approval, the Developer shall submit to the City a copy of the final by-laws and condominium declarations to be recorded with the County Recorder, including the instruments number(s) under which each document was recorded.

- 7.2 Garages. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular condominium units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific condominium units on the condominium plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the condominium project.
- 7.3 Storage/Parking Areas. Condominium projects shall provide parking spaces according to the requirements of Article IX of the Zoning Ordinance.
- 7.4 Construction Standards. All condominium project construction shall be in accordance with the IBC, IRC and IFC.
- 7.5 General Applicability. All other provisions of this Ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by Condominium developments.
- 7.6 Conversion. The conversion by subdivision of existing units into Condominiums shall not be subject to Section 4.10 of this Ordinance.

SECTION 8 – TOWNHOUSES.

- 8.1 Plat Procedure. The Developer of the townhouse development shall submit with the preliminary plat application and all other information required herein a copy of the proposed party wall agreement and the proposed document(s) creating an association of owners of the proposed townhouse sub-lots, which shall adequately provide for the control (including billing where applicable) and maintenance of all common utilities, commonly held facilities, garages, parking and/or Green Spaces. Prior to final plat approval, the Developer shall submit to the City a final copy of the party wall agreement and any other such documents and shall record the documents prior to or at the same time of the recordation of the plat, which plat shall reflect the recording instrument numbers thereupon.
- 8.2 Garage. All garages shall be designated on the preliminary and final plats and on all deeds as part of the particular townhouse units. Detached garages may be platted on separate sub-lots, provided that the ownership of detached garages is appurtenant to specific townhouse units on the townhouse plat and that the detached garage(s) may not be sold and/or owned separate from any dwelling unit(s) within the townhouse development.
- 8.3 Storage/Parking Areas. Residential townhouse developments shall provide parking spaces according to the requirements of Article IX of the Zoning Ordinance .

- 8.4 Construction standards. All townhouse development construction shall be in accordance with the IBC, IRC and IFC. Each townhouse unit must have separate water, sewer and utility services, which do not pass through another building or unit.
- 8.5 General Applicability. All other provisions of this Ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by townhouse developments.
- 8.6 Expiration. Townhouse developments which have received final plat approval shall have a period of three calendar years from the date of final plat approval by the Council to obtain a building permit. Developments which have not received a building permit, shall be null and void and the plats associated therewith shall be vacated by the Council. If a development is to be phased, construction of the second and succeeding phases shall be contingent upon completion of the preceding phase unless the requirement is waived by the Council. Further, if construction on any townhouse development or phase of any development ceases or is not diligently pursued for a period of three years without the prior consent of the Council, that portion of the plat pertinent to the undeveloped portion of the development shall be vacated.
- 8.7 Conversion. The conversion by subdivision of existing units into Townhouses shall not be subject to Section 4.10 of this Ordinance.
- 8.8 The maximum number of Cottage Townhouse Units on any parcel shall be twelve (12), and not more than two (2) Cottage Townhouse Developments shall be constructed adjacent to each other.

SECTION 9 - VACATIONS.

- 9.1 Applications for vacation of a public right-of-way, alley or easement (other than utility easements) shall comply with Idaho Code §50-311 and §§50-1317 through 50-1325, as amended, and the provisions of this Ordinance. Applications for vacation of utility easements shall comply with Idaho Code §50-1306A, as amended.
- 9.2 Applications for vacation of streets, alleys, or easements shall be submitted to the Hearing Examiner, except that the Administrator and Chair of the Commission, jointly, shall have discretion and authority to refer a vacation application to the Commission. The Hearing Examiner or Commission shall make a recommendation, concerning the application for vacation, to the Council. The Hearing Examiner or Commission shall consider the following items in making their recommendation:
 - 9.2.1 The application and testimony of the applicant and such other information as may come before it with regard to the proposed vacation or dedication.
 - 9.2.2 The interests of the adjacent property owners and public utilities.
 - 9.2.3 Conformance of the proposal with the Comprehensive Plan.

- 9.2.4 The future development of the neighborhood.
- 9.2.5 That the public right-of-way, alley or easement no longer serves a public purpose.
- 9.2.6 In lieu of vacation, the Hearing Examiner or Commission may recommend to the Council a revocable landscape license.
- 9.3 In considering a street, alley or easement vacation following recommendations by the Hearing Examiner or Commission, the Council shall establish a date for public hearing and give such notice as required by law. The Council shall hear and consider the public testimony, applicant testimony, recommendations of the Hearing Examiner or Commission, public purpose and any other information, including findings of facts, as may be brought before the Council.
 - 9.3.1 Any vacation to be granted by the Council shall be supported by findings that the right-of-way in question is no longer needed for public use.
 - 9.3.2 Should the Council approve the application, in the case of public right-of-way, alley, or street, the City shall pass an Ordinance vacating the same. When a street or alley is vacated, the City shall provide adjacent property owners with a quitclaim deed for the vacated right-of-way. The vacation shall become effective upon enactment of the Ordinance pursuant to Idaho Code.
 - 9.3.3 In lieu of granting a vacation of City right-of-way, the Council may grant a revocable license.

SECTION 10 - AMENDED PLATS.

- 10.0 In the event a plat of a subdivision has been recorded and substantial changes are proposed which change the subdivision materially, the portion of the subdivision in which these changes are proposed must be approved and the prior plat vacated in accordance with the regulations set forth in this Ordinance. Any change in street location will require an amended plat for that portion of the plat that is affected. Any change of a public or private street name shall also require a resolution of the Council. Unless the Administrator, in the Administrator's sole discretion, finds that the proposed changes materially alter the nature and character of the subdivision, amended plats are subject to the short plat procedure as set forth in Section 3.4 of this Ordinance.

SECTION 11 - EXCEPTIONS.

- 11.0 Whenever the tract to be subdivided is, in the opinion of the Commission and the Council, of such unusual shape or size, or is surrounded by such development or unusual conditions that the strict application of the requirements contained herein would result in real difficulties and substantial hardships or injustices, the Council may vary or modify such requirements by making findings for their decision so that the Developer is allowed to develop his property in a reasonable manner, while ensuring that the public welfare and interests of the City and surrounding area are protected and the general intent and

spirit of this Ordinance are preserved. As used in this Section the phrase "real difficulties and substantial hardships or injustices" shall apply only to situations where strict application of the requirements of this Ordinance will deny to the Developer the reasonable and beneficial use of the property in question, and not in situations where the Developer establishes only that exceptions will allow a more financially feasible or profitable subdivision.

SECTION 12 - ENFORCEMENT.

- 12.1 In addition to all other remedies and penalties provided herein, the City may enforce this Ordinance by initiation and prosecution of a civil action naming all parties believed to be responsible for a violation hereof, and the civil action may include a request for preliminary and/or permanent injunctive relief.
- 12.2 Any person, firm or corporation violating any regulation of this Ordinance shall be subject to a fine of not more than three hundred (\$300.00) dollars, or imprisonment for a period not exceeding six months, or both. Each and every day during which the violation continues shall be deemed a separate offense.

SECTION 13 – AMENDMENTS.

- 13.1 Whenever the public health, safety and general welfare require, the Council may, by ordinance, amend the provisions of this Ordinance in accordance with the procedures of this Section, and in accordance with the procedures authorized by Idaho Code §67-6513. Amendments may be initiated by an application, by Planning Staff, or by adoption of a motion by the Commission or the Council.
- 13.2 Applications for amendments as described in Section 13.1 shall contain the following information:
 - a. Name, address, and phone number of applicant.
 - b. Proposed amendment and summary of the specific objective of any proposed change in text.
 - c. A statement of how the proposed amendment relates to the Comprehensive Plan.
 - d. A fee established in a separate ordinance approved by the City Council.
- 13.3 Action by Commission.
 - 13.3.1 The Commission shall review proposed amendments in the following manner:
 - a. Criteria for Review. The Commission shall consider the relationship of the proposed amendment to the Comprehensive Plan in making its recommendation to the Council.
 - b. If the proposal initiated by an applicant is not in accordance with the Comprehensive Plan, the Commission shall notify the applicant of this finding and inform the applicant that they must apply for an amendment to the Comprehensive Plan before the Ordinance can be amended.

13.3.2 The Commission, prior to making any recommendations to the Council on any proposed amendment, shall hold at least one (1) public hearing in which all interested persons shall have an opportunity to speak. At least fifteen (15) days prior to the hearing, the City Clerk shall publish a notice of time, place and a description of the amendment in a newspaper of general circulation within the City.

13.3.3 The Commission shall recommend, with reasons therefore, to the Council that the proposed amendment be granted or denied, or that a modified amendment be granted.

13.4 Action by the Council.

13.4.1 The Council, prior to adopting, revising, or rejecting the amendment as recommended by the Commission, shall conduct at least one (1) public hearing using notice procedures as set forth in Section 13.3.2 of this Ordinance. The Council shall not hold a public hearing until a recommendation has been received from the Commission.

a. Following the hearing, if the Council makes a material change from what was presented at the hearing, further notice and hearing shall be provided before the Council makes its final action.

13.4.2 Upon adopting the proposed amendment, the Council shall find that the amendment:

- Will generally conform with the Comprehensive Plan; and
- Will not create excessive additional requirements at public cost for public facilities and services, and;
- Will be in accordance with the welfare of the general public.

13.4.3 Upon approval of an amendment, the Council shall pass an ordinance making the amendment part of this Ordinance.

13.4.4 There is no right to an appeal of a denial to a subdivision ordinance amendment as defined by Section 2.6 of this Ordinance.