

TITLE 9

SUBDIVISION REGULATIONS

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CHAPTER 1

GENERAL PROVISIONS

SECTION:

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9-1-1: TITLE: These regulations shall be known and cited as the TETON COUNTY SUBDIVISION REGULATIONS. (ORD.9 as amd. through 9-25-2000)

9-1-2: AUTHORITY: These regulations are authorized by Title 50, Chapters 12 and 13 of the Idaho Code, as amended or subsequently codified. (ORD.9 as Amd. through 9-25-2000), as well as by Title 67, Chapter 65 of the Idaho Code, as amended or subsequently codified, and by Article 12, Section 2 of the Idaho Constitution. (amd. 11-14-08)

9-1-3: PURPOSE AND SCOPE: The purpose of these regulations is to promote the public health, safety, and general welfare, and to provide for:

A. The harmonious development of the area in accordance with the approved Comprehensive Plan; (amd. 11-14-08)

B. The coordination of streets and roads within the subdivision with other existing or planned streets and roads in adjacent development, where connectivity would be a benefit to both developments, and the construction or upgrade of streets and roads necessary to accommodate traffic from the proposed development in accordance with County approved engineering standards and without expense to the public; (amd. 11-14-08)

C. Adequate open space for travel, light, recreation, and preservation of the county's rural character, including consistency with trail maps adopted by the County; (amd. 11-14-08)

D. Adequate water supply, drainage and sanitary facilities to serve the proposed development, and the construction of such facilities in accordance with County approved engineering standards and without expense to the public; (amd. 11-14-08)

E. Design of development to avoid those Overlay Areas defined in Title 8 and Title 9, and where avoidance is not feasible to mitigate impacts to such areas; (amd. 11-14-08)

F. Design of development in accordance with all regulations applicable to the area, including without limitation the Zoning Regulations, the approved building code, the International Fire Code, the requirements of Eastern Idaho Public Health Department, and the most recently adopted Teton County Fire Protection District Fire Protection Resolution for Subdivision; (amd. 11-14-08)

G. The manner and form of making and filing of any plat; and

H. The administration of these regulations by defining the powers and duties of approval authorities. (ORD.9 as Amd. through 9-25-2000; amd. 11-14-08)

I. Platted lots and existing lots of record are exempt from the scope of the regulations contained in Section 9-3-2 and Chapter 5 of Title 9. (amd. 11-14-08)

9-1-4: JURISDICTION: These regulations shall apply to the subdividing of all land within the unincorporated territory of Teton County, except that all subdivisions and PUDs within the areas of city impact are subject to the area of city impact ordinances as adopted by the cities and the County. (amd. 11-14-08)

9-1-5: INTERPRETATION: All “subdivisions” and “PUDs” as defined in Chapter 2 shall be submitted to the Board for final approval and shall comply with the provisions of these regulations. All subdivisions and PUDs shall comply with all zoning provisions applicable to the property, including without limitation the provisions of the various Overlay Areas defined in sections 8-2, 8-5-1, and 8-5-2, unless the provisions of Title 9 specifically authorize a variation to those standards. The regulations of Title 9 shall supplement all other regulations and where there is an inconsistency with other laws or regulations, the more restrictive requirements shall apply. (ORD.9 as Amd. through 9-25-2000; amd. 11-14-08)

9-1-6: ADMINISTRATION AND PROCEDURE: The Board shall appoint a Planning Administrator to carry out the provisions of Title 9 and to advise the Commission and the Board. The Planning Administrator shall receive and process all subdivision and PUD applications. (ORD.9 as Amd. 9-25-2000) The Planning Administrator shall present complete applications to the Commission and the Board. The Commission recommends to the Board approval, approval with conditions, or denial of a proposed subdivision or PUD and all of its components. (amd. 11-14-08)

9-1-7: COMBINING OF PERMITS: The Commission may coordinate with other departments and agencies concerning all permits or approvals that may be required in Title 9 or other adopted County ordinances. A one-step permit application and processing procedure may be developed with the respective department(s) and agencies for the purpose of reducing errors, misunderstanding, confusion and unnecessary delay for everyone involved. (ORD.9 as Amd. 9-25-2000)

9-1-8: SEVERABILITY: Where any word, phrase, clause, sentence, paragraph, section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part so held invalid. (ORD.9 as Amd. through 9-25-2000)

CHAPTER 2

DEFINITIONS

SECTION:

9-2-1: Interpretation
 9-2-2: General Definitions

9-2-1: INTERPRETATION: Terms or words used herein shall be interpreted as follows:

- A. The present tense includes the past or future tense, the singular includes the plural and the plural includes the singular;
- B. The word “shall” is mandatory; “may” is permissive; and the word “should” is preferred; and
- C. The masculine shall include the feminine. (Title 9 as amd. through 9-25-2000)

9-2-2: GENERAL DEFINITIONS: As used in this title, the following words and terms shall have the meanings ascribed to them in this section:

ACREAGE: Any tract or parcel of land that has not been subdivided and platted , in common ownership and having an are of one acre or more.

ADMINISTRATOR: The Planning Administrator appointed by the Board having knowledge in the principles and practices of planning, zoning, and subdivision administration. (amd. 11-14-08)

AFFECTED PERSON: An affected person is a person so described in Idaho Code section 67-6521.

AGENT: A person that legally represents the developer and the owner and such legal authorization shall be on file, in writing, with the planning and zoning, and building department of the county.

AGRICULTURAL BUILDING: A structure designed and constructed to house automobiles, trucks, farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation, nor shall it be a place used by the public.

APPLICANT: The applicant refers to the person or persons who file an application with the Planning Commission seeking relief or authority under this title. (amd. 06-05)

- APPLICATION:** The documents submitted to the county to apply for a permit to fulfill the requirements of the county ordinances with regard to land use. An application is deemed complete and officially received by the county at the time the applicable application checklist items are complete and confirmed in writing and dated by the Planning Administrator.
- BLOCK:** The space along one side of a street between the two (2) nearest intersecting streets, or between an intersecting street and a right of way, waterway or other similar barrier, whichever is lesser.
- BOARD:** The Board of County Commissioners of Teton County, Idaho. (amd. 06-05)
- BOUNDARY ADJUSTMENT:** The adjusting of common property lines or boundaries between adjacent tracts, or parcels for the purpose of accommodating a transfer of land or rectifying a disputed property line location. The resulting adjustment shall not create any additional tracts or parcels and all reconfigured tracts or parcels shall contain sufficient area and dimension to meet minimum requirements for zoning and building purposes. (amd. 06-05)
- BUILDING:** Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure, by space or by walls in which there are no communication doors, windows or openings, which is designed or intended for the shelter, enclosure or protection of persons, animals, chattels or property of any kind.
- BUILDING ENVELOPE:** That area of a lot that encompasses all building improvements and appurtenances including but not limited to: Excavation, fill, grading, storage, demolition, structures, decks, roof overhangs, porches, patios and parking. Building envelopes are encouraged, in developments throughout the County to protect scenic vistas, and to ensure defined building sites within special development subdivisions and planned unit developments. (amd. 06-05)
- BUILDING SITE:** An area proposed or provided and improved by grading, filling, excavation or other means for erecting pads for buildings. (amd. 06-05)
- CC&Rs:** Covenants, Conditions, and Restrictions. Also called Protective Covenants or Restrictive Covenants. (amd. 11-14-2008)
- CITY:** The city having jurisdiction of the parcel of land under consideration. (amd. 06-05)
- CLUSTER:** An arrangement of adjoining residential lots in groupings that allow closer spacing than would be generally permitted, where the reduced lot

sizes are offset by open space, and where groupings of lots are limited in size and location in order to reduce the perception of a single large development and to preserve rural and open character. (amd. 11-14-2008)

CLUSTER HOUSING: A development of land consisting of separate residential lots where conventional setbacks, lot sizes or density may be varied with adjacent land held in common, usually as open space, and where said common land is maintained under private management or homeowner's association. (amd. 06-05)

COMMISSION: The Planning and Zoning Commission. (Amd. 05-05)

COMMITTEE: A technical committee may be appointed by the Board of County Commissioners upon recommendation by the Planning Commission to assist with the technical evaluation of subdivisions, and to make recommendations to the Planning Commission. The membership of the committee shall include, but not be limited to, persons that are engaged in either private or public work with specific knowledge in the following areas:

- A. Road design and construction;
- B. Sewer and water facility design and construction;
- C. Health requirements for water and sewer facilities;
- D. Environmental planning criteria such as: geology water systems, vegetation and noise;
- E. Solid waste;
- F. Recreational and open space;
- G. Schools;
- H. Law enforcement;
- I. Fire protection.

COMPREHENSIVE PLAN: The plan or any portion thereof, adopted by the Board of County Commissioners, which includes all the land within the jurisdiction of the Board. The plan with maps, charts, and reports shall be based on components outlined in Title 67-6508 of the Land Use Act of the Idaho

Code as they may apply to land use regulations, and actions unless the plan specifies reasons why a particular component is unneeded. (amd. 01-16-2002)

CONCEPT PLAN:	The first formal presentation of the three-phase process for subdivision development as required in sections 9-3-2-A and 9-3-2-B of Title 9. (Amd. 01-16-2002; amd 11-14-2008)
CONDOMINIUM:	An estate consisting of an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof; together with a separate interests in real property, in an interest or interests in real property or in any combination thereof.
COUNCIL:	The city council of an incorporated city within the County. (amd. 06-05)
COUNTY RECORDER:	The office of the county recorder.
COUNTY ROAD STANDARDS:	The “Highways and Street Guidelines for Design and Construction” manual for Teton County, Idaho, as adopted. (amd.11-14-2008)
COVENANT:	A written promise or pledge or contract recorded on/ within a public or official document of the county. (amd. 06-05)
CULVERT:	A drain that channels water under a bridge, street, road or driveway.
DEDICATION:	The setting apart of land or interests in land for use by the public by ordinance, resolution or entry in the official minutes as by the recording of a plat. Dedicated land becomes public land upon the acceptance of the county.
DENSITY:	A unit of measurement for the number of dwelling units per acre of land. This is sometimes expressed in the reciprocal, as in 2.5 or 20 acres per unit.
DENSITY GROSS:	The number of dwelling units per acre of the total land to be developed including land dedicated to public use.
DENSITY NET:	The number of dwelling units per acre of the land devoted to residential uses only and excluding land dedicated to public use.
DEVELOPMENT:	An activity to construct infrastructure, or a structure, or a building for which a building permit is required, or to divide the land into lots and parcels in anticipation of such activities, and specifically including a subdivision or PUD. (amd. 11-14-2008)
DEVELOPER:	The owner or agent of the owner on an application submitted to the county to subdivide land. (Amd. 05-05)

- DIRECT IMPACT:** Those adverse effects caused by the proposed action and occurring at the same time and place. (amd. 05-11-10)
- DWELLING:** A building for human habitation which shall not include a mobile living unit such as a motor home or trailer coach, or hotel, dormitory, hospital, rooming house or tent. (amd. 06-05)
- EASEMENT PRESCRIPTIVE:** Real property that has become a public right-of-way by prescriptive use of the public for five (5) years or more as defined in Idaho law. (amd. 06-05)
- EASEMENT PUBLIC:** Real property that has been granted dedicated or deeded to a governmental jurisdiction for public or special use. (amd. 06-05)
- FAMILY:** One or more persons, occupying a dwelling unit and living as a single housekeeping unit, as distinguished from renters, or group occupying a boarding house, lodging house, hotel, motel or similar establishment. (amd. 06-05)
- FLOOD PLAIN:** The National Flood Insurance Program (NFIP) defines a regulatory floodplain as the area adjacent to a watercourse that is inundated by the 100-year discharge, and therefore has a 1% chance of being inundated in any single year. These lands are coarsely depicted on the Comprehensive Plan Map No. 8 titled The Official 100 Year Flood Plan Required by FEMA. (amd. 05-11-10)
- FLOODWAY** Regulatory floodway means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base (100-year) flood without cumulatively increasing the water surface elevation more than a designated height (pursuant to Title 12). (amd. 05-11-10)
- FORESTED RIPARIAN HABITAT** Riparian areas variably composed of native trees and/or shrubs such as: cottonwood, aspen, hawthorn, alder, or willow occurring alone or in combination with associated native understory species. (amd. 05-11-10)
- FRONTAGE:** The distance across the front of a lot that is adjacent to a public road, right-of-way and/or easement.
- HANDICAPPED PERSON:** A person who has a severe, chronic disability attributable to a mental or physical impairment or to a combination of mental and physical impairments, which is likely to continue indefinitely, and which results in a substantial function limitation in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning mobility, self-sufficiency; and who require a combination or sequence of special interdisciplinary or generic care, treatment or other

services that are individually planned and coordinated to allow the person to function in and contribute to, a residential neighborhood.

HEALTH AUTHORITY: The Idaho State Department of Health and Welfare and its local district health offices that exercise jurisdictional authority for the state.

HIGHWATER MARK: The line that the water impresses on the soil by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation (IDAPA 58.01.03 Onsite Sewage Disposal Rules). Additional indicators of OHWM that may be present include but are not limited to: top of point bars or depositional areas, break in bank slope, edge of active floodplain, edge of perennial vegetation. (amd. 05-11-10)

HIGHWAY: A street or road designated as a highway by the state or federal government.

HILLSIDE: Those areas designated as hillsides on Comprehensive Plan Map 5 or any successor map approved by the Board as being a more accurate representation of hillside lands in the Teton County. (amd. 11-14-2008)

HILLSIDE SUBDIVISION: The Hillside Overlay Provision shall be applied to applications for development, as regulated in Section 9-3-2 (C,3) (amd. 06-05; amd. 11-14-08)

IMPROVEMENT: Any alteration to the land or other physical construction associated with subdivisions and building site developments.

INDICATOR SPECIES AND INDICATOR HABITAT:

Big Game: Elk, Mule Deer and mountain shrublands

Trout: Cutthroat Trout, Rainbow Trout and perennial and seasonal surface water (excluding ditches and irrigation water delivery systems)

Water Birds: Sandhill Crane, Trumpeter Swan, and Palustrine emergent wetlands

Songbirds and Raptors: Forested riparian habitat, and mountain shrublands

Columbian Sharp-Tailed Grouse: Sagebrush-steppe, and mountain shrublands (amd. 05-11-10)

INDIRECT IMPACT: Those adverse effects caused by the proposed action and occurring later in time or farther removed in distance, but still reasonably foreseeable. Indirect impacts may include effects related to changes in pattern of land

use, human presence and population density, and related effects on natural systems and ecosystems. (amd. 05-11-10)

JUNK: Old or scrap metal, rope, rags, batteries, paper trash, rubber, debris, waste, dismantled or wrecked vehicles and automobiles or parts thereof, iron steel and other old or scrap ferrous and nonferrous material.

LOT AREA: The area of any lots shall be determined exclusive of street, highway, road or other rights of way. (amd. 06-05)

LOT/PLOT: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon. (amd. 06-05)

LOT TYPES: As used in these regulations, lot types are as follows:

Corner Lot: A lot located at the intersections of two (2) or more streets;

Flag Lot: A lot with a long easement on one side that creates the image of a flag.

Interior Lot: A lot other than a corner lot, with frontage on only one street.

Through Lot: A lot with frontage on more than one street other than a corner lot.

MAXIMUM EXTENT FEASIBLE: All possible efforts to comply with the regulation and to avoid or minimize adverse impacts have been undertaken. Documentation showing that an application has satisfied regulations subject to the "maximum extent feasible" standard shall be presented with the preliminary plat application. Economic considerations may be taken into account but shall not be the overriding factor in determining "maximum extent feasible." (amd. 11-14-2008)

MITIGATION: A design, action, or facility offered by an applicant for development approval, or required by Teton County as a condition of development approval, in order to avoid, minimize, or offset negative impacts of development that would or might otherwise occur. Avoidance of impacts and minimization of impacts are preferable to offsetting mitigation measures. Mitigation shall be conducted onsite unless all efforts to mitigate for development related impacts onsite have been exhausted, in which case offsite mitigation proposals will be considered. (Amd. 11-14-2008)

MONUMENT: A survey marker as defined in Idaho Code Section 50-1303.

MOUNTAIN SHRUBLANDS: Shrublands dominated by serviceberry, chokecherry, sagebrush, bitterbrush, snowberry and/or other native mountain shrub species. (amd. 05-11-10)
(aka Mountain Brush)

NONCONFORMING USE: A land use or activity, which was lawful prior to the adoption, revision, or amendment of this title but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of this title.

OPEN SPACE: Significant tracts of land not under residential, mixed, institutional, commercial or industrial use; however, open space may be held in privately owned large lots of twenty (20) acres or more. Open space may include sensitive environmental areas and productive uses including agriculture or low impact recreation amenities. Open space shall not include features such as streets, parking areas, constructions for habitation, or building envelopes. Open space includes but is not limited to lands set aside as a Community Benefit in a PUD generally in exchange for density higher than that of the underlying zone. (Amd. 11-14-2008)

OVERLAY AREAS: The boundaries of areas shown on the following maps or any successor maps approved by the Board as a more accurate depiction of the type of land, soil, feature, or risk indicated in the title to the map, or by definition: (Amd.06-05; Amd.11-14-08)

- A. (AV) Airport Vicinity Overlay: Those areas under the horizontal and conical surfaces shown on the Airport Surfaces map maintained by the City of Driggs.
- B. (FP) Flood Plain Overlay: Those areas shown on Comprehensive Plan Map titled “The Official 100 Year Flood Plain required by FEMA.”
- C. (HS) Hillside Overlay: Those areas designated as hillsides on Comprehensive Plan Map titled “The Critical Overlay Areas of Teton County.”
- D. (SC) Scenic Corridor Overlay includes: All lands lying within three hundred thirty (330) feet of both sides of the rights-of-way for Idaho State Highways 31, 32, 33 and Ski Hill Road from Driggs city limits to the Wyoming stateline.
- E. (WH) Wildlife Habitat Overlay: Those areas designated as wildlife habitat on the Teton County Wildlife Overlay map, as adopted and amended.

F. (WW) Wetlands and Waterways Overlay: Includes all lands defined and regulated as wetlands through the federal clean water act as administered by the U.S. Army Corps of Engineers and the streams listed below. Because the existing WW Overlay as mapped does not accurately identify all such areas, the WW will be applied to: (1) all wetland areas identified on the U.S. Fish and National Wetland Inventory Maps, unless a jurisdictional determination is secured from the U.S. Army Corps of Engineers (USACE) indicating the area as uplands; (2) all areas delineated as wetlands and verified as such by the USACE; and (3) those areas lying within three hundred (300) feet of the high water mark of the following waterways: (amd. 05-11-10)

- | | |
|-------------------|----------------------------|
| Badger Creek | Mahogany Creek |
| Bear Creek | Milk Creek |
| Bitch Creek | Moose Creek |
| Bull Elk Creek | North Leigh Creek |
| Darby Creek | Packsaddle Creek |
| Drake Creek | Patterson Creek |
| Dry Creek | South Leigh Creek |
| Fox Creek | Spring Creek |
| Game Creek | Teton Creek |
| Grouse Creek | Teton River |
| Grove Creek | Trail Creek |
| Henderson Creek | Twin Creek |
| Horseshoe Creek | Warm Creek |
| Little Pine Creek | (Amd.05-05; amd. 11-14-08) |

OWNERSHIP: The individual, firm, association, syndicate, partnership or corporation having any interest in the land to be subdivided.

PALUSTRINE EMERGENT WETLANDS: Wetlands dominated by rooted herbaceous wetland vegetation with less than 30% cover of woody plants (shrubs or trees). These wetlands are coarsely mapped on USFWS National Wetlands Inventory Maps (NWI) and labeled as PEM (e.g., PEMA, PEMC, PEMF). (amd. 05-11-10)

PARCEL/TRACT: A lot or tract as recorded on any plat or record on file in the office of the county assessor, or any unplatted, contiguous parcel of land held in one ownership and of record at the effective date hereof and its amendments, general public, and access to the general public. (amd. 01-16-2002; amd. 06-05)

PARKING SPACE: Usable space within a public or private parking area or building of not less than two hundred eighty (280) square feet in area and having at least the dimensions of ten feet by twenty feet (10' x 20') exclusive of access

drives, aisles or ramps for the storage of one passenger automobile or commercial vehicle.

PASTURE:	An area seasonally used for grazing domestic animals. (amd. 11-14-2008)
PERSON:	This term applies broadly to include any natural person as well as any organization or entity, including, but not limited to, a partnership, corporation, association, or governmental entity.
PLANNED UNIT DEVELOPMENT (PUD):	A subdivision of land consisting of separate residential lots of record where conventional setbacks, lot sizes, or density may be varied with adjacent land held in common, usually as open space, and managed by a private entity or a homeowner's association. Two (2) types of PUDs are available under Title 9 – Rural Reserve PUD and Planned Community PUD – each of which is defined and described in Chapter 5 of Title 9. (Amd. 11-14-2008; amd. 05-11-10)
PLANNING COMMISSION:	The Planning and Zoning Commission appointed by the Board of County Commissioners.
PLANNING DEPARTMENT:	The Planning, Zoning, Building & GIS Department of Teton County, Idaho. (amd. 11-14-2008)
PLAT:	The map of a subdivision. A preliminary plat or a final plat. (Amd. 11-13-2008)
PRINCIPAL:	Primary; A separate, complete structure that is the larger/largest of the structures. (amd. 11-14-2008)
PROFESSIONAL ENGINEER:	An engineer registered to practice engineering in the State of Idaho. (amd. 11-14-2008)
PUBLIC HEARING AND NOTICE PROCEDURE:	A complete definition of the public hearing procedure is found in sections 67-6509, 67-6511, 67-6512, and 67-6519 of the Idaho Local Land Use Planning Act of the Idaho Code, Chapter 65, Title 67. All public hearings shall be noticed in accordance with these sections.
RESERVE STRIP:	A strip of land between a partial street and adjacent property, which is reserved or held in public ownership for future street extension or widening.
RIDGE:	The crest, or apparent crest, of a hill or mountain or linear crests of part of a hill or mountain when viewed from the State Highways or Ski Hill Road. (amd. 11-14-2008)

- RIDGELINE:** An area including the crest of a hill or slope and a vertical, perpendicular distance in feet on either side of the crest within which development would break the skyline. (amd. 11-14-2008)
- RIDGELINE DEVELOPMENT:** Development on or near the crest of a hill or mountain which has the potential to cause skylining when viewed from the State Highways or Ski Hill Road. (amd. 11-14-2008)
- RIGHT OF WAY:** A strip of land established by prescriptive use, dedicated, deeded or reserved for use as a public way, which normally includes streets, sidewalks and other public utilities or services areas. (amd. 01-16-2002)
- RIPARIAN AREA:** Areas contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent water bodies (rivers, streams, lakes, or drainage ways). Riparian areas generally have distinctly different vegetative species than adjacent areas, or similar species with more robust growth than adjacent areas. Riparian areas are often located between wetland and upland areas. (amd. 11-14-2008)
- ROAD:** A right-of-way not less than sixty feet (60') in width which has been dedicated, deeded or has been established by prescriptive use for the public use. The roads in the county are classified by the Idaho Transportation Department as follows: (amd. 01-16-2002; amd. 06-05)
- Private Road:** A road or network of roads that has not been dedicated or deeded to the public, however, may be open for public use. These roads are not maintained by any public entity.
- Rural Major Collector Road:** The road or network of roads that provide movement within the county onto and provide connection to the designated minor arterial roads. These routes are gravel based all-weather roads that may or may not be maintained throughout the year. These roads require a minimum right of way of eighty feet (80').
- Rural Minor Collector Road:** The road or network of roads that provide movement within the county and onto and provide connection to the designated major collector roads. These roads may be graveled or unimproved and may be maintained but only on a summer-only basis. These roads require a minimum right of way of sixty feet (60'). (amd. 06-05)
- State Highway:** The road or network of roads that provide corridor movement into and out of the county. The roads are State Highways 31, 32, and 33. (amd. 06-05)

RURAL RESERVE AREA: All those areas of Teton County outside the cities and city areas of impact. (amd. 11-14-2008)

SETBACK: The shortest distance from a building on a lot to any property line, lot line or public road right-of-way adjacent to said lot. (amd. 06-05)

SINGLE AGRICULTURAL LAND PARCEL: The minimum size of an agricultural land parcel is twenty (20) acres. (Amd. 05-05)

SINGLE LAND SPLIT: The division of land as provided for under the “One Time Only Land Split provisions of the Chapter 8 of the Teton County Subdivision Ordinance. (Amd. 05-05)

SINGLE LEGAL PARCEL OF LAND: All contiguous lands described in a single deed. Land which touches only at the corner point, is not contiguous. (Amd. 05-05)

SKYLINE OR NATURAL SKYLINE: The visual line at which the earth or vegetation and the sky appear to meet. The skyline is typically viewed as the top, crest, or peak of a ridge or hillside. (amd. 11-14-2008)

SKYLINING: An outline or silhouette of a structure against the background of the sky. (amd. 11-14-2008)

STANDARD SPECIFICATIONS: The specifications as specified in this title or as officially adopted by the county.

STREET: A public street of not less than fifty feet (50’) in width with a 24’ wide road surface that may or may not have been dedicated or deeded to the public for public use. Within the county, street designations apply within subdivisions and classifications shall not be classified as a road under the definition of this or any other ordinance of the county. Street classifications are as follows: (amd. 06-05)

Cul-de-Sac: A minor street, parallel to and adjacent to, a county road that provides with a turnaround space at its terminus.

Frontage Street: A collector street, parallel to and adjacent to, a county road that provides access to abutting properties and shall have a designated right of way of fifty feet (50’). (amd. 06-05)

Loop: A minor or collector street with both terminal points on the same street or road of origin. The minimum right of way shall be determined by the classification of the street.

Minor Street: A street that carries traffic to a collector street or road system and shall have a designated right of way width of fifty feet (50').

Partial Street: A dedicated right of way providing only a portion of the required street width.

Private Street: A street that serves a single (1) residence or owner that has not been dedicated or deeded to the public, however, it may be open for public use. These streets are not maintained by any public entity, but shall have a minimum right of way of thirty feet (30') with twenty feet (20') of drivable surface; more right of way may be required depending on the use and location. (amd. 06-05)

STATE: The State of Idaho.

STRUCTURE: Any assemblage of materials into a finished product that stands above the ground such as a building, fence, wall, billboards, mobile home, etc.

SUBDIVIDER: Any legal entity who subdivides a parcel of land may also be referred to as a developer.

SUBDIVISION: A deeded tract of land existing on the land records of the county that is divided into two (2) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future. (amd. 06-05)

The following are exempted from the above definition:

- A. Agricultural exemption: A bona fide division or partition of agricultural land of agricultural purposes, which is the division of land into lots/parcels, all of which are twenty (20) acres or larger and maintained as agricultural lands. This exemption does not apply to a division for residential purposes.
- B. Sale or transfer of adjacent agricultural land: The conveyance, sale, or transfer of any parcel of land in the zoning districts A-2.5, or A-20 to an adjacent property and landowner for the purpose of increasing the property size without changing the agriculture use. (amd. 09-22-03)

SUBDIVISION DE FACTO: Three or more residential parcels or lots of deeded land that were established as single parcels or lots through the use of individual land divisions, but are now or may be located next to each other, and in fact now meet the definition of a subdivision because the three lots are contiguous and in reality cannot be distinguished from a three lot

subdivision except for the manner in which they were originally divided.
(amd. 06-05)

- SUBDIVISION MASTER PLAN:** A master plan for a particular subdivision/planned unit development (PUD) that provides specific design standards and guidelines regulating development and the use of property within the development that shall be recorded as part of the Master Plan/Development Agreement/Final Plat subdivision process of the county. (amd. 09-09-2002)
- SURVEYOR:** Any person who is licensed in the state as a public land surveyor to do professional surveying.
- TECHNICAL ASSISTANCE:** Those qualified professionals, individuals or groups appointed to review a subdivision or PUD application pursuant to section 9-3-2, Review Process. (Amd. 11-14-2008)
- TRANSFER OF DEVELOPMENT RIGHTS:** A process by which development rights may be transferred from one parcel of land to another parcel of land. (amd. 06-05)
- UNDUE HARDSHIP:** Special conditions depriving the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this title; not merely a matter of convenience or profit.
- UTILITIES:** Installations for conducting water, sewage, gas, electricity, television, storm water, telephone and similar facilities providing service to and used by the public.
- VARIANCE:** A modification of the requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings or other provision affecting the size or shape of a structure or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon showing applicability of all of the following:
- A. Undue hardship because of characteristics of the site; and
 - B. that the variance is not in conflict with the public interest; and
 - C. the need for a variance is not arising as a direct result of the applicant's own actions.
- VICINTIY MAP:** A small-scale map showing the location of a tract of land in relation to a larger area. A vicinity map should be clearly labeled with road names and/or other clearly identifiable landmarks or features. (Title 9 as Amd. through 9-25-2000)
- WIND TURBINE:** An alternative energy device which converts wind energy by means of a rotor to mechanical or electrical energy that shall be erected 50 feet from the property line, and of which the tower shall not extend more than 35

feet above the natural grade and not located in the scenic corridor. Further, with only one wind turbine allowed per residential lot. A wind turbine may also be deemed a windmill. (Amd. 01-23-2006)

YARD: A space on a lot, other than a court, unoccupied and unobstructed by buildings and/or structures from the ground upward, except as otherwise provided herein.

ZONE/ZONING DISTRICT: A portion of the unincorporated area of the county shown on the approved zoning map and associated with this title, and given formal zoning district designation.

CHAPTER 3

PROCEDURE FOR APPROVAL

SECTION

9-3-1: One Time Only Split of One Parcel of Land

9-3-2: Subdivision or PUD

9-3-1: ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND

A. PURPOSE: The purpose of this chapter is to provide for a division of large land parcels in the county as outlined below and to provide a landowner the opportunity to split a large parcel of land meeting specific criteria into two (2) parcels. (Title 9 as amd. through 9-25-2000)

B. INTENT:

1. It is the intent of this section to allow a split of a parcel of land having at least 20 acres into two (2) parcels. This provision is meant to accommodate owners who wish to break off a single parcel to transfer to another party. No more than one (1) One Time Only Land Split shall ever be exercised on any given parcel. Future splits will be required to follow a formal subdivision process.

2. It is not intended that this chapter be used in conjunction with any other portions of this title to obtain additional land splits; nor is it the intent for the property owner to create a subdivision without complying with the requirements of this title. For instance, a parcel may not be split using the twenty (20) acre subdivision agriculture exemption, and then be subject to this One Time Only Land Split provision, creating multiple lots without formal subdivision review. Further, this section is not intended to create additional lots within approved subdivisions. (Title 9 as Amd. through 09-25-2000; Amd. 09-22-2003)

C: ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND: Notwithstanding the procedures outlined in this title and title 9 of this code, a one time split of one parcel of land shall comply with the following:

1. Split Allowed: An applicant with at least a 20 acre parcel may apply for a split of on parcel of land to create two (2) lots. The minimum lot size for the newly created lots shall be a minimum of 2.5 acres, unless the remainder lot is connected to a community water and sewer system.

2. No Further Split: The two (2) lots created by this split shall not be split or divided further without full compliance of the provisions of this Title and Title 8 of this code. The provision of the one time only split of one parcel of land applies to the property and not the owner(s). (Title 9 as amd. through 9-25-2000)

D. CRITERIA FOR APPROVAL: The Planning Administrator shall approve applications of one time only lot splits when all of the following criteria have been met:

1. The proposed split conforms with the underlying zoning district.
2. Parcels in platted subdivisions shall not be split.
3. Parcels of land with deed restrictions shall not be split unless the split conforms to the restrictions of the deed.
4. Parcels of land in the A-20 zone shall be allowed one split of 2.5 acre or more in accordance with the intent outlined in section 9-3-1 B of this chapter, providing the twenty (20) acres or larger parcel was not created through the agriculture exemption process outlined in this title. (Title 9 as amd. Through 9-25-2000, amd.
5. The land split or the combination of land splits does not create a de facto subdivision, or has the split been used in conjunction with other provisions of this title creating a de facto subdivision.
6. Approval in writing and signature on the plat shall be required by the Teton County Fire Marshal that the split is acceptable according to the fire codes. (amd. 12/12/05)
7. The original parcel, prior to the split has enough area to assure remainder lots are conforming with a minimum of 2.5 acres. (amd. 12/12/05)
8. The land split would provide each parcel with legal access for ingress/egress and utility easements. (amd. 12/12/05)
9. The land split would not result in harm to the public health, safety or welfare of the County. (amd. 12/12/05)

E: PROCESS FOR ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND:

1. Deeds; Restriction: The applicant shall provide two (2) draft deeds (unrecorded) for the proposed new lots that shall be created providing the land split is approved. The deeds shall contain a restriction clearly stating that these parcels cannot be split again under the provisions of this title. (Amd. 09-22-2003)
2. Action by the Planning Administrator: The Planning Administrator shall review and may approve or disapprove the application. An application that is disapproved may be appealed to the Board of County Commissioners for review and final determination. (amd. 05-13-2002; amd. 09-22-2003)
3. Fees: Fees for this process shall be in accordance with the current fee schedule and are due at the time of submission of the application for review by the Planning Department. The

fees for this process are nonrefundable after the Planning Department reviews the proposed land split.

4. Voiding or Canceling of Approved Application: The original applicant desiring to void or cancel an approved application shall submit a plat of survey to be recorded with deeds that restore the land to its prior deeded condition and land use. The County Assessor may void the existing documents upon a written certified request of the original applicant with the documents required above without additional fees. (amd. 06-05)

5. Submission to Planning Office: All required materials outlined above for a one time only split of one parcel of land may be submitted to the Planning Department at any time. An application that is approved and not recorded within six (6) months of the date of approval shall be cancelled. (amd. 09-22-2003)

9-3-2: SUBDIVISION OR PLANNED UNIT DEVELOPMENT: Applications for the creation of lots or parcels that do not qualify for processing as a One Time Only Split of a Single Parcel of Land under section 9-3-1 shall follow the procedures established in this section 9-3-2. This process shall be used for all subdivisions and PUDs.

A. GENERAL INFORMATION:

1. Submission of Application: Any person desiring to create a “subdivision” or “planned unit development (PUD)” as defined in Chapter 2 shall submit all necessary applications, checklists, accompanying materials including maps and plans, together with the filing fees, which are non-refundable, to the Planning Department. The submission of the application shall follow the procedures in this Title. The application shall be submitted on forms approved by the Board. The Planning Administrator shall review the application, checklist and materials for completeness at each phase. If the submission is determined by the Planning Administrator to be complete, a staff report will be prepared, and upon receipt of the associated documents and fees, the appropriate public hearing shall be scheduled. At each phase, if the application is found to contain deficiencies by the Planning Administrator it will be returned to the applicant with a written explanation of the basis for its return and a public hearing shall not be scheduled until the deficiencies are corrected and the complete application is resubmitted. (Amd. 06-05)

2. Phases of Approval Process: The process for approval of a subdivision or planned unit development (PUD) is a three (3)-phase process. It is the intent of this process to provide for an orderly way for the county to review each subdivision or PUD for conformance with the comprehensive plan, county ordinances, and state code. No subdivision or PUD shall be considered approved until the final master plan, development agreement, and final plat are approved by the Board of County Commissioners and the required fees and financial guarantees have been paid and posted.

- a. The first phase is the Concept Review as explained in section 9-3-2 B;
- b. The second phase is the Preliminary Plat as explained in section 9-3-2 C;
- c. The third phase is the Final Plat as explained in section 9-3-2 D.

3. Time Limitation: From the Planning Administrator's official acceptance of the Concept Review Application (see 9-3-2 (B-6) to approval of the final plat, there is a time limit of two (2) years to record the final plat. If the final plat is not approved by the Board of County Commissioners by the end of the two (2) year period, one extension of up to twelve (12) months may be granted by the Board of County Commissioners.

4. Restrictions: Lots shall not be sold or offered for sale, and construction of improvements public or private, shall not be allowed until the final plat has been approved and recorded. (amd.11-14-08)

B. CONCEPT REVIEW PHASE:

1. Overview: Prior to submittal of a Concept Plan application, a pre-application conference is required with the Planning Administrator to review the proposal with staff, to determine studies and data needed for Concept Plan review, and to determine whether variations to the requirements of Title 9 may be necessary. The purpose of the pre-application conference is to: (amd. 11-14-2008)

a. Acquaint the applicant with the procedural requirements of Title 9; (amd. 11-14-2008)

b. Provide for an exchange of information regarding applicant's proposed development ideas and the regulations and requirements of Title 9, the Master Plan, the Natural Resources Assessment, and other subdivision/PUD requirements; (amd. 11-14-2008)

c. Advise the applicant of any public sources of information that may aid the applicant or the application, and identify policies and regulations that create opportunities or pose significant restraints for the proposed development; (amd. 11-14-2008)

d. Review the sketch plans, if any, and provide the applicant with opportunities to improve the proposed plan in order to mitigate any undesirable project consequences; (amd. 11-14-2008)

e. Review the compatibility with nearby land uses, either proposed or existing; and (amd. 11-14-2008)

f. Provide general assistance by County staff on the overall design of the proposed development. (amd. 11-14-2008)

2. Concept Review: A Concept review with the Planning Administrator is a required first step in the development process. This meeting is scheduled with the Planning Administrator at which time a review of the Concept Application, Concept Drawings, and Concept Review Checklist will be completed with the developer. After the Concept

Application is deemed to be complete, the Planning Administrator will prepare a written staff report for the developer within sixty (60) days. The developer may then prepare to proceed to the Preliminary Plat Phase. The applicant, although not required, may seek the guidance of the planning Commission prior to proceeding to Preliminary Plat. At the request of the applicant, who chooses to consult with the Planning Commission, and at least fifteen (15) days prior to the next regularly scheduled meeting of the Planning Commission, the Planning administrator will schedule a time and place on the next available agenda of the Planning Commission. This public meeting between the applicant and the Planning Commission would provide additional guidance and feedback with respect to the proposed development. Guidance or feedback provided to the applicant in this meeting would not be binding on either the applicant or the County (amd.06-05)

3. Purpose of Concept Review: The purpose of the Concept Review is to discuss, in general, the feasibility and possibility of building the proposed subdivision or PUD including its conformity with the Comprehensive Plan, its relationship to surrounding development, any site conditions that may require special consideration or treatment, and to discuss and review the requirements of this Title, Title 8, and Title 6, chapter 6 of this code. It is not to determine the exactness of each item required in the checklists of the preliminary and final plat process. (amd. 06-05)

4. Consideration for Approval: In determining the acceptance of a proposed subdivision or PUD, the County shall consider the objectives of this Title, in addition to the specifics required in the checklist for this phase, and in a general way at least the following:

- a. The conformance of the subdivision/PUD with the comprehensive plan.
- b. The availability of public services to accommodate the proposed development.
- c. The conformity of the proposed development with the capital improvements plan.
- d. The public financial capability of supporting services for the proposed development.
- e. Other health, safety or general welfare concerns that may be brought to the County's attention. (amd. 06-05)

5. Application: The applicant shall submit a completed concept plan application to include the completed checklist requirements and accompanying required materials including non-refundable fee, in accordance with the fee schedule, to the Planning Administrator for review. (amd. 11-14-2008)

6. Review by Administrator: Upon a successful review of the application and materials by the Planning Administrator, the applicant may proceed to the Preliminary Plat Phase. (amd 11-14-2008)

7. Complete Application: The Concept review meeting(s) with the Planning Administrator and a complete checklist shall constitute acceptance of the application for review. The date upon which the concept plan application is approved, signed and dated by the Planning Administrator shall constitute the beginning of the approval/disapproval process for the development. (amd. 11-14-2008)

C. PRELIMINARY PLAT PHASE:

1. Overview: After the application has been accepted per section 9-3-2 (B-6) the developer may file a subdivision or planned unit development (PUD) application and completed checklist for the Preliminary Plat, Master Plan and Plat. The statutory checklist contains specific requirements for the Preliminary Plat submission and shall accompany the application. The Preliminary Plat hearing shall be scheduled on the next available agenda of the Planning Commission but not later than 150 days after an officially completed Preliminary Plat application is accepted by the Planning Administrator. (amd. 06-05)

An officially noticed public hearing is required for this phase of the subdivision process. Notice of date, time, and location of the Preliminary Plat hearing will be published in accordance with Idaho Code. The public is encouraged to attend and participate. This is the phase of the process where the fact-finding details and specifics required by ordinance, and law, are determined. All of the issues surrounding necessary infrastructure will be resolved or have a clearly identified solution to the satisfaction of the Planning Administrator prior to scheduling of the Final Plat Hearing Phase. When this phase is finished the necessary information, studies, plats etc. shall be completed to meet the requirements of this phase of development and the requirements of the Final Plat phase.

2. Application:

Filing and Required Material: The subdivision/PUD application, the Preliminary Plat, the completed Preliminary Plat checklist, all required fees, a landscaping and land management plan, preliminary fire district approval, water right availability, proposed building envelopes, draft public improvement plans, incorporation of trails shown on the trail maps adopted by the County, depiction of waterways and public lands access routes through or adjacent to the proposed subdivision, depiction of any Overlay Areas defined by Titles 8 and 9 on the proposed subdivision property, plus any other required materials and non-refundable fees must be filed with the Planning Administrator. If all or part of the proposed subdivision is located in an Overlay Area defined in Title 8 or Title 9, any specific studies or documents required by regulations governing Overlay Areas shall be presented with the application. All required Public Agency comment letters as included in the application checklist must be

submitted to the Planning Administrator before proceeding to public hearing. The application materials shall include the following as applicable: (amd. 05-11-10)

a. Maps:

i. A map showing all existing public access routes to public land and waterways passing through or adjacent to any portion of the land included in the application. (amd. 11-14-08)

ii. A map showing any Overlay Areas required by Titles 8 and 9 on the proposed subdivision/PUD property. Overlay Areas in Title 9 are the (HS) Hillside Overlay and the (WH) Wildlife Habitat Overlay. Overlay Area descriptions in Title 9 follow:

(a) (HS) Hillside Overlay: The purpose of this overlay is to provide a process to ensure that hillsides that have special characteristics and concerns related to standard development patterns and densities can be protected and enhanced when development occurs.

(b) (WH) Wildlife Habitat Overlay: The purpose of this overlay is to indicate lands where there appears to be potential habitat for designated species of fish and wildlife and to ensure that development is located, designed, and constructed to minimize damage to that habitat or its use by wildlife.

b. Natural Resources Analysis: If the proposed subdivision contains any lands included in any of the Overlay Areas defined in Title 9 or in any of the overlay areas defined in Title 8, except the AV Airport Overlay Area, the applicant shall have a qualified professional approved by the Planning Administrator prepare a Natural Resources Analysis for the entire application parcel along with the preliminary plat and checklist application. (amd. 11-14-08; amd. 05-11-10)

i. Existing Conditions Inventory: The Natural Resources Analysis shall describe the following types of existing conditions on the application parcel in the following areas: (amd. 11-14-08)

(a) Floodplains, wetlands, and riparian areas;

(b) Areas of geological or seismic hazard shown ~~designated~~ on documents prepared by or for any state or federal agency;

(c) Areas of the property located within an area of “High” or “Extreme” wildfire danger, as designated on the latest adopted plan of the Teton County Fire Protection District;

(d) Existing vegetation communities and covertypes as defined in Merigliano, M. 2009. *A Field Manual for Classified Vegetation in the Upper Snake River Valley*.; (amd. 05-11-10)

(e) Ridges and rock outcroppings; and

(f) Areas of the property that are located within one (1) mile of any State Highway or Ski Hill Road and are visible from any State Highway or Ski Hill Road. (amd. 11-14-08)

ii. Maps and figures:

(a) Map showing all existing public access routes to public land and waterways passing through or adjacent to any portion of the land included in the application. (amd. 05-11-10)

(b) Site location map depicting project area and proposed subdivision boundary on USGS quadrangle 7.5 minute topo at scale of 1" = 2,000'. (amd. 05-11-10)

(c) Map showing any Overlay Areas defined by Titles 8 and 9 on the proposed subdivision property. Overlay Areas in Title 9 are the (HS) Hillside Overlay and the (WH) Wildlife Habitat Overlay. Overlay Area descriptions in Title 9 follow: (amd. 05-11-10)

(1) (HS) Hillside Overlay: The purpose of this overlay is to provide a process to ensure that hillsides that have special characteristics and concerns related to standard development patterns and densities can be protected and enhanced when development occurs. (amd. 05-11-10)

(2) (WH) Wildlife Habitat Overlay: The purpose of this overlay is to indicate lands where there appears to be potential habitat for designated species of fish and wildlife and to ensure that development is located, designed, and constructed to minimize damage to that habitat or its use by wildlife. (amd. 05-11-10)

(d) Existing Conditions Map: Each of the natural resource areas listed in the Existing Conditions Inventory items 'a' through 'f', if applicable, shall be shown on a map that also shows the proposed location of building envelopes, roads, pathways, and trails in the proposed subdivision. (amd. 05-11-10)

c. Overlay Regulations:

- HS Hillside Overlay Regulations: The HS Overlay Area shall be applied to all land(s) located within the HS Hillside Overlay Area (as defined in Chapter 2) that have slopes over twenty percent (20%) and to all roads and driveways providing access to those building sites.

i. Documentation Required: The applicant shall submit the following documents for any portion of a development that is within the HS Hillside Overlay Area:

(a) Contour Plan: A contour plan showing the vertical elevation for all portions of the proposed development, showing elevation in vertical intervals of not more than five (5) feet as part of the development application and identifying where each building envelope, street, and driveway will be located in relation to those contour lines.

(b) Grading Plan: A plan describing grading and cut-and-fill required for construction of the proposed development, amounts of cut-and-fill material required for the development, and proposed sites for borrow or waste materials. The Grading Plan may be combined with the Contour Plat as long as the resulting document clearly identifies both the pre-development and post-development contours and the amounts of grading or cut-and-fill required for each portion of the development.

(c) Geology and Soils Report: A report containing all available information from state or federal agencies, as well as any available local studies, regarding the nature and mechanical properties of existing soils and the underlying hydrology and geology of the site. It will also include a statement from a professional engineer as to whether the geology, hydrology, or soils on the parcel create an increased risk of danger to human life, damage to property, soil erosion, or contamination of surface or groundwater when compared with the site prior to development. If the report identifies additional risks it shall identify potential steps, if any, that could effectively reduce or mitigate those risks. (Amd.06-05)

(d) Slope Stabilization and Revegetation Plan: A plan identifying slope stabilization measures to be installed, types and amounts of vegetation to be removed, and demonstrating that an equal or greater amount of vegetated material shall be replaced on the site.

(e) Building Envelope Location: Building envelopes for all principal and habitable buildings shall be identified in the application documents, and shall meet the following standard: (amd. 11-14-08)

- (1) No building envelope shall be located on a portion of the development parcel geological hazard area on any map prepared by a state, federal, or county agency and adopted by the Board unless the applicant submits a statement signed by a professional engineer that, based on information provided in the application documents, the risks of danger to human life and damage to property from geological subsidence will not be significantly higher than similar risks on properties in Teton County located outside of mapped geological hazard areas. (amd. 11-14-08)
 - (2) Where building envelopes are located on any portion of the development parcel identified as areas of “High” or “Extreme” wildfire risk as shown on the latest adopted version of the Teton County Wildland Fire Mitigation Plan, the Fire Marshal of the Teton County Fire Protection District shall be consulted regarding mitigation of risks, shall comply with the most recent version of Resolution # 3, Urban Wildland Interface Assessments, and shall mitigate such risks to the satisfaction of the Teton County Fire Protection District. (amd. 11-14-08)
 - (3) No building envelope shall be located on a portion of the development parcel with a slope over thirty percent (30%). (amd.11-14-08)
 - (4) Building envelopes shall be located at least one hundred (100) horizontal feet from the top of each ridge to the maximum extent feasible. (amd.11-14-08)
 - (5) Building envelopes shall be located to avoid rolling hillside, meadows, existing rock outcroppings, and significant stands of trees and shrubs to the maximum extent feasible. (amd. 11-14-08)
- (f) Street and Driveway Location: Streets and driveways shall be aligned and located to make gradual changes across contour lines (rather than running directly up or down slopes) and to avoid street and driveway grades of more than eight percent (8%) unless a variance is granted. Streets and driveway design shall comply with adopted county requirements. One-way streets are permitted and are encouraged where they would reduce grading or cut-and-fill requirements or allow streets to more closely follow natural contour lines without endangering public safety. Shared private driveways, clustered parking areas, and on-street parking shall be used if they would enable the proposed development to meet the requirements of this Section. (amd. 11-14-08)

(g) **Avoiding Hillside Disturbance:** All development shall be designed minimize requirements for cut-and-fill that alters the natural terrain. Essential grading and cut-and-fill shall be shaped to blend with the natural terrain of the site to the maximum extent feasible. Phasing of development shall occur so that infrastructure and improvements can be completed within one construction season, thereby ensuring that large areas are not left bare and exposed during the winter/spring runoff period. (amd. 11-14-08)

(h) **Revegetation:** The applicant shall revegetate all areas disturbed by grading or cut-and-fill activity with plants similar to those on the remainder of the development site as each stage of grading is completed, and no later than one (1) year after construction. Revegetation shall use plants that can recover from fire damage and do not contribute to a rapid rate of fire spread. (amd. 11-14-08)

(i) **Design:** The top of the foundation of the primary structures shall be located at least thirty (30) vertical feet below the elevation of the top of the ridge to the maximum extent possible. If not feasible, the applicant shall submit a mitigation/landscaping plan to adequately minimize the visual impact. The color of all roofs shall be similar to the colors of surrounding vegetation or land features. Roofing materials shall not be of highly reflective materials according to ASTM C609-07, Light Reflectivity Index. (amd. 11-14-08)

(j) **Maintenance and Repair:** The applicant shall remain responsible for maintaining and repairing all graded surfaces, required revegetation, erosion prevention devices, retaining walls, and other structures required for compliance with this Section unless and until such responsibilities are assumed by a homeowner's association with powers to levy dues and/or assessments as needed to carry out its responsibilities. (amd. 11-14-08)

(k) **Utilities:** All service utilities (including but not limited to electric and telecommunication lines) shall be placed underground. (Amd.06-05)

- **(WH) Wildlife Habitat Overlay Regulations:** The WH Wildlife Habitat Overlay regulations shall apply to the entire subdivision if the proposed subdivision includes any portion of lands within the boundaries of the WH Overlay Area (as defined in Chapter 2) Underlying zoning will not be affected by the WH Overlay. The WH Overlay Regulations shall not be interpreted or applied in any manner to reduce the density permitted by the underlying zone. (amd. 11-14-08; (amd. 05-11-10)

i. If the proposed subdivision is located in the Wildlife Habitat Overlay, the Natural Resources Analysis (required in 9-3-2 (C-2-b)) shall contain the following additional items: (amd. 05-11-10)

(a) Documentation:

- (1) Wildlife Habitat Assessment;
- (2) Impact Analysis and Mitigation Plan; and
- (3) Land Management Plan.

(b) Maps:

- (1) Depiction of big game winter range on and within 1 mile of the proposed subdivision;
- (2) Depiction of information pertinent to the Wildlife Habitat Assessment (i.e. areas of indicator habitat wildlife utilization, wildlife observations);
- (3) Depiction of proposed impacts to wildlife and indicator habitat; and;
- (4) Depiction of proposed mitigation treatment measures and treatment areas. (amd. 05-11-10)

ii. Technical Review:

As soon as the Planning Department has determined that a preliminary plat application is ready for technical review, the County will send all applicable documents to the Idaho Fish and Game Department (IDFG) for their comments. Additionally, the Commission or Board may request other technical assistance to review and comment on the submitted materials. All communication with the IDFG will be through the Planning Department, and not directly between the applicant and IDFG. Documents shall be presented in final draft form, substantiated by a qualified professional. A 45-day review process by IDFG will begin on the date that the preliminary plat application is received and date stamped by the IDFG. IDFG will notify the Planning Department when it has received an application. IDFG will forward their comments to the Planning Department within 45 days. If IDFG comments are not received within 45 days, it will be judged that there are no IDFG comments on the application. Upon receipt of IDFG comments/recommendations, the Planning Department will forward those comments/recommendations to the applicant. The applicant will be given the opportunity to propose changes based on input from IDFG before the Preliminary Plat hearing is scheduled. If the IDFG has made recommendations based upon their expertise regarding the proposed

subdivision, the proposed mitigation plan or the open space management plan, and the application does not incorporate some or all of IDFG's recommended changes, the Commission or Board may require that the application incorporate those changes as a condition of approval. (amd. 05-11-10)

iii. Wildlife Habitat Assessment:

(a) If the proposed subdivision includes any lands shown on the WH Overlay map, the applicant shall arrange for a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish or wildlife management, and similar disciplines to complete the Wildlife Habitat Assessment portion of the Natural Resource Analysis. (amd. 05-11-10)

(b) The wildlife habitat assessment shall describe, evaluate, and quantify (as appropriate) habitat for the indicator species. (amd. 05-11-10)

(c) The wildlife habitat assessment need only address indicator species shown on the WH Overlay map for the application parcel; for example if the WH Overlay map indicates habitat for big game but not songbirds, the assessment must address indicator species and habitat for big game, but not the indicator species or habitat for songbirds. (amd. 05-11-10)

(d) If the wildlife habitat assessment finds that the natural condition of the applicant's property has been disturbed, other than by farming or ranching or similar agriculture activities for a period of 15 years or more, then the assessment shall also include an analysis of wildlife habitat abutting the applicant's property. If an on-site assessment of undisturbed abutting lands is not possible, then all available data from other sources shall be used. If there is evidence of indicator species or indicator habitat on the undisturbed abutting property and it is determined that similar habitat conditions could be restored on the applicant's property, the areas where restoration could occur must be included in the Natural Resources Analysis and shown on the Existing Conditions Map described in section 9-3-2 (C-2-b-ii(d)); (amd. 05-11-10)

(e) If the wildlife habitat assessment finds that indicator species and indicator habitat are not present on the property or will not be affected by the proposed subdivision, then such findings should be addressed in the Impact Analysis and Mitigation Plan section of the Natural Resource Analysis; and (amd. 05-11-10)

(f) If the Commission determines that a wildlife habitat assessment is incomplete, inaccurate or misleading, the Commission may return the assessment to the applicant with instructions to revise. (amd. 05-11-10)

iv. **Impact Analysis and Mitigation Plan:** The application shall include an Impact Analysis and Mitigation Plan prepared by a qualified professional based on the Natural Resources Analysis and Wildlife Habitat Assessment required above. The Impact Analysis and Mitigation Plan shall:

- (a) Identify and analyze the type, duration, and intensity of direct and indirect impacts to indicator species and indicator habitat reasonably expected to result from the proposed subdivision (inclusive of infrastructure layout, proposed recreational uses, anticipated human presence, anticipated land uses, proposed wildland fire protection measures, etc.);
- (b) Address how applicant intends to avoid, or minimize and mitigate any impacts to indicator species and indicator habitat. Avoidance of impacts is preferred to minimization of impacts with mitigation;
- (c) Provide a list of proposed mitigation measures, that may include habitat preservation, restoration, enhancement, and creation and an analysis of the probability of success of such measures.

If the impact mitigation plan requires significant construction or restoration activities, the Board County shall require that the applicant provide a financial security in the form of a letter of credit for 125% of the estimated cost of those activities, with the letter of credit to be released when the construction or restoration has been completed as described in the impact assessment and mitigation plan. (amd. 11-14-08; amd. 05-11-10)

v. **Land Management Plan:** The Natural Resources Analysis shall include a Land Management Plan prepared at the applicant's expense by a qualified professional who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, or similar disciplines. The Land Management Plan shall: (amd. 05-11-10)

- (a) Describe how open areas will be managed, monitored, and maintained to preserve, restore, or enhance their value as wildlife habitat; (amd. 05-11-10)
- (b) Clearly identify responsibilities for managing, monitoring, and maintaining common lands and open areas; (amd. 05-11-10)
- (c) Clarify how noxious weed eradication and control will be conducted to avoid harm to natural resources; (amd. 05-11-10)
- (d) Identify how competing uses of the open areas will be managed to avoid adverse impacts to wildlife and habitat; (amd. 05-11-10)

- (e) Clarify how household pets will be managed to avoid adverse impacts on wildlife and habitat;
- (f) Demonstrate the administrative and technical competence of the applicant or the implementing entity to successfully execute the plan; (amd. 11-14-08)
- (g) Identify a confirmed source of funding adequate to cover the expenses of management, monitoring, and maintenance as described in the plan; and (amd. 11-4-08)
- (h) Describe management strategies that will be utilized to minimize interaction and co-mingling between livestock and big game animals and to minimize the risk of disease transmission between livestock and big game animals, if the Wildlife Habitat Assessment identified big game habitat or indicator species. (amd. 05-11-10)

vi. Design Review: All development shall be subject to design review to ensure that the location of buildings, structures, and land development shall avoid or mitigate impacts to mapped indicator species and habitat to the maximum extent feasible. (amd. 11-14-08; amd. 05-11-10)

Design Review Criteria: A development application shall only be recommended for Board approval if the Commission finds that the Natural Resources Analysis (including Wildlife Habitat Assessment, Impact Analysis and Mitigation Plan, and Land Management Plan) is complete, accurate, and adequate. Specific guidelines include, but are not limited to, the following:

- (a) Building envelopes shall be located:
 - (1) To minimize fragmentation of any functional, intact areas of native vegetation and indicator habitat; (amd. 05-11-10)
 - (2) To avoid rare landscape elements such as unique rock formations, sheltered draws or drainage ways, or other features, and locate buildings near areas containing more common landscape elements;
 - (3) To maintain connections among fish and wildlife habitats and to protect sensitive fish and wildlife breeding areas;
 - (4) To provide adequate buffers between any building envelope for a habitable building and; (amd. 05-11-10)
 - (5) Any wildlife migration corridors identified through the wildlife habitat assessment and;

(6) Any fish or wildlife breeding areas or big game wintering habitat identified through the wildlife habitat assessment. (amd. 05-11-10)

(7) The buffer distance and configuration shall be determined by a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines and shall be designed to minimize the effect of planned development and infrastructure (including roads, pathways, and trails) on use of the habitat or migration corridor by the indicator species. (amd. 11-14-08)

(b) Fencing: Fencing and other infrastructure shall be designed to minimize impacts on indicator species and indicator habitat. Where the wildlife habitat assessment has found evidence of indicator species or the presence of indicator habitat, and the qualified person conducting the assessment believes that inappropriate fencing could interfere with the use of the area as habitat by one or more of the indicator species included in the assessment, the qualified person shall recommend a fencing design and specifications that would minimize interference with the movement or safety of the indicator species, ~~and~~ ~~f~~-Fencing shall be required to comply with those recommendation to the maximum extent feasible. The qualified persons proposed design and specifications shall take into account the current and foreseeable uses of adjacent lands and the potential need for adjacent lands to be protected from the impacts of wildlife on the subject property. (amd. 11-14-08; (amd. 05-11-10)

(c) Avoiding Vegetation Impacts: Impacts to indicator species and indicator habitat shall be avoided to the maximum extent feasible. The applicant shall mitigate unavoidable impacts appropriately and adequately. In areas where the wildlife habitat assessment has found evidence of indicator species or the presence of indicator habitat, the development shall avoid disturbing existing native vegetation used by or needed to support the indicator species to the maximum extent feasible. When existing native vegetation must be altered to accommodate the proposed subdivision, the applicant shall replace lost habitat function with an equal or greater amount of like-functioning, native vegetation according to the recommendations of a qualified professional and ensure successful establishment of that vegetation through monitoring and adaptive management. (amd. 11-14-08; amd. 05-11-10)

(d) Utilities: All service utilities (including but not limited to electric and telecommunication lines) shall be placed underground. (amd. 11-14-08)

vii. Wildlife Habitat Overlay Map Review: At least once every five years, Teton County shall review and update the Wildlife Habitat Overlay Map. The update shall reflect the most current and accurate information then available regarding the habitat for those species listed on the existing Wildlife Habitat Overlay Map, including but not limited to the results of Wildlife Habitat Assessments conducted since the previous map update. Updates to the Wildlife Habitat Overlay Map shall become effective upon adoption by the Board as an amendment to the Teton County Code. The adoption of an updated Wildlife Habitat Overlay Map shall not affect the terms or provisions of any prior subdivision, PUD, zoning, or development approval. (amd. 11-14-08)

3. Regulations That May Apply:

A. Landscape Plan: For all subdivision or PUD a landscaping plan showing compliance with the requirements of sections 9-4-1 (G) and 9-4-1 (H) is required. This shall include a vegetation/revegetation plan identifying locations where vegetation will be installed in order to replace existing vegetation or revegetate disturbed areas, a plan for weed management, a stabilization plan to cover any disturbed slopes, and a plan to provide screening from neighboring properties or from State Highways 31, 32, 33 or Ski Hill Road. (amd. 11-14-08; amd. 05-11-10)

B. Nutrient-Pathogen (NP) Evaluation: Nutrient-Pathogen (NP) evaluations are designed to locate an appropriate number of on-site wastewater treatment systems (for example, septic systems) on a given parcel of land and to direct the placement of the on-site wastewater treatment systems in a way that will not degrade the quality of ground water resources and will comply with the Idaho Ground Water Quality Rule and the Idaho Water Quality Standards (IDAPA 58.01.02) for surface water.

i. Requirement: A Level 1 NP evaluation is required by Teton County for any proposed development that is contemplating using on-site wastewater treatment systems or central septic systems when one or more of the five conditions below exist. Said NP evaluation shall be completed following the County NP guidelines found in Appendix A, "Nutrient-Pathogen Technical Guidelines for Wastewater Treatment Systems in Teton County" and DEQ guidelines referenced in Appendix A.

It is the responsibility of the property developer and/or his/her qualified NP professional (see below), hereafter called Applicant, to undertake sufficient investigation to determine whether any of the following five conditions exist.

- (a) The proposed development that lies wholly or partially within the WW Wetland and Waterways Overlay Area (Section 8-5-1-D of Title 8); or
- (b) There is evidence that ground water, at some time of the year, comes within ten feet of the ground's surface at any location on the proposed development parcel; or
- (c) There is evidence that soil depth to fractured bedrock is ten feet

or less anywhere on the proposed development; or

(d) The development application includes a food service, a commercial facility, or an industrial facility generating 600 gallons or more of wastewater per day; or

(e) The proposed development is within an area where the concentration of nitrate-nitrogen in ground water is five (5) mg/L or higher.

If the investigation determines that one or more of the conditions exist on the property, then the Applicant shall complete a Level 1 NP evaluation and submit such NP evaluation report to the County prior to scheduling the preliminary plat application. If the investigation determines that none of the five conditions exist, then the Applicant shall present documentation of this determination to the County with the preliminary plat application.

ii. Qualified Professional: When an NP evaluation is required by Teton County, it must be performed by a qualified professional with experience in subsurface resource evaluation practices as described below. The qualified professional shall be a professional scientist or consultant with a background in geology, hydrogeology, soil science, geochemistry, or related engineering disciplines who is registered in the State of Idaho as a Professional Geologist or Professional Engineer, and who has experience conducting similar kinds of studies, hereafter called Qualified Professional. Level II NP evaluations conducted to satisfy County requirements shall be completed by a Qualified Professional who also has professional experience in groundwater modeling. The Qualified Professional shall certify the evaluation results and shall submit documentation of above outlined professional qualifications (resume, certifications, registrations, education information, etc.) to the County with the NP evaluation report.

iii. County's Technical Representative: It is the intent of Teton County to contract for a NP Qualified Professional to act on the County's behalf and to be funded by the applicant for the Nutrient Pathogen Evaluation review. The primary duty and tasks of the technical representative are listed in the County's resolution adopting this ordinance

iv. Procedures:

(a) If DEQ or the Eastern Idaho Public Health District requires an approved NP evaluation for on-site wastewater systems, the applicant shall provide proof (including a copy of the NP evaluation, a copy of all correspondence with the agency, the County's NP evaluation minimum review recompense, and a copy of agency comments and approval documentation) to Teton County that the NP evaluation has been completed and approved by the corresponding regulatory agency. This information shall be provided prior to scheduling the preliminary plat hearing. The County's technical representative will review the NP evaluation, including assessment of data collection, analysis techniques,

and presented conclusions in the context of specific site characteristics. The County's technical representative will provide written comments to the Planning and Zoning Commission prior to the preliminary plat hearing.

(b) If DEQ or EIPHD does not require an approved NP evaluation but Teton County does require an NP evaluation, the process will be conducted as described in Appendix A and in accordance with the MOA adopted by the Board of County Commissioners on April 13, 2009, or any revised MOA subsequently adopted by the Board.

(1) The Applicant is encouraged to meet with the DEQ and the Eastern Idaho Public Health District to discuss the elements and objectives of the NP evaluation. During the initial stage of the NP evaluation process, the Applicant shall meet with the County's technical representative, who will be working in concert with DEQ providing on-the-ground guidance. The Applicant shall keep the County's technical representative in the correspondence loop during the ensuing process.

(2) The Applicant shall then complete the NP evaluation in accordance with County and DEQ criteria and guidance (see Appendix A).

(3) Of particular importance to Teton County, Idaho are the following:

1. Accuracy of the NP evaluation at depicting site characteristics (depth to groundwater, direction of groundwater flow, hydraulic conductivity, aquifer porosity, etc.).

2. Appropriateness of data collection techniques (e.g. number and location of test pits, surface and groundwater samples from all affected water bodies, assessment of temporal variation, utilization of data and results from previously completed proximate NP evaluations, etc).

3. The appropriateness of utilized analysis techniques in light of specific site characteristics, conditions, layout, etc.

(4) The applicant shall submit the NP evaluation to the County. The County will forward the NP evaluation to DEQ with a request that the agency review the evaluation and provide feedback and comments to the County. The County shall specify to DEQ the date by which the review should be completed. The County will also make the NP evaluation, correspondence materials, and comments provided by the County's qualified technical representative available to the public. As per the MOA

adopted by the BOCC, DEQ shall send a letter to Teton County which shall be copied to the Applicant and Eastern Idaho Public Health District containing comments and recommendations regarding the NP evaluation. The preliminary plat hearing may only be scheduled once the County receives comments/recommendations from the DEQ, or a third party Qualified Professional in the event that DEQ is unable to perform the review.

(5) If DEQ informs the County and the applicant that DEQ will be unable to review the NP evaluation, or if DEQ does not respond to the County's request for a review by the date specified in the request letter, or a later date if one is agreed to by the County and DEQ, the Commission as directed by the Board may then request technical assistance of another Qualified Professional(s) to review and comment on the NP evaluation.

(6) If DEQ does respond to the County's request for review and provides comments or recommendations, the County should base its decision of NP evaluation approval on those DEQ comments and on the written report provided by the County's technical representative based on the approval criteria in Section v. If the County has concerns with any or all of DEQ's recommendations, the County may contact DEQ or the County's technical representative for further clarification and scientific review of the material.

v. Approval Criteria:

(a) The Board upon recommendation by the Commission shall approve or deny the NP evaluation based on the comments/recommendations from the DEQ (or a third party Qualified Professional in the event that DEQ is unable to perform the review), and on information provided by the County's technical representative. In order to be approved, an NP evaluation must demonstrate that the approval is consistent with DEQ's criteria for approval, that the County's Appendix A guidelines have been followed, and that the following conditions are satisfied:

- (1) Appropriate data collection, analysis techniques, and evaluation procedures are utilized in light of specific site characteristics, conditions, layout, etc.
- (2) Discharge from the proposed on-site wastewater treatment systems will not significantly degrade ground water quality beyond existing background levels and will otherwise comply with Ground Water Rule (IDAPA 55.01.11);
- (3) Discharges from the development will comply with Idaho Water Quality Standards (IDAPA 58.01.02);

(4) Discharges from the development will be consistent with the approved Total Maximum Daily Load (TMDL); and

(5) The application complies with all applicable criteria specified in Individual/Subsurface Sewage Disposal Rules (IDAPA 58.01.03) and County guidelines specified in Appendix A.

(b) If the NP evaluation is not approved by Teton County based upon the comments or recommendations made by DEQ (or a solicited third party Qualified Professional) and feedback from the County's technical representative:

(1) The applicant may choose to make modifications based on recommendations made by the Commission, the BOCC, the County's technical representative, and the DEQ. The County should then base its approval decision upon comments and recommendations provided by DEQ's review of the revised NP evaluation and associated materials (as described in section 9-3-2-C-3-B-iii);

(2) The applicant may elect to conduct a Level II NP evaluation based on the original development design. The applicant must then submit the evaluation to the County, who will forward the evaluation to DEQ with a request that the DEQ review the Level II NP evaluation. The review process shall then proceed as outlined in section 9-3-2-C-3-B-iv with DEQ review/comment and a County decision of approval that should be based upon that review and associated feedback. If the development application is not approved by the County based upon professional review of the Level I evaluation or the Level II NP evaluation (if required), the density may be reduced and site layout adjusted until the proposed septic disposal systems (quantity and layout) result in an NP evaluation that receives favorable DEQ comments and corresponding County approval. Alternatively, the applicant may choose to connect to an existing municipal sewer line.

vi. Request for Waiver: If an NP evaluation is not required by DEQ or the Eastern Idaho Public Health District but is required by Teton County, Idaho, the Applicant may request that the County waive the requirement for the NP evaluation on the grounds that the results of the evaluation would not provide any information pertinent to the water quality impact of the development. A request for a waiver shall be heard by the Teton County Planning and Zoning Commission at the next available Commission meeting. The commission, after feedback from the County's technical representative and public hearing, shall recommend to the Board of County Commissioners approval or denial of the waiver request based on presented materials. The Commission or the Board shall have the opportunity to consult with a Qualified Professional(s) (including DEQ) regarding the waiver request. The Board shall approve the request if it

determines that completion of an NP evaluation would not provide any information pertinent to the water quality impact of the development.

vii. **Minimum Review Recompense and Total Cost:** When an NP evaluation is required by DEQ, EIPHD, or Teton County, an NP evaluation minimum review recompense shall be paid by the applicant to Teton County. (See Teton County Planning and Zoning Fees and Charges Schedule.) (amd.8-13-09)

C. **Public Service/Fiscal Analysis:** Due to the impact that a larger subdivision or PUD may have on public facilities, utilities, services and finances, the applicant for a proposed subdivision or PUD containing more than twenty (20) lots shall submit a public service/fiscal analysis containing the following information along with the preliminary plat and checklist: (Amd.06-05)

i. **Identification of Affected Public Services and Facilities:** The analysis shall identify all public services and facilities that would be provided to or be available to the subdivision or PUD, including public road construction and maintenance, schools, fire protection, police protection, central water, central sewer, parks and open space, libraries, recreation, maintenance, solid waste collection, and/or hospitals. (amd. 11-14-08)

ii. **Impact Analysis:** An analysis of the impact the subdivision or PUD will have on those public services or facilities identified in subsection a, using an average cost methodology. The analysis shall identify whether existing public service and facilities provided to or available to the subdivision or PUD have adequate capacity to meet any increased demands created by the development. Where the service or facility is provided by an entity other than the County (i.e., the school district, Teton County Fire Protection District, or a public or private utility) the applicant shall submit a letter from that entity confirming whether the facility or service has adequate capacity available to serve the proposed subdivision or PUD, and if not, what changes or improvements would be required to provide that capacity. (amd. 11-14-08)

iii. **Estimate of Tax Revenue:** An estimate of the tax revenue that will be generated from the proposed subdivision or PUD and the time frame over which the revenues shall be generated. The estimate shall be prepared in five (5) year increments and shall be consistent with any phasing plan provided with the application. (amd. 11-14-08)

iv. **Mitigation or Financing:** Suggested means of providing or financing needed improvements or expansions to the services and facilities identified above if adequate capacity is not available or the cost of providing the public services and facilities would not be offset by tax revenue received from the development. Where the service or facility is provided by an entity other than the County that will not receive direct tax revenues as a result of the proposed subdivision or PUD, the analysis shall separately address mitigation or financing

of needed improvements or expansions to the services and facilities they provide. (amd. 11-14-08)

D. Traffic Impact Study: Due to the impact that a subdivision or PUD may have on traffic levels, congestion levels, and levels of service on roads, the applicant for a proposed subdivision containing more than ten (10) lots or a proposed PUD containing more than ten (10) lots or dwelling units shall traffic impact study prepared by a professional engineer. A TIS may also be required if the Planning Administrator, the Commission, or the Board think that the condition of one or more of the roads that would provide access between the proposed development and the nearest State Highway is so poor that traffic from ten (10) or fewer lots or dwelling units could create public safety risks or interfere with the efficient flow of traffic. Each required traffic impact study shall meet the following standards: (amd. 11-14-08)

i. The study shall be based on traffic generation estimates of the Institute of Transportation Engineers Trip Generation Manual or any successor publication. (amd. 11-14-08)

ii. The study shall identify the current capacity of Highway 31, 32, 33 and Ski Hill Road (whichever has the most direct access from the proposed development), expressed as a percentage of available peak hour design capacity on that road, and the additional peak hour design capacity of those roads that would be used by the proposed development. These calculations should be based on the existing levels of service on the road, as determined by the County Engineer. The traffic impact study should clearly identify any change in level of service (for example, from LOS A to LOS B) as a result of the proposed development and what steps the applicant needs to take to mitigate those impacts. (amd. 11-14-08)

iii. The study must take into account traffic from existing and future development that will access any of the same roads connecting the proposed development to any State Highway or Ski Hill Road. All data used in the TIS shall be consistent with any recent traffic counts on any of the access, county, or state roads involved, and any marketing materials prepared for the proposed development. (amd. 11-14-08)

iv. The study shall comply with those requirements contained in the document titled "Requirements for Transportation Impact Studies" prepared by the Teton County Engineer's Office, which study is hereby adopted by Teton County for this purpose. (amd. 11-14-08)

v. Road Condition and Structure Study: The study shall identify the existing condition of all paved and unpaved County roads that will be used by traffic to and from the development before it reaches Highways 31, 32, 33 or Ski Hill Road, whether the anticipated level of traffic from the proposed development could cause traffic to exceed the safe design capacity of that road, whether any of those roads will require upgrades to remain within their safe

design capacity, and how the costs of those upgrades will be paid or mitigated without cost to the County. (amd. 11-14-08)

4. Additional Analysis Requirements for Planned Communities:

A. Public Service/Fiscal Analysis:

For a Planned Community PUD, an analysis of potential additional school children resident in the proposed development. The analysis should indicate the potential yield of school children based on the experience with part-time and full-time resident demographics from other, similar developments in the county. The schools analysis shall identify which schools the potential new students would attend, document current capacity for additional students in each of those schools, based on information from the school district. If the existing schools do not have adequate capacity to accommodate the anticipated additional students from the proposed development, the report shall identify steps that the applicant proposes to take to participate in the mitigation of impacts. (amd. 11-14-08)

B. Sight Line Analysis:

In order to minimize the visibility of development clusters, each Planned Community PUD application shall include an accurate scaled drawing or shall submit a sight line analysis in sufficient detail of each development cluster showing the number of homes proposed for the cluster, each with a height of thirty (30) feet, against the existing backdrop (hillside, valley floor, or existing development) behind the cluster, all as seen from the nearest point on a State Highway or on Ski Hill Road. (amd. 11-14-08)

5. Review Process:

A. Review by Administrator:

i. Upon review of the application and materials by the Planning Administrator the public hearing shall be scheduled, provided the required items in the application and checklist are not missing or deficient. (amd. 06-05)

ii. Schedule of Filing Dates/Deadlines: A schedule of current filing dates/deadlines is available in the Planning Department. The filing date/deadline schedule does not imply that an application shall be scheduled for the next meeting of the Planning Commission if the application is found to be deficient. (amd. 06-05)

B. Public Notice:

i. Required: Public notification shall be in accordance with the public hearing process required by Idaho Code in chapter 65, title 67; sections 6509,

6511, 6512 and 6519, as applicable. The developer shall notify all surrounding property owners within 300 feet of the property boundaries of his intent at least fifteen (15) days prior to the scheduled hearing date, by letter, which shall include the time, date, and place of the hearing. The property described in the application must also be posted seven (7) days prior to the hearing. This posting of the property shall include the time, date and place of the hearing. (amd. 06-05)

ii. Notice by Mail: Certified mail may be used to notify landowners, or the developer may provide preaddressed, stamped envelopes, with the letters, to the Planning Department for mailing. Either method requires a list of the name and address of the persons who will receive the letters, applicable proof of mailing, plus a copy of the notification letter to be in the project file prior to presentation of the Preliminary Plat to the Planning Commission. (amd. 06-05)

iii. Proof of Mailing: If certified mail is used, the certified receipts or a copy of the receipts must be submitted as proof of being mailed. (amd. 06-05)

iv. Failure to Notify: The developer's failure to comply with some parts of the notification provision may not invalidate the Planning Commission's action provided the spirit of the procedure is observed; however, the notice procedure shall be complied with prior to action by the Board of County Commissioners. (amd. 06-05)

C. Intergovernmental Coordination: A copy of the Preliminary Plat for review and comments shall be mailed to the appropriate review agencies forty-five (45) days prior to the anticipated Preliminary Plat hearing date. Return comments will be requested two weeks prior to that date, and if no comments are received by the date requested, it will be assumed that the agency has no comment. All copies of the plat to be mailed will be furnished by the developer's engineer/surveyor. (amd. 06-05)

6. Technical Assistance: At the request of the Commission and approval of the Board, the Planning Administrator may arrange for technical assistance, review, and recommendations on any aspect of a proposed PUD or subdivision that relates to its compliance with the Comprehensive Plan or any regulation or application checklist applicable to the development. The Board shall have discretion to arrange for volunteer technical assistance or to pay for such assistance, to request assistance from an individual or a group, and to decide the time period for technical assistance and review providing that such time does not exceed 45 days. The Board and Commission may, but shall not be obligated to, include technical assistance recommendations in their recommendations or further action on the application.

7. Preliminary Plat Hearing(s): The purpose of this hearing, or series of hearings, is to continue discussing the proposed subdivision plan, the development agreement, and the Preliminary Plat for conformity with the Comprehensive Plan, the development's relationship to surrounding development, any site conditions that may require special consideration or treatment, and to discuss and review the requirements of Title 9, Title 8, and Title 6, Chapter 6

of the Teton County, Idaho Development Code. This hearing is also to hear specific comments that may have been submitted by review agencies, which may include local, state, and federal organizations. The Commission may require specific action from the applicant pertaining to the comments received. At the Preliminary Plat hearing, the Commission may request review by any qualified professional person, and may conduct, or cause to be conducted, investigations, examinations, tests, and site evaluations as it deems necessary to verify the information contained in the application or shown on the plat. The developer grants the Commission or its agent permission to enter upon the land in question for these purposes by virtue of the subdivision/PUD application. (Amd.06-05)

8. Action/Decision: The Planning Commission shall act on the information presented at the Preliminary Plat hearing(s). The decision shall be to continue the Preliminary Plat hearing(s), to recommend approval, to recommend approval with conditions, or to recommend denial of the application. Specific reasons for the recommendation shall be stated in writing for the record. Because the final plat phase of the subdivision/PUD review process is not intended to raise new or additional topics or concerns, it is very important that the action of the Commission during this preliminary plat phase be based on a full understanding of all anticipated impacts of the proposed development on Teton County. The Commission shall only recommend approval if it finds that all of the following criteria have been met (or if it finds that some of the criteria have not been met, may recommend approval with conditions that would ensure that the proposed development meets the criteria): (amd. 11-14-08)

- A. The application is consistent with the Comprehensive Plan. (amd. 11-14-08)
- B. The application complies with all applicable County regulations. (amd. 11-14-08)
- C. If the application is for a PUD, it complies with any regulations applicable to PUDs under Chapter 5 of Title 9, including without limitation regulations controlling the types and locations of open space to be included in the development and the required design and size of development clusters. If the application is for a Planned Community PUD, the application adequately mitigates any impacts identified in those additional studies required by Section 9-3-2(C). (amd. 11-14-08)
- D. The application includes trails and pathways as required by Section 9-4-2(B-4) to the maximum extent feasible. (amd. 11-14-08)
- E. The application is consistent with the results of any Nutrient-Pathogen Study required for the property and includes any conditions or changes required to avoid any potential degradation of surface or groundwater identified in that study. (amd. 11-14-08)
- F. The application is consistent with the recommendations of any report on the adequacy of the proposed sewage system for the development and includes any recommended mitigation measures identified in that report. (amd. 11-14-08)

G. The application is consistent with any Traffic Impact Study required for the property and will not result in a decrease in the level of service (for example, from level of service B to C) on any State Highway or a maintained county road and includes any mitigation measures recommended in the Traffic Impact Study.(amd. 11-14-08)

H. If the application is for land that is not adjacent to a State Highway or a maintained county road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one State Highway or a maintained county road, and adequate for anticipated traffic and will be constructed to County Road Standards. (amd. 11-14-08)

I. If a Natural Resources Analysis is required the proposed development will avoid all mapped Overlay Areas (except the AV Airport Vicinity Overlay Area), or will minimize any unavoidable impacts to the mapped Overlay Areas to the maximum extent feasible and mitigate any unavoidable impacts. In the case of land located in the WH Overlay Area, the duty to avoid or mitigate impacts on habitat areas shall only apply if the wildlife habitat assessment reveals evidence of an indicator species or the presence of indicator habitat, and shall only apply to portions of the parcel where the evidence or habitat is found. (amd. 11-14-08)

J. The required Public Service/Fiscal Analysis shows that all public services provided to the proposed subdivision or PUD have adequate capacity to service it, or if they do not, the applicant has committed to mitigation or financing to ensure that those services and facilities will be provided within two (2) years after the first unit in the development is occupied and that any shortfall of tax revenues below the costs of providing the services or facilities will be covered without cost to the County. (amd. 11-14-08)

K. The application is consistent with any capital improvements plan adopted by the County. (amd. 11-14-08)

L. An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners association) rather than taxes, the county shall be granted the institutional power to enforce payments of those dues in the event the organization fails to do so. (amd. 11-14-08)

M. If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in Section 9-3-2(C- 3), the application shall meet as many of the criteria as possible. (amd. 11-14-08)

N. In addition to the above, for a Planned Community PUD, the application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school aged children anticipated by the development, and includes any recommended mitigation measures identified in that study. If the applicant

is obligated to pay an impact fee for schools, then mitigation measures identified in the report will not be required. (amd. 11-14-08)

D. FINAL PLAT PHASE:

1. Overview: This phase of the subdivision/PUD process is to present the Board of County Commissioners the completed documentation as required by this ordinance for a final review before rendering a decision to approve, deny, amend or remand this application. If the Board of County Commissioners elects to amend the application, additional findings and reasoning shall be made in writing in accordance with state code. Otherwise the findings and reasoning should be contained in the Master Plan / Development Agreement / and Final Plat. (amd. 06-05)

2. Final Plat Submittal:

A. Required Documents/Materials: The following submittal documents/materials are required. The public hearing with the Board shall not be scheduled until the final plat submittal is deemed complete by the Planning Administrator.

i. The Final Master Plan: The master plan of the subdivision/PUD, with necessary attachments, in accordance with the definition and requirements of Title 9, shall be recorded and shall be binding on the applicant and subsequent owners of the property. (Amd.06-05)

ii. The Final Development Agreement including phasing. (amd. 11-14-08)

iii. The Conditions, Covenants and Restrictions Document(s) and, if applicable, a Design Standards Document. (amd. 11-14-08)

iv. The final plat(s) in accordance with Title 50 of the Idaho Code and Title 9. (Amd.06-05)

v. The Final Construction Drawings, with proposed phasing, for public improvements in final and complete form. (amd. 11-14-08)

B. Application: All required documents, completed checklist requirements, and materials must be filed with the Planning Administrator for review in accordance with the published filing schedule prior to being placed on the next available agenda for Final Plat evaluation by the Board. An application will be scheduled for public hearing no later than 150 days after submission of an officially completed and accepted Final Plat application to the Planning Department. (Amd.06-05)

C. Schedule of Current Filing Dates/Deadlines: A schedule of current filing dates/deadlines is available in the Planning Department. The filing date/deadline schedule does not imply that an application shall be scheduled for the next meeting of

the Board of County Commissioners if the application is found to be deficient. (Amd.06-05)

D. Review by Administrator: Upon review of the application and materials by the Planning Administrator the public hearing shall be scheduled, provided the items required in the application and checklist have been provided and are complete.(Amd.06-05)

E. Public Notice:

i. Required: Public notification shall be in accordance with the public hearing process required by Idaho Code in Chapter 65, Title 67; Sections 6509, 6511, 6512 and 6519, as applicable. Notice shall be given to all surrounding property owners within 300 feet of the property boundaries of applicant's intent at least fifteen (15) days prior to the scheduled meeting date, by letter, and shall include the time, date, and place of the hearing, to be held by the Board. The property described in the application must also be posted with a notice including the time, date, and place of the Board hearing at least seven (7) days prior to the hearing. (Amd. 06-05)

ii. Notice by Mail: Certified mail may be used to notify landowners, or the developer must provide preaddressed, stamped envelopes, with the letters, to the Planning Department for mailing. Either method requires a list of the names and addresses of the persons who will receive the letters, applicable proof of mailing, plus a copy of the notification letter to be in the project file prior to presentation of the Final Plat to the Board of County Commissioners. (Amd.06-05)

iii. Proof of Mailing: If certified mail is used, the certified receipts or copy of the receipts must be submitted as proof of being mailed. (Amd.06-05)

F. Fees:

i. The final plan, development agreement and plat application fee shall be paid to the planning and zoning office at the time the master plan/development agreement/final plat application is submitted. This fee is non-refundable.

ii. The PUD/Subdivision/Development fees shall be paid prior to the start of construction for public and private improvements.

iii. The recording fees shall be paid at the time the final plat is recorded.

G. Hearing(s): The Board shall schedule a public hearing in accordance with the public hearing process outlined above in 9-3-2(D-2). The Board's decision shall be to approve, approve with conditions, deny, or remand the application back to the Commission for further review. Specific reasoning for the decision shall be included in

the record based on the information provided from the Commission on the plat(s), Development Agreement, and/or other studies and findings. Any substantive new information presented to the Board that is not contained in the written documentation and reasoning from the Preliminary Plat Phase hearings Section 9-3-2(C-8) of Title 9 shall automatically require a remand of the application to the Commission for further review. If the Board finds that the written documentation and reasoning from the Preliminary Plat Phase do not support the Commission's finding that the application complies with those criteria in Section 9-3-2(C-8), the Board shall make specific findings as to the way(s) in which the application does not satisfy those criteria, and may deny the application for failure to comply with this Title, or may remand the application back to the Commission in light of the Board's specific finding with regard to the criteria in Section 9-3-2(C-8). The Board at its discretion may continue the hearing.

H. Findings: In conjunction with the decision for approval, approval with conditions, or denial of an application for a subdivision or PUD, the Board shall make written findings with respect to the items required with the submission of the application and the criteria below. Additional written findings are not necessary where the public documents or records of the public hearing already provide a written record.

- i. Each exception to otherwise applicable restrictions shall be identified and the reasons supporting the exceptions stated.
- ii. The subdivision or PUD is consistent with the public health, safety and welfare of the County and with all applicable provisions of Title 9 and Title 8 of the Teton County code. (amd. 11-14-08)
- iii. The information required in the application has been verified and is correct.
- iv. The PUD contains the minimum of open space required by this Title or amount of open space agreed to in the plans and plat. (Amd.06-05)

I. Filing and Recording:

Mylar Submittal: The developer submits two (2) copies of the Final Master Plan and Final Plat to the Planning Administrator at least five (5) working days preceding the Board of County Commissioners' meeting on which the signature of Final Plat has been scheduled.

J. Time Limitation:

- i. Limitation for Approval: The Master Plan, Improvement Plans, Development Agreement and Final Plat shall be approved by the Board of County Commissioners within two (2) years of the date of acceptance of the subdivision/PUD concept application by the Planning Administrator or the entire application is deemed null and void.

ii. Subdivision Extension Request: The developer may request in writing prior to the expiration date an extension of time for final approval of up to twelve (12) months from the Board of County Commissioners. The narrative must include specific reasons why an extension is requested, address the criteria in the Subdivision Extension Application, and the extension fee. This fee is non-refundable. No further requests for this time extension shall be deemed accepted or granted. An extension request shall be adjudicated under the ordinance in effect at the time of the request for extension.

K. Filing and Recording: A subdivision or PUD is approved upon signature and recording of the master plan, development agreement, improvement plans, final plat, and the covenants and restrictions and shall be recorded in the office of the county recorder within four (4) calendar months after approval by the Board of County Commissioners, except a plat shall not be recorded until the assessed property taxes are paid in full and they shall be paid by June 20 of the following calendar year. Upon recordation of these documents the sale of lots may proceed. (amd. 05-11-10)

i. Filing and Recording Extension Request: The developer may request in writing prior to the expiration date an extension of time for recording up to four (4) months from the Board of County Commissioners. The request must include specific reasons why an extension is needed, addressing the extension criteria in the Subdivision Recording Extension Application and the extension fee. This fee is non-refundable. Only one (1) further request up to four (4) months for this recording time extension may be deemed accepted or granted. An extension request shall be adjudicated under the ordinance in effect at the time of the request for extension.

ii. Development Agreement: In addition to the Master Plan, Improvement Plans, and Final Plat, a Development Agreement between the developer and Teton County shall be approved and recorded at the same time as the Final Plat. Said Development Agreement guarantees the full and satisfactory completion of the planned and required public improvements to serve the subdivision or PUD. The development agreement is signed by the owner of the development and the chairman of the Board of County Commissioners, and shall be recorded at the same time as the final plat.

iii. Development Agreement Extension Request: The developer may request in writing prior to the expiration date an extension of time for commencement of improvements and/or for completion of improvements for up to twelve (12) months from the Board of County Commissioners. The request must include specific reasons why an extension is needed, addressing the extension criteria in the Development Agreement Extension Application and the extension fee. This fee is non-refundable. Only one (1) further request up to six (6) months shall be deemed accepted or granted. An extension request shall be adjudicated under the ordinance in effect at the time of the request for extension. (amd. 9-17-09)

L. Revocation by Board of County Commissioners:

i. The Board of County Commissioners may revoke a subdivision or Planned Unit Development upon failure to comply with the conditions of approval of a final plat or subdivision extension, upon the violation of any of the provisions of this Title, or for misrepresentations or material omissions made to the Planning Commission or to the Board of County Commissioners. (amd. 9-17-09)

3. **Plat Changes:** Any changes in the plats made by the developer after the required board decisions shall be reviewed by the Planning Administrator who shall determine if the change is insignificant or substantial. The Planning Administrator has the discretion to schedule meeting time in front of the Planning Commission and/or Board of County Commissioners for an evaluation of the changes.

A. **Insignificant Changes:** Insignificant changes have minimal impact either on the scale or scope of the project or on the immediate neighborhood. Insignificant changes may not include a decrease in open space or an increase in parcels or lots. Insignificant changes may be approved by the Planning Administrator; however, at his discretion, he may take insignificant changes to the Planning Commission or Board of County Commissioners for review and approval or denial. (amd. 06-05)

B. **Substantial Changes:** Substantial changes may impact the scope or scale of the project or immediate neighborhood. Such changes may include increasing the number of lots, rearranging five (5) or more lots, relocation of parking facilities, buildings, etc. The Planning Administrator shall notify the developer and shall schedule the revised Preliminary Plat or Final Plat hearing as appropriate by the Planning Commission or Board of County Commissioners for reconsideration and approval or denial. (amd. 06-05)

C. **Total Resubmittal:** Any time a developer proposes substantial changes, he does so with the understanding that development may need to undergo the entire subdivision procedure again which, may include resubmitting new plats to be mailed to the review agencies.

D. **Amended Plat:** An amended plat is required to effect a change in the configuration of any part of a recorded subdivision/PUD plat. An amended plat may require partial vacation of a recorded plat, and may include vacation of an entire plat. The Planning Administrator shall determine the nature of the vacation if required. If the amended plat appears to be a simple design change with no apparent impacts, then the amended plat may be accepted as a new final plat and shall follow the final plat procedures. If the amended plat has major changes, which create new impacts on roads, water, sewer, easements or neighboring properties, or creates new lots, then the new plat must comply with the procedures described in the subsection above and as required by the Planning Administrator. Amended Plats shall be considered as a new plat and shall be adjudicated under the ordinance in effect at the time of the application for amendment. Fees shall be paid as per the current fee schedule. Fees are nonrefundable.

4. Phasing Final Plat Submittals: The developer as part of the final plat phase, shall establish the schedules of the final plat review and approval. Each phase must be freestanding, that is fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time. Phasing plan must be submitted including:

- A. A plat delineating each phase and a general time frame for each phase;
- B. A public improvement phasing plan showing which improvements will be completed with each phase.
- C. Minor modifications to an approved phasing plan which do not change impacts on the adjoining property, may be approved or denied by the Planning Commission.

5. Subdivisions or PUDs Within The Areas Of City Impact: All subdivisions or PUDs within the areas of city impact will be subject to the area of impact ordinances as agreed to by the cities and the county. The Board of County Commissioners shall approve all final plats prior to being accepted for recording by the County Recorder.

CHAPTER 4

DEVELOPMENT STANDARDS

9-4-1: Design Standards

9-4-2: Improvement Standards

9-4-3: Mobile Home Subdivision or PUD

9-4-1: DESIGN STANDARDS: All subdivision or PUD plats, improvements, and facilities submitted pursuant to the provisions of Title 9 shall comply with the minimum design standards set forth in Title 8 and Title 9 (including this chapter) and other County standards adopted by the Board. Any higher standards required by any highway district, state highway department, or health agency shall prevail over those set forth in this Section 9-4-1. (ORD.9 as Amd. through 9-25-2000; Amd.06-05; Amd. 11-14-08)

A. DEDICATION: Within a proposed subdivision or PUD, all streets and roads shall be dedicated to the public if required by the Board; otherwise they shall be dedicated to a Homeowners Association. (ORD.9 as Amd. through 9-25-2000). The Board shall not be obligated to accept dedication of any street or road that is not open to the public or for which it determines that the costs of maintenance are higher than its benefit to the public. If the Board decides not to accept dedication of a public street or road, the applicant shall be required to establish a mechanism by which the road shall be maintained and repaired over time without cost to the County. (Amd. 11-14-08)

B. SPECIFICATIONS: Street right-of-way widths, grades, design, and alignment shall conform to the County Road Standards for Teton County, Idaho, as amended. (ORD.9 as Amd. through 9-25-2000; Amd.06-05) Where a proposed road or street is located within the HS Hillside Overlay Area defined in Title 8, the Planning Administrator, after consultation with the County Engineer, may require that the street or road right-of-way widths, grades, design, and alignment conform to alternative standards for hillside roads published by any local government or state or national organization with expertise in the design of roads in hillside areas. (Amd. 11-14-08)

C. STREET AND ROAD LOCATIONS:

1. Collector and/or Arterial Street:

Where a subdivision or PUD abuts or contains a collector and/or arterial street, it may be required that there be frontage roads approximately parallel to and on each side of such arterial or collector streets or such other treatment as is necessary for adequate protection of residential properties and to separate through traffic from local traffic.

2. Arrangement:

Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients. (ORD.9 as Amd. through 9-25-2000). Proper relation of streets shall include the following:

- i. Location along terrain contour lines (rather than directly up or down slopes greater than eight [8] percent. (amd.11-14-2008)
- ii. Location so as to minimize visibility from the State Highways and Ski Hill Road to the maximum extent feasible. (amd.11-14-2008)
- iii. Location to avoid dividing intact meadows, undisturbed hillsides, or stands of trees to the maximum extent feasible. Wherever practical, roads should pass around rather than directly over or through these landscape features. Where a route through those features cannot reasonably be avoided, the route should be designed to pass near or around the edge of the feature, rather than across the middle of it. (amd.11-14-2008)
- iv. Compliance with all standards related to roads and streets set forth in the Overlay Areas defined in Sections 8-5-1 and 8-5-2. Where requirements related to the Overlay Area conflict with the location the Overlay Area requirements shall govern. (amd.11-14-2008)

- D. EASEMENTS:** Unobstructed utility easements shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the Planning Administrator. Total easement width shall not be less than twelve (12) feet. Unobstructed irrigation and drainage way easements shall be provided as required by the Board. (ORD.9 as Amd. through 9-25-2000)
- E. BLOCKS:** Every block shall be so designed as to provide two (2) tiers of lots. Where lots back onto an arterial street or natural feature of a subdivision boundary, blocks shall not exceed a maximum length of one thousand five hundred (1,500) feet. (ORD.9 as Amd. through 9-25-2000)
- F. LOTS:** The lot width, depth, and total area shall not be less than the requirements of any applicable ordinance. Flag lots will be permitted only by the discretion of the County based on consistency with the Comprehensive Plan and with the intent statements in Titles 8 and 9. (ORD.9 as Amd. through 9-25-2000;amd. 06-05; Amd. 11-14-08)
- G. PLANTING STRIPS AND RESERVE STRIPS:** Planting strips may be required to be placed between residential areas and features such as highways, railroads, commercial or industrial uses to screen the view from neighboring properties. (Amd.06-05; Amd. 11-14-08)
- H. LANDSCAPING:** Existing natural and manmade features that enhance the attractiveness of the community such as trees, watercourses, and historic areas shall be preserved through the design of the subdivision or PUD. The County may request reasonable berming and plant landscaping, and other improvements to protect view corridors and vistas that protect the rural character of the county. (ORD.9 as Amd. through 9-25-2000; Amd.06-05; Amd. 11-14-08)

I. CC&Rs:

1. Required: CC&Rs shall be prepared and recorded along with the Development Agreement for a subdivision or PUD. This is usually done to provide protection to future property owners by establishing higher standards than required under other regulations. The provisions within CC&Rs are enforceable through civil action. Local governments are not required to enforce these provisions. (Amd.06-05)
2. Review by Planning Administrator: The Planning Administrator shall review subdivision or PUD CC&Rs at Preliminary Plat. CC&Rs may include such things as: architectural committee, minimum building floor area, mobile home provisions, allowable livestock, location of recreation vehicles, commercial and industrial activity, number of dwelling units, allowable signing and amendment provisions. CC&Rs shall include maintenance of open space, maintenance of landscaping, weed control, lighting and the right-to-farm provision. Upon reviewing the CC&Rs, the Planning Administrator shall resolve any conflicts with existing subdivision and zoning regulations. (Amd. 11-14-08)
3. Submission of Copies: Copies of the CC&Rs shall be submitted with the Preliminary Plat, Development Agreement and Final Plat.(ORD.9 as Amd. through 9-25-2000; Amd.06-05)

J. ACCESS:

1. Required: Each lot shall have legal and physical access provided and must abut and/or have access to a public or private street or road. Emergency secondary access roads shall not be used to provide the primary means of access to a lot.
2. Multiple Accesses: The County may require multiple accesses into a subdivision or PUD when any of the following are present:
 - i. Where the primary access road is over two thousand five hundred (2,500) feet long;
 - ii. Where a primary access road is over one thousand five hundred (1,500) feet long and it serves at least twenty (20) residential lots/dwelling units/spaces;
 - iii. Where safety and emergency vehicle circulation dictates.
3. High or Extreme Wildfire Hazard Areas: The County shall require multiple accesses into a subdivision or PUD when any portion of the subdivision or PUD is located in an area of "High" or "Extreme" wildfire hazard as shown on the latest adopted version of the Teton County Wildland Fire Mitigation Plan and (amd.11-14-2008) the primary access is over one thousand five hundred (1,500) feet long or the primary access road is over one thousand (1,000) feet long and it serves twenty (20) residential lots/dwelling units/spaces.

4. Second or Additional Access: When more than one access is required into a subdivision and the sole intent of the second or additional access is for emergency, right of way

and travel surface width may be reduced below county road standards for primary roads. Any secondary access road that does not meet County standards for primary roads can never serve as a primary access road for existing or proposed development unless upgraded to County road standards for primary roads. Secondary emergency access shall meet the following standards unless varied on a case-by-case basis by the Commission or Board after a determination that the lower standard would not create additional risks to public health or safety: (ORD.9 as Amd. through 9-25-2000)

- i. At least a twenty (20) foot gravel improved travel surface;
- ii. At least a forty (40) foot right-of-way;
- iii. With the exception of a and b above, the road shall meet all other requirements of Section 9-4-1-B. (Amd. 11-14-08)

K. OUTDOOR LIGHTING:

1. Lighting: These provisions shall apply to all outdoor lighting for buildings, structures, recreational areas, parking lots, landscape lights, sign lighting and other outdoor lighting within subdivisions. It is intended to establish procedures and standards that ensure minimal light pollution and reduce glare to aid in the control of lighting which affects astronomical observation and light trespass to neighboring properties. Street lighting is not required and is discouraged in areas that are naturally dark. Lighting that does not meet the provisions of Section 9-4-1K for special purpose facilities, including, but not limited to arenas, amphitheaters or field recreation facilities may be approved by the Commission. This outdoor lighting ordinance shall not apply to any lights existing prior to December 31, 2004.

2. Standards: Exterior lighting brighter than a sixty (60) watt incandescent light shall be shielded so that no light is projected above the horizontal, and the light source shall be diffused or shielded so that it cannot be seen from public areas or roadways or any other property.

- i. Motion sensor lights are encouraged.
- ii. Floodlights shall not shine directly onto roadways or other lots or properties.
- iii. Lights on private property shall be set back from the property line at least three (3) times the height of the lamp above grade. (Amended 01-24-05)

L. RIDGELINE DEVELOPMENT: Development on the crest of a hill which has the potential to create skylining shall comply with the following requirement:

1. All building envelopes shall be located so that no portion of a building up to thirty (30) feet tall shall be visible over the top of the ridge on which it is located when viewed from a State Highway or Ski Hill Road to the maximum extent feasible. If not feasible, the applicant shall submit a mitigation/landscaping plan to adequately minimize the visual impact. (amd.11-14-2008)

9-4-2: IMPROVEMENT STANDARDS**A. RESPONSIBILITY FOR PLANS:**

It shall be the responsibility of the developer of every proposed subdivision or PUD to have prepared by a registered engineer, a complete stamped and certified set of final construction plans, including profiles, cross sections, specifications and other supporting data for all required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans that have been approved with the preliminary plat and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with the state and County standards or specifications. (ORD.9 as Amd through 9-25-2000; Amd. 09-09-2002; Amd.06-05)

B. REQUIRED PUBLIC IMPROVEMENTS:

The applicant shall create a homeowners association or other organization with the power and responsibility to maintain the required public improvements over time, and with a reliable source of dues, assessments, or other revenues to support that maintenance and operation. (amd. 11-14-08) Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:

1. Monuments: Monuments shall be set in accordance with section 50-1303, Idaho Code.
2. County Roads and Subdivision/PUD Streets: Costs for upgrading new or existing County roads, and subdivision/PUD streets that are required to serve traffic generated by the proposed development, including any roads needed to connect the proposed development with the nearest County road or one of the state highways, shall be borne by the applicant and are required to meet minimum public safety standards in accordance with the County Road Standards, as amended. (amd. 11-14-08)
3. Curbs and Gutters: Curbs and gutters may be recommended by the Commission or required by the Board if determined that they would improve storm water transmission, reduce street maintenance costs, or reduce soil erosion adjacent to the road, and if required shall be constructed in accordance with the standards and specifications adopted by the Board.
4. Pathways: A pathway may be required within subdivisions or PUDs as part of the public right-of-way or as a separate easement. In addition, if a County adopted pathways plan shows a pathway through or adjacent to the proposed development, the development application shall show the location of that pathway and the on-site pathway shall connect with that alignment. (Amd. 11-14-08)

5. Installation of Public Utilities: Underground utilities shall be required for all subdivisions and PUDs in accordance with county and state codes and requirements. (Amd.06-05)
6. Drainage: Each subdivision and PUD shall provide a storm water drainage system, together with a stamped certification from a professional engineer that the proposed storm water drainage is adequate to retain or detain anticipated peak storm water on site and/or convey it off-site in compliance with state and local law requirements regarding the protection of downstream property owners, and in a manner to prevent soil erosion and sedimentation both on and off-site. (amd. 11-14-08)
7. Water Supply and Sewer Systems: The applicant shall provide water supply and sewer system adequate to meet the needs of the proposed development while avoiding damage to the environment. As required by Idaho Code Title 50, Chapter 13, Section 1326, central water systems and sewage waste systems shall be required upon the recommendation and approval of the Eastern Idaho Public Health Department and upon the recommendation and approval of the Department of Environmental Quality when that is required by state code. Individual wells require the approval of the State Department of Water Resources. Individual septic systems require the approval of the Eastern Idaho Public Health Department. When required by state code, both individual wells and septic system may require approval of the Department of Environmental Quality. (Amd. 09-09-2002; Amd.06-05; (amd. 11-14-08)
8. Fire Protection: Adequate fire protection shall be in accordance with The Teton County Fire Protection District as per The International Fire Code, as amended, and the Teton County Fire Protection District “Resolution for Subdivisions,” as amended. (Amd.06-05)
9. Street Lighting: Streetlights may be required to be installed at intersections throughout the subdivision or PUD if the Commission or Board determines it is necessary for traffic safety. The applicant shall conform to the requirements of the County in accordance with Titles 8 and 9 and the public utility providing such lighting. (Amd.06-05)
10. Public Land Access: Existing public access points and routes to public lands and waterways shall remain open and be maintained with the same or upgraded standards as may be required at the Commission and Board’s request. (amd. 11-14-08)
11. Addresses and Subdivision Name: All subdivisions and PUDs shall have an entrance sign stating the name of the subdivision or PUD, as approved by the Planning Administrator based on the current sign ordinance regulations in accordance with Chapter 9 of Title 8. All roads within the subdivision or PUD shall have street signs, and each home shall be addressed with numbers posted in a visible location. (ORD.9 as Amd. through 9-25-2000; Amd.06-05)

C. GUARANTEE OF COMPLETION:

1. Financial Guarantee Arrangements: Before beginning construction on the required public improvements the Final Plan, Development Agreement and Final Plat shall be recorded. The Board of County Commissioners shall require the subdivider to provide a financial guarantee of performance for those requirements which are over and beyond the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement. Public improvements shall include but not be limited to: roads, phone, electric, public water, and public sewer, fire protection, cable, lighting and required landscaping. (amd. 09-22-03; amd. 06-05)
2. Letter of Credit:
 - i. Accrual: The Letter of Credit shall accrue to the County covering construction, operation and maintenance of the specific public improvements.
 - ii. Amount: The Letter of Credit shall be in the amount equal to the one hundred twenty-five percent (125%) of the total estimated cost for completing construction of the specific public improvement, as estimated by a registered engineer and approved by the Board of County Commissioners.
 - iii. Term Length: The length in which the Letter of Credit is in force shall be for a period of 12 months with automatic renewal until such time as the public improvements are completed and accepted by the County. (amd. 06-05)
 - iv. Letter of Credit: The Letter of Credit shall be with a financial establishment authorized to do business in the State of Idaho, acceptable to the Board of County Commissioners.
 - v. Deposit of Letter of Credit: The Letter of Credit shall be drawn to the favor of and furnished to Teton County, be recorded with the Planning Department, and then deposited with the County Treasurer.
3. Approval of Final Plat: With respect to financial guarantees, the approval of all final subdivision or PUD plats shall be conditioned on the accomplishment of the following: (amd. 06-05)
 - i. The construction of improvement required by this title shall be completed by the developer and approved by the Board of County Commissioners. All improvements must be approved by the developer's engineer with a notarized and recorded letter; and (amd. 06-05)
 - ii. Surety acceptable to the Board of County Commissioners shall be filed in the form of an irrevocable bank letter of credit. (amd. 06-05)

D. INSPECTION OF PUBLIC IMPROVEMENTS UNDER CONSTRUCTION:

Before approving a final plat, construction plans, and specifications for public improvements, an agreement shall be made in writing between the developer and the Board of County Commissioners to provide for checking or inspecting the construction and its conformity to the submitted plans. Prior to construction of public improvements, a pre-construction meeting is required with the Teton County Zoning Official, the Teton County Fire Marshal and the project engineer and the contractor. (amd. 06-05)

E. PENALTY IN CASE OF FAILURE TO COMPLETE CONSTRUCTION OF PUBLIC IMPROVEMENTS:

In the event the subdivider shall, in any case, fail to complete such work within the period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Board of County Commissioners to proceed to have such work completed. In order to accomplish this, the Board of County Commissioners shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable letter of credit, or negotiable bond which the subdivider may have deposited in lieu of surety bond, or may take such steps as necessary to require performance by the bonding or surety company, and as included in a written agreement between the Board of County Commissioners and the subdivider.

F. REDUCTION AND RELEASE OF GUARANTEE:

Only after the inspecting engineer certifies that improvements are complete and free from defect, after receipt of notarized statement, and itemized bill, the county shall release the subdivider from the subdivision improvements agreement. (Title 9 as amd. through 9-25-2000; amd. 01-16-2002)

G. SHARING DEVELOPMENT COSTS:

Public works improvements shall be paid for by the developers. Future development by adjacent landowners that will benefit by the use of the public improvements set forth in this section shall pay their pro rata share as outlined below. (amd. 06-05)

1. Compensation: Circumstances where the original developer may be compensated by adjacent land owners for a portion of the cost for these improvements: (amd. 06-05)

i. Any adjacent landowner that develops frontage along or immediately adjacent to any public improvements, whose development would be benefited from connecting onto or accessing additional public easements or rights of way, shall be required to share costs with the original developer. (amd. 06-05)

ii. Compensation from adjacent land owner: Where an adjacent land owner may benefit from the installation of public improvements, the developer may contact the adjacent land owner and solicit participation in the costs for such improvements. If an

agreement for sharing development costs can be reached, it shall be in writing and shall be submitted by the developer initially responsible for the facilities, as part of the development agreement with the Final Plan, Development Agreement and Plat. (amd. 06-05)

2. No Participation from Adjacent Land Owners: When adjacent land owners chose not to participate, then the original developer may be entitled to compensation from adjacent land owners when they develop as follows: (amd. 06-05)

i. Letter of Notification: The original developer must file a letter of notification with the County indicating his intent to be considered for reimbursement of a portion of the costs of the public improvements required by this ordinance. (amd. 6-05)

ii. Cost Estimate: The letter of notification and an estimate of the costs for public improvements to be installed by the Developer shall be filed with the County Planning and Building Department not later than approval of the Final Plan Development Agreement and Final Plat by the Board of County Commissioners. The cost estimate may include land acquisition, roads, water and sewer, irrigation and canals and other such costs of construction for required public improvements. (amd. 06-05)

iii. The letter of notification shall be used by the County to alert adjacent land owners of record, of their responsibility to the original developer. (amd. 06-05)

iv. The failure to submit the letter of notification and cost estimate by the approval date of Final Plan, Development Agreement and Final Plat by the Board of County Commissioners shall constitute a wavier by the original developer to the right to request reimbursement as outline in this section of the ordinance. (amd. 06-05)

3. Future Development; Pro Rata Share: Future planned developments that would use the public improvements shall not be approved by the County until the new developer agrees in writing to adequately compensate the original developer or legal agent for a pro rata share of the costs of public improvement. Determination of the pro rata shall be based on the following: (amd. 06-05)

i. Roads, Length of frontage, for example, if two (2) landowners shared the same length of road on both sides of the street, the cost would be shared equally. (amd. 06-05)

ii. Number of lots per subdivision, for example, cost for water or sewer lines shall be based on cost of construction of pipelines and relocation of irrigation pipe lines and canals that are have shared use by both developments, the cost being shared equally. (amd. 06-05)

4. Reimbursement to Original Developer: Reimbursement to the original developer would be one hundred percent (100%) of the pro rata share during the first five (5) years following construction of the improvements, cost would then be depreciated ten percent (10%) per year thereafter, and no pro rata share would be due after (10) ten years following the initial construction, unless a specific agreement was developed and agreed to that extended this time frame. (amd. 06-05)

9-4-3: MOBILE HOME SUBDIVISION OR PUD

A. A mobile home subdivision or PUD shall be subject to all zoning regulations in Title 8 and all provisions of this Title 9. In addition, mobile home subdivisions and PUDs shall be screened from adjacent areas by aesthetically attractive fences, walls, living planting areas or existing natural or manmade barriers. The mobile home subdivision or PUD shall have a homeowners' association to ensure that the development and the screening from adjacent areas are adequately maintained. (Amd.06-05; (amd. 11-14-08)

CHAPTER 5

PLANNED UNIT DEVELOPMENTS

SECTION

9-5-1: General

9-5-2: Rural Reserve PUDs

9-5-3: Planned Community PUDs

9-5-1: GENERAL

A. TYPES OF PUDS: Two (2) types of PUDs are available under Title 9:

1. Rural Reserve PUD: A PUD or part of a PUD located outside the cities' areas of impact and containing no more than one hundred (100) lots (or if it is being developed as a condominium, then no more than one hundred [100] dwelling units), which shall be designed to preserve the open, rural character of Teton County and to avoid the creation of urban densities or urban infrastructure outside of the cities' areas of impact.
2. Planned Community PUD: A PUD or part of a PUD located outside the cities' areas of impact and containing more than one hundred (100) lots or dwelling units, which shall be designed to preserve the open, rural character of Teton County by minimizing the visual impacts of the development and preventing the appearance of large, scattered, free-standing communities in those areas.

B. PURPOSE: The purposes of the PUD regulations and process are:

1. To encourage development that is consistent with the policies and objectives of the Comprehensive Plan through the use of innovative designs and the application of sound design principles. When the County adopts a Projected Land Use Map (PLUM) as a part of the Comprehensive Plan, or to supplement the Comprehensive Plan, this purpose shall be interpreted to encourage development that is consistent with that PLUM.
2. To preserve high quality open space in meaningful amounts and in desirable locations.
3. To permit clustering and similar design solutions that encourage protection of scenic areas, wildlife habitats and migration routes, skylines, wetlands, and riparian areas. (Amd.06-05)
4. To encourage compact rather than scattered developments.
5. To provide opportunity for development where site constraints or other similar factors make the PUD approach more reasonable and desirable than the standard subdivision design.

6. In the Rural Reserve area to encourage development that protects the rural, open character by minimizing the visual impacts of the development and preventing the appearance of large, scattered, free-standing communities in those areas.

7. In the Rural Reserve area to encourage development designs that cause the least possible disruption of farming, ranching, or other established and ongoing land use activities.

8. In the Rural Reserve area to encourage open space along the scenic corridors or in the most aesthetically pleasing areas of the land to shield development from view from the Scenic Corridors. (ORD.9 as Amd. through 9-25-2000; Amd.06-05)

9. In the Rural Reserve area, to encourage development designs that protect migration corridors and breeding areas for those species and habitat identified on the Wildlife Habitat overlay map.

C. HEIGHT, SETBACK, AND LOT SIZE:

In the interest of promoting flexibility and achieving goals set out in section 9-5-1-B of this Chapter, a PUD may vary from applicable height, setback, and lot size restrictions when approved by the Board. The building height, architecture, and land coverage within the PUD shall be designed and arranged to enhance the livability and attractiveness of adjacent land uses. The setback and height requirements of the adjacent zone may be required on the periphery of the PUD. Any variations from the height, setback, and lot sizes required in section 8-4-4 of this code must be recorded on the plat and must not compromise the health, safety, and general welfare of the County. (ORD.9 as Amd. through 9-25-2000)

D. COMPLIANCE WITH ZONING OVERLAYS:

All PUD applications must comply with all procedural and substantive requirements of any applicable overlay provisions of Title 9 and Title 8, including but not limited to the regulations in section 8-5-2 Overlay Regulations. (ORD.9 as Amd. through 9-25-2000). The ability of PUD's to vary from the height, setback, and lot size regulations of the underlying zoning district does not include the ability to vary any of the Overlay Area regulations.

E. DEEDING OR DEDICATION OF OPEN SPACE:

1. The land designated as open space within a PUD must be committed to open space by one (1) or more recorded instruments. This will require deeding, e.g., the seller may retain the deed with a deed restriction to maintain open space or a formal dedication of conservation easement (or a fee interest) to an appropriate governmental entity, charitable organization, or homeowner's association. Open space may also be platted, and deed restricted to the satisfaction of the Board, as one or more large privately held lot(s) a minimum of 20 acres each, with specified building envelopes. The Board must be satisfied that the preservation of open space is viable and the entity to which the open space is deeded is a sound, independent and legitimate organization whose primary purpose is to protect and maintain open space. (Amd.06-05)

2. The Planning Administrator in consultation with the developer and the project engineer shall recommend the number, size and locations of building sites above one (1) allowed to be platted as privately owned lots in the open space of the PUD so as to protect the integrity of the open space and protect the health, safety and general welfare of the county. (Amd.06-05)

F. MANAGEMENT OF OPEN SPACE:

1. Open Space Management Plan: A management plan for all required or dedicated open space and any recreation facility on the open space shall be provided as part of the development agreement for the PUD. The plan must include a dedicated funding source and sufficient guarantees that the land can be maintained in open space for its intended use (including recreation facilities if applicable) without becoming a nuisance and without financial support or maintenance services from the County. If the intended use of the open space requires water, then there shall be an adequate water right available to all required or dedicated open space.

2. Management of Wildlife Habitat Land: Where the designated open space is intended to protect fish or wildlife habitat, a fish and wildlife open space management plan as described in section 9-3-2 shall be required.

G. PHASED DEVELOPMENT: PUD developments can be developed in one or more phases. Phasing of a PUD shall be part of the Final Master Plan, Development Agreement, Facility Map and Final Plat submittal approved by the Board. The required fees for a phase shall be paid prior to starting development of that phase in accordance with the estimated time line for phasing as recorded on the Facility Map. PUDs that do not meet the time line as stipulated on the Facility Map shall be called in for review by the Planning Administrator and may have the permits revoked. Fees paid shall not be refunded. (ORD.9 as Amd. through 9-25-2000; Amd.06-05)

H. PUD APPLICATION AND REVIEW PROCEDURE: The procedure for processing an application under this Chapter 5 will follow the general procedures for approval outlined in Chapter 3 of Title 9. (ORD.9 as Amd. through 9-25-2000; Amd.01-16-2002; Amd.06-05)

I. REVIEW BY DISTRICT COURT: Any final decision of the Board is subject to judicial review as provided in the Idaho law. (ORD.9 as Amd. through 9-25-2000)

- J. DENSITY:** Maximum densities indicated for a particular type of PUD in sections 9-5-2 and 9-5-3 below are not entitlements, but represent the maximum density potentially available. The Commission may recommend and/or the Board may approve a final development density lower than the maximum densities indicated in sections 9-5-2 and 9-5-3 below, as applicable.

9-5-2: RURAL RESERVE PUDS

- A. SIZE:** The minimum size of a Rural Reserve PUD is twenty (20) contiguous acres. There is no maximum acreage limit.
- B. PERMITTED LAND USES:** The primary land use in a Rural Reserve PUD is residential. Non-residential uses may be included provided that the land area of the lots on which they are located does not exceed two (2) percent of the developed land area (excluding required open space) of the PUD. In a Rural Reserve PUD, non-residential uses may include (a) non-commercial institutional uses such as schools, churches, or clubhouses or (b) commercial uses designed and sized to serve the daily needs of PUD residents, but shall not include commercial uses designed or sized to serve the needs of residents or visitors from outside the PUD. Non-residential uses shall be located within the interior of the PUD, and not along State Highways or maintained county roads bordering the PUD.
- C. MAXIMUM DENSITY:** If the Rural Reserve PUD property is located in an area zoned A2.5, the maximum density shall be fifty (50) dwelling units per one hundred (100) acres. If the Rural Reserve property is located in an area zoned A20 the maximum density shall be fifteen (15) dwelling units per one hundred (100) acres. No additional density shall be permitted if the Rural Reserve PUD includes provision of central or community water or sewer systems.
- D. COMMUNITY BENEFITS (OPEN SPACE):** Each Rural Reserve PUD shall provide a minimum of fifty (50) percent of the gross land area in the application as open space. The required open space shall be contiguous parcels of large, intact areas of open lands, rather than being scattered in strips around the outer edges of the application parcel or gerrymandered with thin strips connecting otherwise non-contiguous areas, to the maximum extent feasible. The required open space need not be made available for public use. If the designated open space is included in a golf course or other recreation facility, only one-half (1/2) of the open space acreage shall be counted towards the minimum required open space. The required open space shall include lands based on the following priorities (in declining order of importance):
1. Land in the FP Floodplain Overlay, the WL Wetland Overlay, the HS Hillside Overlay, portions of the WH Wildlife Habitat Overlay where evidence of indicator Species or the presence of indicator habitat has been confirmed through the wildlife habitat assessment, and the SC Scenic Overlay, to the maximum extent feasible. The

Commission may consider information from technical assistance provided pursuant to section 9-3-2 (C-6) in determining whether this criterion has been met.

2. Land contiguous with public lands, conservation easements, and dedicated open spaces on adjacent parcels, or with lands in the FP Floodplain Overlay, the WW Wetland and Waterways Overlay, the HS Hillside Overlay, portions of the WH Wildlife Habitat Overlay where the evidence of indicator species or the presence of indicator habitat has been confirmed through the wildlife habitat assessment, and the SC Scenic Corridor Overlay Areas on adjacent parcels to the maximum extent feasible.

3. Land used for agriculture jointly with adjacent farming areas.

E. CLUSTERED DEVELOPMENT: In order to preserve the rural, open character of the area, lots in Rural Reserve PUDs shall be clustered to avoid priority open space areas the maximum extent feasible. Clustered development areas:

1. Shall be located on lands remaining after the designation of open space areas, and shall not include lands in the FP Floodplain Overlay, the WW Wetland and Waterways Overlay, the HS Hillside Overlay, portions of the WH Wildlife Habitat Overlay where evidence of indicator species or the presence of indicator habitat has been confirmed through the wildlife habitat assessment, and the SC Scenic Overlay Areas to the maximum extent feasible.

2. Shall be located in areas that minimize visibility from the State Highways and Ski Hill Road, and from adjacent development, to the maximum extent feasible.

3. Shall be located to minimize impact on crop production, grazing, and agricultural activities on the application parcel or adjacent parcels. (In most cases this will require that clusters not be located along property boundaries adjacent to land in productive agricultural use.)

4. Shall have building envelopes located, to the maximum extent feasible, to mitigate hazards on lands identified as areas of "High" or "Extreme" wildfire danger as shown on the latest adopted version of the Teton County Wildland Fire Mitigation Plan. The Fire Marshall of the Teton County Fire Protection District shall be consulted for assistance, recommendations, and advice with regard to the Teton County Fire Protection District Resolution #3, Urban Wildland Interface Assessments. Efforts shall be taken to mitigate the risks outlined in this Resolution.

5. Shall contain a minimum of five (5) residential lots, unless there will be fewer than five (5) lots in the entire PUD or the application demonstrates that one (1) or more clusters of less than five (5) lots is necessary for the protection of the priority open spaces identified in subsection D-1 above.

6. Shall each contain a maximum of twenty-five (25) residential lots, unless the application demonstrates that the creation of one (1) or more larger clusters is necessary to better protect the priority open spaces identified in subsection D-1 above, in which case the maximum number of residential lots in a cluster shall be thirty-five (35), unless the Board determines that larger clusters would better implement the goals of the Comprehensive Plan.

- F. CONTIGUOUS OR SEQUENTIAL PUDS:** If an applicant or a group of applicants with similar or overlapping ownerships present to the County applications for Rural Reserve PUDs that are contiguous with each other, either simultaneously or in sequence, and it appears to the Planning Administrator that the PUD applications are parts of a larger scheme for development that would qualify as a Planned Community PUD if it were presented as a whole, the Planning Administrator may require the applicant(s) to submit an application for a Planned Community PUD or may require that sequential applications be reviewed and approved pursuant to the standards applicable to a Planned Community PUD.

9-5-3: PLANNED COMMUNITY PUDS:

- A. SIZE:** The minimum size of a Planned Community PUD is 101 dwelling units. There is no maximum size limit.
- B. PERMITTED LAND USES:** The primary land use in a Planned Community PUD is residential. Non-residential uses may be included provided that the land area of the lots on which they are located does not exceed two (2) percent of the developed land area (excluding required open space) of the PUD. In a Planned Community PUD, non-residential uses may include (a) non-commercial institutional uses such as schools, churches, or clubhouses, (b) commercial uses designed and sized to serve the daily needs of PUD residents, or (c) commercial operations related to the recreational, sports, cultural, or entertainment focus of the PUD (for example, equestrian-related facilities in an equestrian-themed PUD), which may be designed and sized to serve residents or visitors from outside the PUD. Non-residential uses shall be located within the interior of the PUD, and not along State Highways or maintained county roads bordering the PUD.
- C. MAXIMUM DENSITY:** If the property is located in an area zoned A2.5, the maximum density shall be fifty (50) dwelling units per one hundred (100) acres. If the property is located in an area zoned A20 the maximum density shall be fifteen (15) dwelling units per one hundred (100) acres. No additional density shall be permitted for the provision of central or community water or sewer systems.

D. COMMUNITY BENEFITS:

1. Because larger developments are more likely to compromise the open, rural character of the Rural Reserve areas unless the additional dwelling units are balanced by additional open space, each Planned Community PUD shall provide a minimum of seventy (70) percent of the gross land area in the application as open space. Except for the increased percentage required, the required open space shall meet all of the requirements for open space in Rural Reserve PUDs in section 9-5-2-D.

2. In addition, each Planned Community PUD shall provide a public or community water supply system(s) and a public or community sewer system(s) meeting all requirements of the Eastern Idaho Public Health Department and the Department of Environmental Quality, and shall create a taxing district or homeowners association with the responsibility to maintain and replace those water and sewer facilities. The taxing district or homeowners association must be created with the power to compel the payment of dues, assessments, or taxes through liens on individual properties if necessary. The development shall be subject to CC&Rs that include the County as a party for purposes of collection or enforcement of its terms. The CC&Rs shall provide that the County may provide needed repairs and maintenance on the water and sewer systems if the homeowners association or taxing district fails to do so, and to collect the costs of such repairs and maintenance from the homeowners association or taxing district through liens on individual properties if necessary.

3. In addition, each Planned Community PUD shall provide a system of walking trails and bicycle pathways, that may be dedicated lanes on designated roads to connect all development clusters to any recreational facilities, community facilities, and commercial uses included in the PUD. Walking trails and bicycle pathways to be located in the wildlife habitat open space areas as determined by the Wildlife Habitat Assessment shall minimize any disruptive impacts anticipated by recreational uses of trails and pathways.

E. CLUSTERED DEVELOPMENT: Because larger developments are more likely to compromise the open, rural character of the County unless the additional dwelling units are located and designed to minimize their visibility and impacts on the land, larger clustered developments must be subject to stronger siting constraints.

1. Each Planned Community PUD shall comply with the same requirements for clustered development areas applicable to Rural Reserve PUDs, except that the maximum number of residential lots in each development cluster shall be fifty (50) unless the Board determines that larger clusters would better implement the goals of the Comprehensive Plan.

9-5-3 (E-2)

2. In order to minimize the visibility of development clusters, each Planned Community PUD shall be subject to CC&Rs requiring that all buildings shall not be of highly reflective materials. (Sections: 9-5-1, 9-5-2, 9-5-3; amd. 11-14-2008)

CHAPTER 6

RESERVED FOR TRANSFER OF DEVELOPMENT RIGHTS

CHAPTER 7

VACATIONS AND DEDICATIONS

SECTION:

- 9-7-1: Application Procedure
 9-7-2: Vacation of Plats Procedure
 9-7-3: Dedication Procedures

9-7-1: APPLICATION PROCEDURE:

- A. APPLICATION:** Any property owner desiring to vacate an existing subdivision, public right of way, or easement, or desiring to dedicate a street right of way or easement may petition such by filing a completed application with the applicable information and required nonrefundable fee at the planning and zoning building office of the county.
- B. ADMINISTRATOR ACTION:** Upon receipt of the completed application, fee payment, and accompanying materials by the Planning Administrator, the application for the vacation or dedication shall be scheduled for consideration of the next available agenda of the Planning Commission.
- C. PLANNING COMMISSION APPROVAL:** The Planning Commission shall review the request and make a recommendation of approval, conditional approval, or denial to the Board of County Commissioners.
- D. BOARD OF COUNTY COMMISSIONERS ACTION:** The Board of County Commissioners, after consideration of the Planning Commission's recommendation and a public hearing, may approve, approve with conditions or deny the request for vacation, easement, or dedication as they deem necessary in the public interest.
- E. DEED:** Whenever public rights of way or public lands are vacated, the Board of County Commissioners shall provide adjacent property owners with a quitclaim deed for vacated property. (Title 9 as amd. through 9-25-2000)

9-7-2: VACATION OF PLATS PROCEDURE:

- A. PETITION TO VACATE:** Any person desiring to vacate a plat or part thereof that lies more than one mile beyond the city limits must petition the Board of County Commissioners to vacate.

- B. CONTENTS OF APPLICATION:** The application shall set forth particular circumstances of the request to vacate; contain a legal description of the platted area of the property to be vacated and the names of the persons affected thereby. The application shall be filed in the planning and zoning building office of the county.
- C. CITY COUNCIL CONSENT REQUIRED:** When the platted area or any part thereof lies within one mile of the city boundary or lies adjacent to the city boundary then the consent of the city council of the affected city shall be necessary in granting any vacation by the Board of County Commissioners.
- D. NOTICE OF HEARING:** Written notice of public hearing on the application shall be given to all property owners within 300 feet, by certified mail with return receipt at the applicant's expense, in accordance with Idaho Code Title 67, Chapter 65, or as amended. (Amd. 09-22-2003)
- E. CEMETERY PLAT:** In the case of a vacation of a cemetery plat where there has no interment or in the case of a cemetery being within three hundred feet (300') of another plat for which a vacation is sought, publication of the notice of hearing shall be the only required notice as to the property owners in the cemetery.
- F. EASEMENTS:** In the case of easements granted for gas, sewer water, telephone, cable television, power, drainage, and slope purposes, public notice of intent to vacate is not required. Vacation of these easements shall occur upon recording of the new or amended plat; provided that all affected easement holders have been notified by certified mail, return receipt requested, of the proposed vacation and have agreed to the same in writing.
- G. HIGHWAY DISTRICT:** When public streets or public rights of way are located within the boundary of a highway districts, the highway district commissioners shall assume the authority to vacate comparable to the county commissioner or city council as appropriate.
- H. PUBLIC HIGHWAY AGENCIES:** Public highway agencies acquiring real property within a platted subdivision or highway right of way purposed shall be exempt from the provisions of this section.
- I. LAND EXCLUSIVE OF PUBLIC RIGHT OF WAY:** Land exclusive of a public right of way that has been subdivided and platted in accordance with Idaho Code chapter 50 need not be vacated in order to be replatted.
- J. FEES:** Fees shall be in accordance with the published fee schedule.

9-7-3: DEDICATION PROCEDURES:

- A. PETITION TO DEDICATE:** Any person desiring to dedicate or transfer platted private roads or land must petition the Board of County Commissioners for dedication.
- B. CONTENTS OF APPLICATION:** The application shall include a certificate containing the correct legal description of the land and shall set forth the particular circumstances of the request to dedicate.
- C. DEED:** The owner shall furnish a deed describing and conveying such lands to the county to be recorded by the county recorder upon approval by the Board of County Commissioners.
- D. CONSTRUCTION, IMPROVEMENTS AND BOND:** The Board of County Commissioners shall determine the necessary construction and improvements needed to bring the property to county standards before accepting or approving the proposed application for dedication. Bonding shall be provided to assure that the construction and improvements are made prior to dedication.
- E. INCLUDED IN SUBDIVISION OF PUD APPLICATION:** Dedication of roads, open space, or other lands within are part of a platted subdivision or planned unit development application shall be included as part of the application for the subdivision or planned unit development. The Planning Commission shall review the petition and shall make a recommendation to the Board of County Commissioners. Platted roads, open space or lands within subdivisions or PUDs are normally not accepted by the County. (Title 9 as amd. through 9-25-2000; amd. 06-05)

CHAPTER 8

VARIANCES

SECTION:

9-8-1: Purpose

9-8-2: Findings

9-8-1: PURPOSE: The Planning Commission may recommend to the Board of County Commissioners, as a result of unique circumstances such as topographic-physical limitations or a planned unit development, a variance from the provisions of this title on a finding that undue hardship results from the strict compliance with specific provision or requirements of this title or that application of such provisions or requirements is impracticable. (Title 9 as amd. through 9-25-2000)

9-8-2: FINDINGS: No variance shall be favorably acted upon by the Board of County Commissioners unless there is a finding that all of the following exist:

- A. There are such special circumstances to conditions affecting the property that the strict application of the provisions of this title would clearly be impracticable or unreasonable; in such cases, the subdivider shall first state his/her reasons, in writing, as to the specific provision or requirement involved;
- B. Strict compliance with the requirements of this title would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions or that these conditions would result in inhibiting the achievement of the objectives of this title;
- C. The granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated;
- D. Such variances will not violate the provisions of Idaho Code; and
- E. The requested variance is not a result of the actions of the applicant.
- F. The variance will not have the effect of nullifying the interest and purpose of this Title or the Comprehensive Plan. (Title 9 as amd. through 9-25-2000)

CHAPTER 9

ENFORCEMENT AND PENALTIES

SECTION:

9-9-1: Enforcement

9-9-2: Penalty

9-9-1: ENFORCEMENT: No subdivision plan/s, plat/s, required under this title or Idaho Code shall be recorded on the public land records of the county without the written approval by the Board of County Commissioners or their designees. The prosecuting attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this title. (Title 9 as Amd. through 9-25-2000; amd. 06-05)

9-9-2: PENALTY: Penalties for failure to comply with the provisions of this title shall be as follows:

- A. **MISDEMEANOR:** Violation of any of the provisions of this title of failure to comply with any of its requirements shall constitute a misdemeanor.
- B. **SEPARATE OFFENSE:** Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assets in or maintains such violation may each be found guilty of a separate offense.
- C. **ADDITIONAL REMEDIES:** Nothing herein contained shall prevent the Board of County Commissioners or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of the Idaho code. (Title 9 as Amd. through 9-25-2000)

9-10-1

CHAPTER 10
AMENDMENTS

SECTION:

9-10-1: Amendment Procedure

9-10-1: AMENDMENT PROCEDURE: The Board of County Commissioners may, from time to time, amend, supplement or repeal the regulations and provisions of this title in the manner prescribed by the Idaho Code. A proposed amendment, supplement, or repeal may be originated by the Board of County Commissioners, Commission, or by petition. All proposals not originating with the Commission shall be referred to it for a report thereon before any action is taken on the proposals by the Board of County Commissioners. (Title 9 as Amd. through 9-25-2000)

**TETON COUNTY SUBDIVISION ORDINANCE
OF TETON COUNTY, IDAHO**

EFFECTIVE: 1979 as Teton County Subdivision Ordinance #9

AMENDED:

	February 11, 1991
As Ordinance #071194-A	July 11, 1994
As Ordinance #071194-A	March 11, 1996
As Ordinance #071194-A	December 23, 1996
As Ordinance #071194-A	February 1, 1999
	June 14, 1999
	August 9, 1999
	January 24, 2000
	September 25, 2000
	February 11, 2002
	September 9, 2002
	September 22, 2003
	June 13, 2005
	December 12, 2005
	September 25, 2007
	November 14, 2008
	May 26, 2009
	September 17, 2009
	May 11, 2010

An Ordinance of Teton County, Idaho, providing for the adoption of a Subdivision Ordinance for Teton County: Providing for the title, authority, purpose, jurisdiction interpretation, administration and severability of said ordinance; Providing for the combining of permits and the repeal of conflicting ordinances; Providing for the definition of terms used therein; Providing for the regulations, requirements and procedures for platting of a said subdivision; Providing for the design standards and requirements public improvements; Providing for guarantee of completion of improvements; Providing for special development subdivisions and their requirements; Providing for vacations and dedications; Providing for variances; Providing for enforcement and penalties; Providing for amendment procedures; Providing for said ordinance to take effect after its passage.

Approved this the May 11, 2010



Larry Young, Chairman Board of County Commissioners

Appendix A

Nutrient-Pathogen Evaluation Technical Guide for On-Site Wastewater Treatment Systems In Teton County, Idaho

Introduction

The Idaho Department of Environmental Quality (DEQ) and the Eastern Idaho Public Health District (EIPHD) require property developers to investigate potential impacts to ground water and surface water from on-site wastewater treatment systems. The primary source of these requirements can be found in Idaho Ground Water Quality Rule, Idaho Water Quality Standards (IDAPA 58.01.02) and Individual Subsurface Disposal Rules (IDAPA 58.01.03) for surface water, and *Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems* (http://www2.state.id.us/deq/waste/tgm_sewage.htm), hereinafter called “Guidelines”.

In addition to State requirements, Teton County requires property developers in Teton County to investigate potential impacts to waters of the state when one or more of the criteria in Title 9, Section 9-3-2-C-3-B-i (and Applicability section below) apply to the proposed development. These criteria are detailed below in the “Applicability” section below.

The investigations must include a comprehensive, scientifically based evaluation of soils, geologic conditions, and water resources in and around the area of the proposed development. For approval of the on-site wastewater treatment systems, the site investigation (termed nutrient-pathogen (NP) evaluation) shall conclude that the effluent from the treatment systems will not adversely impact the waters of the state.

This document is intended to provide guidance to those required to perform NP evaluations under Teton County’s oversight of proposed developments utilizing on-site wastewater treatment systems in sensitive water quality areas of the county.

Applicability

NP evaluations are designed to locate an appropriate number of on-site wastewater treatment systems on a given parcel of land, and to direct the placement of the individual on-site wastewater treatment systems and level of treatment in a way that will not significantly degrade the quality of Teton County’s water resources.

NP evaluations are required for all proposed developments utilizing on-site wastewater treatment systems when:

1. Any portion of a proposed development is within the county’s Wetland and Waterways Overlay area; or
2. There is evidence that groundwater comes within ten feet of the ground surface on the proposed development parcel some time of the year; or
3. There is evidence that soil depth to fractured bedrock is ten feet or less anywhere on the

proposed development parcel; or

4. The proposed development includes a food service, commercial, or industrial facility generating 600 gallons per day or more wastewater; or

5. The proposed development is within an area where the concentration of nitrate-nitrogen in groundwater is five mg/l or higher.

Following the completion of a Level 1 NP evaluation, Teton County may allow suitable alternative on-site wastewater treatment system designs to better protect water quality in lieu of performing a Level 2 NP evaluation, provided it meets the Level 1 requirements.

Qualifications

NP evaluations must be performed by a qualified professional with experience in subsurface resource evaluation practices. The work is typically performed by environmental consultants with backgrounds in geology, hydrogeology, soil science, geochemistry, or related engineering disciplines. The evaluation relates the predicted nutrient and pathogen movement in the subsurface to the type of on-site wastewater treatment system proposed, and the soil, geologic, and hydrologic conditions existing at the site. The qualified professional must be a Professional Geologist or Professional Engineer who is registered in the State of Idaho and has experience conducting studies similar to NP evaluations. To conduct a Level II NP evaluation, the qualified professional must have experience in groundwater modeling. The professional performing the evaluation must certify that the results and any recommendations on design or placement of on-site wastewater treatment systems satisfy the approval criteria, below.

Approval Criteria

In order to be approved NP evaluation must demonstrate that the proposed on-site wastewater treatment system(s) will not significantly degrade ground water or surface water quality beyond an increase of 1.0 mg/l nitrate, or less above existing “background levels” for example the development cannot cause concentrations of nutrients or pathogens in ground water or surface water to exceed those concentrations that exist at the site prior to the development). An increase of 1.0 mg/l nitrate, or less, predicted to occur at the compliance boundary is considered a negligible (not significant) impact.

Nitrate is used as the substance to measure in the application of these guidelines; i.e. the fate of nitrate discharged to the subsurface. Nitrate is often the limiting factor in determining appropriate lot sizes and on-site wastewater treatment system design and placement because it is the most mobile constituent of concern in domestic wastewater and has an impact on public health when a maximum contaminant level (MCL) is exceeded (Subsurface Water Rules (IDAPA 58.01.11)). Note that all references to nitrate concentration infers nitrate measured as nitrogen (NO₃ as N).

The evaluation of pathogens is performed by characterizing soil and geologic conditions to a level that enables the NP professional to verify that pathogens will be attenuated in the

subsurface before impacting surface or ground water. At the present time (July 2009), pathogen transport modeling cannot be done with enough certainty to be useful.

The compliance boundary is defined as one, or any combination of, the following:

- Individual lot boundaries - when non-centralized water supply wells are used (e.g. a single on-site wastewater treatment system cannot cause nitrate concentrations to increase more than 1.0 mg/l above pre-development levels as measured at the downgradient lot boundary when neighboring lots contain individual water supply wells).
- Downgradient boundary of the overall subdivision or development - when a centralized, or community, water system is used (e.g., nitrate concentrations cannot increase more than 1.0 mg/l above pre-development levels as a result of the combined effect of all on-site wastewater treatment systems as measured at the outermost boundary of the development when the development is served by a centralized water system).
- Surface water bodies - when subsurface conditions result in a hydraulic connection between impacted ground water and a surface water body within the boundary of the development. Phosphorus is usually the chemical of concern with respect to surface water quality. Direct coordination with EIPHD, DEQ, and the County's technical NP representative (see Title 9, Section 9-3-2-C-3-B-iii) is necessary to design an appropriate NP evaluation when surface water impacts are a concern.

Cumulative Impacts

The County may require an additional level of study when the existing nitrate concentrations are above 5 mg/l or where the proposed development in combination with existing or other pending developments could increase the existing concentration of nitrate in the groundwater to above 5 mg/l have a significant cumulative impact on water quality.

Nutrient-Pathogen Evaluation Process

Prior to performing an NP evaluation, the "property developer and/or his/her NP professional" (hereinafter "Applicant") shall meet with the DEQ, EIPHD, and the County's technical representative to discuss the elements and objectives of the NP evaluation. Teton County requires the Applicant to submit a work plan (a scope of work) to the County's technical representative for approval. The purpose of a meeting or work plan submittal is to ensure that unnecessary or inappropriate activities are not completed. Submittal of a work plan should expedite the NP evaluation approval process.

The general term "nutrient-pathogen evaluation" refers to a set of activities that includes the compilation of existing information, collection of site-specific information, and the completion of predictive contaminant fate and transport modeling for ground water.

A nitrogen mass-balance spreadsheet is a simplified screening tool, available from DEQ, to help the NP professional assess the expected nitrogen load from the proposed development. This spreadsheet is required for a Level 1 County NP evaluation and will determine whether a more detailed Level 2 NP evaluation is needed. The mass-balance spreadsheet allows the Applicant to adjust lot sizes, orientation with respect to ground water flow, and wastewater

treatment options to minimize ground water impacts.

The minimum required elements for a County NP evaluation follows:

- Well driller reports for wells within ½ mile radius of the project site.
- Map showing the project with proposed lot configuration, property lines, on-site wastewater treatment systems, water supply wells, surface water features, and location of surrounding wells within 500 feet of the property boundaries.
- Information on the depth to ground water and ground water flow direction.
- Information on soil and surface geologic conditions at the site for evaluation of pathogen fate and nutrient migration.
- Soil descriptions from test pits excavated at a minimum depth of ten feet at the site.
- Ground water quality data and surface water nitrate data in the vicinity of the project.
- Nitrogen mass-balance spreadsheet to estimate impacts from the development.

The applicant's experience and judgment are necessary to determine if other types of information are warranted due to the unique characteristics of a project.

Upon review of the Level 1 NP evaluation described above, the County may determine that further study is needed. In such case, the Level 2 NP evaluation shall follow the DEQ requirements for Level 2 NP evaluations, found at http://www.deq.state.id.us/WATER/assist_business/septic/nutrient_pathogen_eval_guide.pdf or a suitable alternative on-site wastewater treatment system design may be allowed by the County (see Applicability section above).

Procedure for Determining Groundwater Elevation

Peak groundwater table elevation can be assessed by a qualified professional observing redoximorphic features (soil mottling) in excavated test holes, or by a qualified professional installing ground water piezometers (observation wells) and measuring depth to groundwater at weekly intervals over the period of known or suspected high ground water (spring runoff or irrigation induced high ground water).

Procedure for Determining Nutrient-Pathogen Contamination

Determining the level of existing nutrient and/or pathogen contamination can be made by reviewing existing ground and surface water quality data. Data sources include the Idaho Department of Water Resources Statewide Ground Water Monitoring Network; the Eastern Idaho Public Health District the Idaho Department of Agriculture ground water monitoring data; and the Idaho Department of Environmental Quality ground and surface water monitoring results, sub-basin assessments, and Total Maximum Daily Load (TMDL) documentation.

Analysis Techniques

Analysis for the County NP evaluation should include: the use of an appropriate mixing zone;

the comprehensiveness of the evaluation of soils, geologic conditions, and water resources; the assessment of pathogen and phosphate attenuation; the justification and validity of assumptions utilized during analysis; the use of appropriate dispersivity values; the use of appropriate nutrient concentration in wastewater and the use of appropriate wastewater flow volume per drain field, and; the adequate assessment and discussion of model accuracy (including the flow component and other sensitive parameters).

Predictive Modeling

Ground water flow and contaminant transport modeling is used in NP evaluations as a tool to predict the impact of the proposed development on ground water quality. Surface water quality may also need to be considered if ground water discharges to nearby drains or creeks.

In most cases nitrate is the contaminant that dictates the necessary lot configuration, lot size, and on-site wastewater treatment system placement. Nitrate is used as a surrogate for other constituents in the modeling effort. Other elements of the NP evaluation (e.g. soil analyses) need to address the adequacy of pathogen and phosphorus attenuation.

It is imperative that the modeler develop a realistic site conceptual model by: (1) collecting adequate information on the subsurface geologic structure and aquifer properties and (2) considering factors such as the influence of nearby surface water bodies or pumping wells. When assumptions and professional judgment are used, provide clear, written justification for any assumptions used.

Nutrient Modeling

The model must simulate all sources of contaminant input simultaneously. Consult the DEQ Guidelines, Nutrient Modeling Parameters, for more detail on modeling requirements.

Below are some basic modeling requirements:

1. Model non-reactive chemical transport to conservatively simulate nitrate migration. Contaminant transport simulations should project plume migration at time periods of 5, 10, and 20 years after on-site wastewater treatment system use begin.
2. If the Applicant wants to consider the effects of recharge from precipitation or irrigation, the nutrient load associated with the recharge must also be investigated and included in the model.
3. Ground water flow direction: determined at the site by the installation of at least three monitoring wells constructed in the uppermost aquifer. An accurate elevation survey must be performed to establish the relative elevation of the monitoring wells.
4. Hydraulic conductivity, determined at the site by aquifer pumping tests, slug tests, or by use of an empirical formula based on grain-size distribution analysis. Samples should be collected from the uppermost aquifer at multiple well locations.
5. Aquifer thickness: determined by an analysis of on-site boring logs and well driller reports for nearby wells.

6. Background concentrations of nitrate determined by sampling on-site monitoring wells and by considering existing regional nitrate data.

7. Contaminant source introduction. The conservative approach calls for introduction of the total volume of septic tank effluent within the upper 15 feet of the aquifer. One hundred percent conversion of all nitrogen forms to nitrate at the water table is assumed. Adjustments to nitrate input concentrations may be considered for systems utilizing enhanced nutrient treatment, or where other site-specific factors (e.g., geochemical conditions resulting in denitrification) warrant adjustment.

Nitrate source locations may be modeled as injection wells placed in the locations of the proposed drainfields or as area recharge over zones sized to represent the drainfield footprint. For grid-based models, the grid must be sized to represent the size of the individual nutrient sources (both for wells and areal distributed nitrate introduction).

8. Aquifer porosity, determined by a laboratory analysis of soil bulk density (to calculate porosity) from samples collected at the property, or from text book values for typical aquifer materials.

9. Dispersivity. For purposes of NP evaluations, the default value shall be 20 feet for longitudinal dispersivity and 0.8 feet for transverse (horizontal) and 0.08 feet for transverse (vertical) dispersivity. Table 3 in the DEQ Guidelines provides a summary of default modeling parameters. Alternative values may be warranted in some cases, but must be supported by site-specific data.

Nutrient Modeling Parameter Variances

Consideration of more realistic nutrient fate and transport phenomena may be used, however, the Applicant must justify that performing more complex modeling or using parameters that deviate from the default values or requirements is necessary. These project specific variances shall be discussed with the County's technical representative and with DEQ or EIPHD prior to utilization.

Model Boundary Conditions

It is generally desirable to confine the model domain with real physical boundaries, such as impermeable geologic contacts or hydraulically connected surface water features, however the distance to such permanent features may prohibit the use of physical boundaries as external model boundaries. Hydraulic boundaries shall be set far enough from the area of interest (i.e. the drainfield locations) so that they do not influence the flow pattern resulting from the introduction of wastewater from the drainfields.

Surface water features found in the model domain, such as agricultural drains, canals, springs, streams, rivers, lakes and reservoirs must be considered. Surface water features hydraulically connected to an underlying aquifer can be represented as a constant head, constant flux, or variable flux boundary.

In all cases, it is necessary to base boundary condition selections on the physical and hydraulic characteristics of the project location, and to document why the boundary conditions were

chosen. Flux boundaries must be as realistic as possible even if they are adjusted during model calibration. Data from regional or local water budget assessments are often necessary to assign reasonable flux boundaries.

Assessing the Model

The output from the flow component of the model (i.e. modeled heads) must be compared with on-site and regional ground water elevations to assess the accuracy of the model.

The NP evaluation report must include a discussion about the accuracy of the flow component and about any other parameters (flow or contaminant transport) that are particularly sensitive. Several model runs that include a range of input parameters may be warranted when the uncertainty about the value of key parameters is high.

Reporting

A thorough presentation of compiled historical data and the data collected from the project site shall be submitted in a written report along with a completed NP evaluation to the County's technical representative, DEQ, and EIPHD. The report shall include a qualified NP professional's interpretation and certification of the findings as well as recommendations for design or the need for further site evaluation. All interpretations need to be well supported by the NP evaluation data. A suggested outline for an NP evaluation report follows:

0.0 Identify: as Level 1 or Level 2.

1.0 Introduction: Evaluation is required by Teton County or by DEQ or both; list the name of the project, project location, legal description and current land uses; also discuss the intended site use and development design; anticipated wastewater characteristics; geographic, geologic, and hydrologic setting and water well inventory.

2.0 Field Investigation: describe the installation of borings, soil test pits, and monitoring wells; discuss the protocol used in sampling (all media involved), aquifer hydraulic conductivity testing, pathogen fate assessment, and contaminant fate and transport modeling for ground water; include documentation supporting assumptions made during model development.

3.0 Results: Discuss soil conditions; ground water elevation and flow characteristics; background water quality; hydraulic conductivity; nutrient- pathogen fate issues; model results; model uncertainty.

4.0 Conclusions: summarize the key elements of the evaluation.

5.0 Recommendations: provide recommendations for development layout; on- site wastewater treatment system design; water supply and well construction; and the need for further evaluation activities.

The presentation of recommendations on the part of the qualified NP professional constitutes certification that: (1) the data adequately support the recommendations and, (2) that

interpretations based on the data are accurate and represent sound, unbiased professional judgment.

The Applicant is responsible for submitting the NP evaluation to the County. Upon receipt the County will request DEQ review, comments, and provide recommendations on the NP evaluation. DEQ will provide its feedback to the Planning & Zoning Commission as agreed in the MOA. The County's technical representative will review the NP evaluation, including assessment of data collection, analysis techniques, and presented conclusions in the context of specific site characteristics, and will transmit written comments to the planning & zoning commission to become part of the public hearing document.

Conclusions

Teton County believes that these guidelines provide a reasonable approach to typical NP evaluation scenarios found in Teton County. They should be used in conjunction with sound scientific reasoning and judgment. Projects presenting unusual problems or issues should be discussed ahead of time with DEQ, EIPHD, and the County's technical representative.