

CHAPTER 152: SUBDIVISIONS

Section

General Provisions

- 152.01 Title
- 152.02 Authority
- 152.03 Purpose
- 152.04 Jurisdiction
- 152.05 Interpretation
- 152.06 Definitions
- 152.07 Vacations and dedications; application
- 152.08 Variances
- 152.09 Enforcement
- 152.10 Amendments

Approval Procedure

- 152.25 Subdivision approval required
- 152.26 Pre-application
- 152.27 Preliminary plat
- 152.28 Final plat

Design Standards

- 152.40 Minimum design standards required
- 152.41 Dedication
- 152.42 Location
- 152.43 Specifications
- 152.44 Street names
- 152.45 Intersections
- 152.46 Easements
- 152.47 Blocks
- 152.48 Lots
- 152.49 Public sites and open spaces
- 152.50 Improvement standards

Special Development Subdivisions

- 152.65 Purpose
- 152.66 Subdivision within a floodplain
- 152.67 Subdivision within an area of critical concern

- 152.99 Penalty

GENERAL PROVISIONS

§ 152.01 TITLE.

This chapter shall be known as the "Subdivision Ordinance" of Hollister, Idaho.

(Ord. passed 9-11-1995)

§ 152.02 AUTHORITY.

These regulations are authorized by Idaho Code Title 50, Ch. 13, Idaho Code Title 67, Ch. 65, and Art. 12, § 2, of the Idaho Constitution, as amended or subsequently codified.

(Ord. passed 9-11-1995)

§ 152.03 PURPOSE.

The purposes of these regulations are to promote the public health, safety and general welfare and to provide for:

- (A) The harmonious development of the area;
- (B) The coordination of streets and roads within the subdivision with other existing or planned streets and roads;
- (C) Adequate open space for travel, light, air and recreation;
- (D) Adequate transportation, water drainage and sanitary facilities;
- (E) The avoidance of scattered subdivision of land that would result in either of the following:
 - (1) The lack of water supply, sewer when available, drainage, transportation or other public services; and
 - (2) The unnecessary imposition of an excessive expenditure of public funds for the supply of such services;
- (F) The requirements as to the extent and the manner in which:
 - (1) Roads shall be created and improved; and
 - (2) Water and sewer (when available), other utility mains, piping connections or other facilities shall be installed as condition precedent to the approval of the plot.
- (G) The manner and form of making and filing of any plat; and
- (H) The administration of these regulations by defining the procedures for the equitable review and approval of all plats and subdivisions covered by these regulations.

(Ord. passed 9-11-1995)

§ 152.04 JURISDICTION.

These regulations shall apply to the subdividing and developing of all land within the incorporated territory of the city.

(Ord. passed 9-11-1995)

§ 152.05 INTERPRETATION.

All subdivisions, as herein defined, shall be submitted for approval by the Council and shall comply with the provisions of these regulations. These regulations shall supplement all other regulations, and where at variance with other laws, regulations, ordinances or resolutions, the more restrictive requirements shall apply. This chapter shall not apply to any subdivision created and forming a part of any lot or lots forming a part of any subdivision created and recorded prior to the effective date hereof, except for the further dividing of lots.

(Ord. passed 9-11-1995)

§ 152.06 DEFINITIONS.

(A) *Interpretation of terms or words.* For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows.

- (1) The present tense includes the past or future tense, the singular includes the plural and the plural includes the singular.
- (2) The word "shall" is mandatory; "may" is permissive; and the word "should" is preferred.
- (3) The masculine shall include the feminine.

(B) *Meaning of terms or words.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A building not intended for human occupation that has an accessory use to the principal building on the lot.

BLOCK. A group of lots, tracts or parcels within well defined boundaries, usually streets.

BUILDING. A structure designed or used as the living quarters for one or more families, or a structure designed or used for occupancy by people for commercial or industrial uses.

BUILDING SETBACK LINE. An imaginary line established by subdivision regulations and zoning ordinances requiring

all buildings to be set back a certain distance from lot lines.

BUILDING SITE. An area proposed or provided and improved by grading, filling, excavation or other means for erecting foundations or pads for buildings.

CITY. The City of Hollister, Idaho, as specified by city ordinance.

COMPREHENSIVE PLAN. An adopted document that herein may be referred to as a "Comprehensive Plan". The document shall show the general location and extent of present and proposed development, including, but not limited to, housing, industrial and commercial uses, streets, parks, schools and other community facilities.

CONDOMINIUM. An estate consisting of:

(a) Undivided interest in common in real property, in an interest or interests in real property or in any combination thereof; together with

(b) A separate interest in real property, in an interest or interests in real property or in any combination thereof.

COUNCIL. The City Council of the City of Hollister, Idaho.

COUNTY RECORDER. The office of the County Recorder.

COVENANT. A written promise or pledge.

CULVERT. A drain that channels water under a bridge, street, road or driveway.

DEDICATION. The setting apart of land or interest in land for use by the public. Land becomes **DEDICATED**, either by ordinance, resolution or entry in the official minutes, or by the recording of a plat showing such dedication.

DEVELOPER. Authorized agent(s) of a subdivider or the subdivider himself or herself.

DWELLING UNIT.

(a) Any building or other structure proposed or built for occupancy by people; or

(b) A pre-fab dwelling unit which is a building or other structure, proposed or built for occupancy by people that is designed for initial transportation on streets and highways which arrives at a site where it is installed on a permanent foundation.

EASEMENT. A grant by a property owner to specific persons or to the public to use land for specific purposes. Also, a right acquired by prescription.

ENGINEER. Any person who is licensed in the state to practice professional engineering.

FLOODPLAIN. The relatively flat area or low land adjoining the channel of a river, stream or watercourse or other body of water which has been or may be covered by water of a flood of 100-year frequency. The **FLOODPLAIN** includes the channel, floodway and floodway fringe, as described below along with other terms.

(a) **CHANNEL.** A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

(b) **DESIGNATED FLOODWAY.** A floodway whose limits have been designated and established.

(c) **FLOOD.** The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water.

(d) **FLOOD OF 100-YEAR FREQUENCY.** A flood magnitude which has a 1% chance of being equaled or exceeded in any given year.

(e) **FLOODWAY.** The channel or a watercourse and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse.

(f) **FLOODWAY ENCROACHMENT LINES.** The lines limiting a designated floodway.

(g) **FLOODWAY FRINGE.** The part of the floodplain which is beyond the floodway encroachment lines limiting a designated floodway. Such areas will include those portions of the floodplain which will be inundated by a flood of 100-year frequency, but which may be developed for use under land use regulations without material effect upon the flood water levels. Such areas are characterized by shallow flood depths and low velocities of water flow.

HIGHWAY. A street designated as a highway by an appropriate state or federal agency.

IMPROVEMENT. Any alteration to the land or other physical constructions associated with subdivision and building site developments.

LOT. A parcel, plot, tract or other land area of suitable size as required in these regulations and the existing zoning ordinance; and created by subdivision for sale, transfer or lease.

LOT AREA. The area of any lot shall be determined exclusive of street, highway, alley, road or other rights-of-way.

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

- (a) **CORNER LOT.** A lot located at the intersection of two or more streets.
- (b) **INTERIOR LOT.** A lot other than a corner lot with frontage on only one street.
- (c) **REVERSED LOT.** A lot with frontage on a side street or other right-of-way other than interior or corner lot.
- (d) **THROUGH LOT.** A lot with frontage on more than one street other than a corner lot. Also known as **DOUBLE FRONTAGE LOTS.**

MANUFACTURED HOME. A structure, constructed according to the HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or is 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that, such term shall include any structure which meets all the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. §§ 5401 et seq.

MANUFACTURED HOME PARK. A park designed and intended for purposes of rental spaces where residence is in manufactured homes exclusively.

MONUMENT. Any permanent marker either of concrete, galvanized iron pipe or iron or steel rods, used to permanently establish any tract, parcel, lot or street lines, as specified in Idaho Code § 50-1303.

OPEN SPACE. An area open to the sky for outdoor recreation activity. Streets, buildings or other covered structures are not included in computing these areas.

ORIGINAL PARCEL OF LAND. A lot or tract as recorded on any plat or record on file in the office of the County Recorder or any unplatted contiguous parcel of land held in one ownership and of record at the effective date of this chapter.

OWNER. The individual, firm, association, syndicate, partnership or corporation having proprietary interest in the land to be subdivided.

PERFORMANCE BOND. An amount of money or other negotiable security paid by the subdivider of his or her surety to the City Clerk and/or Recorder which guaranteed that the subdivider will perform all actions required by an approved plat; and, provided that, if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his or her surety will pay damages up to the limit of the bond or the surety will itself complete the requirements of the approved plat.

PLANNED UNIT DEVELOPMENT SUBDIVISION. A use or a combination of residential, commercial and industrial uses planned for a tract of land to be developed as a unit under single ownership or control, which is developed for the purpose of selling or renting individual lots or estates, whether fronting on private or dedicated streets, which may include two or more principal buildings as governed by Ch. 153 of this code of ordinances. The requirements of this chapter may be modified by the Council to achieve the best possible planned development for the specific site under consideration.

PLAT. The drawing, mapping or planning of a subdivision, cemetery, townsite or other tract of land or a re-platting of such including certifications, descriptions and approvals.

(a) **PRELIMINARY PLAT.** The first formal presentation by maps or drawings of a proposed subdivision as required in these regulations.

(b) **FINAL PLAT.** The final and formal presentation by maps or drawings of an approved subdivision development, the original and one copy of which is filed with the County Clerk and Recorder.

RESERVE STRIP. A strip of land between a dedicated street or partial street and adjacent property, which is reserved or held in public ownership for future street extension or widening.

RIGHT-OF-WAY. A strip of land dedicated or reserved for use as a public way, which normally includes streets, sidewalks and other public utilities of service areas.

SIDEWALK. The portion of the street right-of-way outside the street surface which is improved for pedestrian use.

STANDARD SPECIFICATIONS. The specifications as may be specified in this chapter or as officially adopted by the city.

STATE. The State of Idaho.

STREET. A right-of-way which provides access to adjacent properties, the dedication of which has been officially accepted. The term **STREET** also includes the terms **HIGHWAY, THOROUGHFARE, PARKWAY, ROAD, AVENUE, BOULEVARD, LANE, PLACE** and other such terms.

- (a) **ALLEY.** A minor street providing secondary access at the back or side of a property otherwise abutting a street.
- (b) **ARTERIAL.** A street designated for the purpose of carrying heavier traffic movements.

(c) **COLLECTOR.** A street designated for the purpose of carrying traffic from minor streets to other collector streets and/or arterial streets.

(d) **CUL-DE-SAC.** A street connected to another street at one end only and provided with a turn-around space at its terminus.

(e) **DEAD-END.** A street connecting to another street at one end only and not having provision for vehicular turn-around at its terminus.

(f) **FRONTAGE.** A minor street, parallel to and adjacent to an arterial street, which has the primary purpose of providing access to abutting properties.

(g) **MINOR.** A street which has the primary purpose of providing access to abutting properties.

(h) **PARTIAL.** A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.

(i) **PRIVATE.** A street which provides vehicular and pedestrian access to one or more properties, however, not accepted for public dedication or maintenance.

(j) **SIDE STREET.** A secondary street that provides access to a corner lot of which the principle building is not oriented toward.

SUBDIVIDER. The individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter. The **SUBDIVIDER** need not be the owner of the property; however, he or she shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.

SUBDIVISION. The result of an act of dividing an original lot, tract or parcel of land into more than two parts for the purpose of transfer of ownership or development, which shall also include the dedication of a public street and the addition to, or creation of, a cemetery. However, this chapter shall not apply to any of the following:

(a) An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat;

(b) An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property;

(c) The unwilling sale of land as a result of legal condemnation, as defined and allowed in the Idaho Code;

(d) Widening of existing streets to conform to the Comprehensive Plan;

(e) The acquisition of street rights-of-way by a public agency in conformance with the Comprehensive Plan; and/or

(f) The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage of the properties involved.

SURVEYOR. Any person who is licensed in the state as a public land surveyor to do professional surveying.

UTILITIES. Installations for conducting water, sewage, gas, electricity, television, storm water and similar facilities providing service to and used by the public.

VARIANCE. A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

VICINITY MAP. A small-scale map showing the location of a tract of land in relation to a larger area.

(Ord. passed 9-11-1995)

§ 152.07 VACATIONS AND DEDICATIONS; APPLICATION.

(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 shall complete and file an application with the Council and also file such other applications as are otherwise required by law. These provisions shall not apply to the widening of any street which is shown in the Comprehensive Plan, or the dedication of streets, rights-of-way or easements to be shown on the recorded plat of a subdivision.

(B) *Council action.*

(1) When considering an application for vacation procedures, the Council shall establish a date for a public hearing and give such public notice as required by law. The Council may approve, deny or modify the application. Whenever public rights-of-way or lands are vacated, the Council shall provide adjacent property owners with a quit claim deed for said vacated rights-of-way in such proportions as are prescribed by law.

(2) When considering an application for dedication procedures, the Council may approve, deny or modify the application. When a dedication is approved, the required street improvements shall be constructed or a bond furnished

assuring the construction, prior to acceptance of the dedication. To complete the acceptance of any dedication of land, the owner shall furnish to the Council a deed describing and conveying such lands to be recorded with the County Recorder.

(Ord. passed 9-11-1995)

§ 152.08 VARIANCES.

(A) The Council may grant a variance from the provisions of this chapter on a finding that undue hardship may result from strict compliance with specific provisions or requirements of this chapter or that application of such provisions or requirements is impractical. It must be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions or other such conditions, which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this chapter, the Council may declare that variance, modification or a waiver of these requirements be granted.

(B) The Council shall only recommend variances that it deems necessary to or desirable for the public interest. In making its findings, the Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the Council finds, after a public hearing:

(1) There are such special circumstances or conditions affecting said property that the strict application of the provisions of this chapter would clearly be impracticable, or unreasonable; in such cases, the subdivider shall first state his or her reasons in writing to the specific provisions or requirements involved;

(2) The granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated;

(3) Such variance will not violate the provisions of the Idaho Code; and

(4) Such variance will not have the effect of nullifying the interest and purpose of this chapter and the Comprehensive Land Use Plan.

(Ord. passed 9-11-1995)

§ 152.09 ENFORCEMENT.

No subdivision plat required by this chapter or the Idaho Code shall be admitted to the public land records of the county of recorded by the County Recorder, until such subdivision plat has received final approval by the Council. No public board, agency, commission, official or other authority shall proceed with the construction of any of the public improvements required by this chapter until the final plat has received the approval by the Council.

(Ord. passed 9-11-1995)

§ 152.10 AMENDMENTS.

(A) *Amendment procedures.* The Council may, from time to time, amend, supplement or repeal the regulations and provisions of this chapter in the manner prescribed by Idaho Code to better serve the city and outlying community. A proposed amendment, supplement or repeal may be originated by the Council or by petition from the public at large. In all cases, the proposal shall be reviewed by the Council before any action is taken on the issue. Adequate public notice shall be given to obtain comments from the public, either for or against, prior to any action taken.

(B) *Council public hearing.*

(1) The Council shall hold a public hearing and make recommendations on proposed amendments.

(2) The Council shall conduct as least one public hearing in which interested persons shall have an opportunity to be heard. At least 15 days prior to the hearing, notice of time and place and the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction.

(C) *Action by Council.*

(1) Upon granting or denying an application to amend the Zoning Ordinance, the Council shall specify:

(a) The ordinance and standards used in evaluating the application;

(b) The reasons for approval or denial; and

(c) The actions, if any, that the applicant could take to obtain a permit.

(2) In the event the Council shall approve and amendment, such amendment shall thereafter be made a part of this chapter upon the preparation and passage of an ordinance.

(D) *Resubmission of application.* No application for amendment which has been denied by the Council shall be resubmitted in either substantially the same form or with reference to substantially the same premises for the same purposes within a period of six months from the date of such final action; unless there is an amendment in the

Comprehensive Plan which resulted from a change in conditions as applying to the specific property under consideration.
(Ord. passed 9-11-1995)

APPROVAL PROCEDURE

§ 152.25 SUBDIVISION APPROVAL REQUIRED.

Any person desiring to create a subdivision as herein defined shall submit all necessary applications to the city. No final plat shall be filed with the County Recorder or improvements made on the property until the plat has been acted upon and approved by the Council. No lots shall be sold until the plat has been recorded in the office of the County Recorder.

(Ord. passed 9-11-1995)

§ 152.26 PRE-APPLICATION.

(A) *Application.* Prior to the filing of an application for approval of the preliminary plat, the subdivider may submit a copy of a sketch plan to the Council. This is entirely at the option of the developer. The sketch plan shall include the entire developmental scheme of the proposed subdivision, in schematic form and include the area proposed for immediate development in such a form and content as required by the Council and shall include the following:

- (1) The general layout of streets, blocks and lots in sketch form;
- (2) The existing conditions and characteristics of the land on or adjacent to the proposed subdivision site; and
- (3) Areas set aside for schools, parks and other public facilities.

(B) *Fee.* None required.

(C) *Council action.* At the regular meeting, the subdivider shall present his or her pre-application and intent to the Council for review and comment. The Council may, if it deems necessary, request review of the pre-application by other agencies. The Council will review the pre-application to determine its compliance with this chapter as well as the following concerns:

- (1) The compliance of the proposed development with existing local or state policies, goals and objectives or development plans;
- (2) Determination of additional special permits or ordinance conflicts such as rezoning, conditional use permit or variance that may be needed and the determination of the manner that such requirements can be combined into one permit;
- (3) Advise the applicant of any unique environmental or hazardous concerns that may be directly or indirectly associated with the subject property, such as areas that have been designated by the state as areas of critical environmental concern, unique plant or animal life, floodplain, airport flight pattern and the like; and
- (4) Provide the subdivider with all necessary forms.

(Ord. passed 9-11-1995)

§ 152.27 PRELIMINARY PLAT.

(A) *Application.* The subdivider shall file with the Council a completed subdivision application form and preliminary plat data as required in this chapter in such form and content as required by the Council.

(B) *Combining both preliminary and final plats.* The applicant may also request that the subdivision application be processed as both a preliminary and final plat if the following exists:

- (1) The proposed subdivision does not exceed ten lots;
- (2) No new street dedication or street widening are involved;
- (3) No major special development consideration are involved, such as development in a floodplain, hillside development or the like; and

(4) All required information for both preliminary and final plat is complete and in an acceptable form. A request to combine both preliminary plat and final plat into one application shall be acted upon by the Council.

(C) *Content of preliminary plat.* The contents of the preliminary plat and related information shall be in such a form as stipulated by the Council; however, any additional maps or data deemed necessary by the Council may also be required. The subdivider shall submit to the Council at least the following:

(1) Eight copies of the preliminary engineering plat of the proposed subdivision, drawn in accordance with the requirements hereinafter stated; each copy of the preliminary plat shall be on good quality paper, shall have dimensions of not less than 18 inches by 24 inches, shall be drawn to a scale of not less than one inch to 100 feet, shall show the drafting date, and shall indicate thereon, by arrow, the generally northerly direction;

(2) Eight sets of preliminary engineering plans including a master utility map for streets, water, sewers and other required public improvement maps; said engineering plans shall contain sufficient information and detail to enable the

Council to make a preliminary determination as to conformance of the proposed improvements to applicable regulations, ordinances and standards as outlined in this chapter;

(3) A written application requesting approval of the preliminary plat on a form prescribed by the city; and

(4) Appropriate information that sufficiently details the proposed development within any special development area, such as hillside, planned unit development, floodplain, cemetery, mobile home, large-scale development, hazardous and unique areas of development.

(D) *Requirement of preliminary plats.* The following shall be shown on the preliminary plat submitted or shall be submitted with the same:

(1) The name of the proposed subdivision;

(2) The name, address, telephone number, and email address of the subdivider(s) and the engineer or surveyor who prepared the plat;

(3) The name and address of all adjoining owners of property whether or not bisected by a public right-of-way as shown on record in the County Assessor's office;

(4) The legal description of the subdivision;

(5) A statement of the intended use of the proposed subdivision, such as: residential single-family; two-family and multiple housing; commercial, industrial, recreational or agricultural; and a showing of any sites proposed for parks, playgrounds, schools, churches or other public uses;

(6) A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development;

(7) A vicinity map showing the relationship of the proposed plat to the surrounding area (one-half mile minimum radius, scale optional);

(8) The land use and existing zoning of the proposed subdivision and the adjacent land;

(9) Streets, street names, rights-of-way and roadway widths, including adjoining streets or roadways;

(10) Lot lines and the dimensions and numbers of each, and the total number of lots by block;

(11) A site report as required by the appropriate health district where septic tanks are proposed;

(12) Any proposed or existing utilities, including, but not limited to, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants, electric power lines, television cable lines, fiber optic lines and their respective profiles or indicated alternative methods;

(13) A copy of any proposed restrictive covenants and/or deed restrictions, or if none, a statement that none are proposed;

(14) Any dedications to the public and/or easements together with a statement of location, dimensions and purpose of such;

(15) Any additional required information for special developments as specified in §§152.65 through 152.67 of this chapter;

(16) A statement as to whether or not a variance will be requested with respect to any provision of this chapter describing the particular provision, the variance requested and the reasons therefor; and

(17) At the Council's request the developer shall show contours at five-foot intervals where land slope is greater than 10% and at two-foot intervals where land slope is 10% or less, with an established benchmark, including location and elevation.

(E) *Fee.* At the time of submission of an application for a preliminary plat, a non-refundable fee as set by resolution shall be paid. There shall be no additional fee for the combining of the preliminary and final plats.

(F) *Submission requirements.* The subdivider shall submit eight copies of the preliminary plat and required supplemental material, along with the required fee to the Council at least ten days prior to the regular Council meeting. The submission shall also be in such form as prescribed by the Council.

(G) *Public notification.*

(1) *Notification to property owners.* The subdivider shall notify all adjoining property owners of the Council's meeting by written notification and posting of the subject land under consideration. Such written notification and posting shall be mailed at least ten days prior to the Council meeting.

(2) *Failure to notify.* The failure of the subdivider to comply with the notification provision shall invalidate the Council's action.

(H) *Council action.* At the next regular Council meeting, the subdivider shall present the preliminary plat for action. The Council may approve, approve conditionally, disapprove or table the preliminary plat for additional information. Such action

shall occur within 30 days of the date of the regular meeting.

(I) *Approval period.*

(1) Failure to file and obtain the certification of the acceptance of the final plat application by the developer within one year after action by the Council shall cause all approvals of said preliminary plat to be null and void, unless an extension of time is applied for and granted by the Council prior to the expiration date.

(2) In the event that the development of the preliminary plat is made in successive contiguous segments in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of one year may be considered for final approval without resubmission for preliminary-plat approval.

(Ord. passed 9-11-1995)

§ 152.28 FINAL PLAT.

(A) *Application.* After the approval or conditional approval of the preliminary plat, the subdivided may cause the subdivision, or any part thereof, to be surveyed and a final plat prepared in accordance with the approved preliminary plat. The subdivider shall submit to the Council the following:

(1) Three copies and the original of the final plat; and

(2) Three copies and the original of the final engineering construction drawings for streets, water and other public improvements.

(B) *Content of final plat.* The final plat shall include and be in compliance with all items required under Idaho Code Title 50, Ch. 13, and shall be drawn at such a scale and contain lettering of such size as to enable the same to be placed on one sheet of 18-inch by 24-inch drawing paper, with no part of the drawing nearer to the edge than one inch. The reverse of said sheet shall not be used for any portion of the drawing, but may contain written matter as to dedications, certifications and other information. The final plat shall include at least the following:

(1) A written application for approval of such final plat as stipulated by the Council;

(2) Proof of current ownership of the real property included in the proposed final plat;

(3) Such other and further information as the Council may deem necessary to establish whether or not all proper parties have signed and/or approved said final plat;

(4) Conformance with the approved preliminary plat and meeting all requirements or conditions thereof;

(5) Conform to all requirements and provisions of this chapter; and

(6) Acceptable engineering practices and local standards.

(C) *Fee.* None required.

(D) *Council review.*

(1) *Submittal of final plat.* The Council shall review the final plat for compliance with the approved or conditionally approved preliminary plat. If the Council determines that there is substantial difference in the final plat than that which was considered as a preliminary plat or conditions which have not been met, the Council may require that the final plat be resubmitted in the same manner as required in the preliminary plat process.

(2) *Agency review.* The Council may transmit one copy of the final plat, or other document submitted, for review and recommendation to the same departments and agencies, or others as they may deem necessary to insure compliance with the preliminary approval and/or conditions of preliminary approval. Such agency review shall also include the construction standards of improvements, compliance with health standards, the cost estimate for all improvements and the legal review of the performance bond.

(E) *Council action.* The Council, at its next meeting, shall consider comments from concerned persons and agencies to arrive at a decision on the final plat. If said final plat conforms to the requirements of this chapter applicable at the time of approval of the preliminary plat, all rulings made by the Council on the preliminary plat, and the requirements of the state law, the Council shall approve, approve conditionally, disapprove or table the final plat for additional information within 30 days of the date of the regular meeting at which the final plat is first considered by the Council.

(F) *Approval period.* Final plat and covenants, if any, shall be filed with the County Recorder within one year after written approval by the Council. Otherwise, such approval shall become null and void unless prior to said expiration date an extension of time is applied for and granted by the Council.

(G) *Method of recording.* Upon approval of the final plat by the Council, the subdivider's prepayment of recording fees, and the inclusion of the following signatures on the final plat to the County Recorder for recording:

(1) Certification and signature of the Council verifying that the subdivision has been approved;

(2) Certification and signature of an engineer or Building Inspector verifying that the subdivision meets the city requirements and has been approved by the Council; and

(3) Certification and signature of local or state health agency that all health requirements have been complied with.

(Ord. passed 9-11-1995)

DESIGN STANDARDS

§ 152.40 MINIMUM DESIGN STANDARDS REQUIRED.

All plats submitted pursuant to the provisions of this chapter, and all subdivisions, improvements and facilities done, constructed or made in accordance with said provisions shall comply with the minimum design standards set forth hereinafter in this subchapter; provided, however, that, any higher standards adopted by any highway district, state highway department or health agency shall prevail over those set forth herein.

(Ord. passed 9-11-1995)

§ 152.41 DEDICATION.

Arterial and collector streets shall be dedicated to the public in all cases; in general, all other streets shall also be dedicated to public use.

(Ord. passed 9-11-1995)

§ 152.42 LOCATION.

Street and road location shall conform to the following.

(A) *Street location and arrangements.* When a major street plan or comprehensive development plan has been adopted, subdivision streets shall conform to such plans.

(B) *Minor streets.* Minor streets shall be so arranged as to discourage their use by through traffic.

(C) *Stub streets.* Where adjoining areas are not subdivided, the arrangement of streets in new subdivision shall be such that said streets extend to the boundary line of the tract to make provisions for the future extension of said streets into adjacent areas. A reserve strip may be required and held in public ownership.

(D) *Street continuation and extension.* The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions unless otherwise approved by the Council having jurisdiction over such streets.

(E) *Relation to topography.* Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients.

(F) *Alley.* Alleys shall be provided in multiple dwelling or commercial subdivisions unless other provisions are made for service access and off-street loading and parking. Dead-end alleys shall be prohibited in all cases.

(G) *Cul-de-sac streets.* Cul-de-sac streets shall not be more than 500 feet in length and shall terminate with an adequate turnaround having a minimum radius of 50 feet for right-of-way.

(H) *Half streets.* Half streets shall be prohibited, except where unusual circumstances make such necessary to the reasonable development of a tract in conformance with this chapter and where satisfactory assurance for dedication of the remaining part of the street is provided. Whenever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract.

(I) *Private streets.* Private streets and roads shall be prohibited.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.43 SPECIFICATIONS.

(A) *Streets right-of-way widths.* Street and road right-of-way widths shall conform to the adopted major street plan or comprehensive development plan and the rules of the state's Department of Highways and the highway district or department having jurisdiction.

Highway and Street Types	Widths
Arterials	120 feet
Collector streets (major and minor)	90 feet
Expressway or freeway	160 - 2,600 feet
Local streets	
East/west	70 feet
North/south	80 feet

(B) *Street grades.* Street grades shall not exceed 9% on either minor or collector streets and 5% for arterial streets. No street grade shall be less than three-tenths feet per 100 feet.

(C) *Street alignment.* Street alignment shall be as follows. Horizontal alignment: when street lines deflect from each other by more than ten degrees in alignment, the centerlines shall be connected by a curve having a minimum radius of 500 feet for arterial streets, 300 feet for collector streets and 150 feet for minor streets. Between reverse curves on minor streets, there shall be a minimum tangent distance of 100 feet and 200 feet on collector and arterial streets respectively.

(D) *Vertical alignment.* Minimum sight distances shall be 200 feet for minor streets and 300 feet for collector and arterial streets.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.44 STREET NAMES.

The naming of streets shall conform to the following. Street names shall not duplicate any existing street name, except where a new street is a continuation of an existing street; street names that may be spelled differently, but sound the same as existing streets, shall not be used.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.45 INTERSECTIONS.

Intersections shall conform to the following.

(A) *Angle of intersection.* Streets shall intersect at 90 degrees or as closely thereto as possible, in no case, shall streets intersect at less than 80 degrees.

(B) *Sight triangles.* Minimum clear sight distance at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is 80 feet from the center of the intersection.

(C) *Number of streets.* No more than two streets shall cross at any one intersection.

(D) *"T" intersections.* "T" intersections may be used wherever such design will not restrict the free movement of traffic.

(E) *Centerline offsets.* Street centerlines shall be offset by a distance of at least 125 feet.

(F) *Vertical alignment of intersection.* A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be extended a minimum of 100 feet each way from the intersection. An allowance of 2% maximum intersection grade in rolling terrain and 4% in hilly terrain, will be permitted.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.46 EASEMENTS.

Unobstructed utility easements shall be provided along front lot lines, rear lot lines and/or side lot lines when deemed necessary; total easement width shall not be less than 12 feet. Unobstructed drainage way easements shall be provided as required by the Council.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.47 BLOCKS.

(A) Every block shall be so designed as to provide two tiers of lots, except where lots back onto an arterial street, natural feature or subdivision boundary; blocks shall not be less than 275 feet long in all cases, nor exceed 600 feet in length.

(B) The length, width and shape of blocks shall be determined with due regard to adequate sites suitable to the special needs of the type of use contemplated; the zoning requirements as to lot size and dimensions; the need for convenient access, circulation, control and safety of street traffic; and the limitations and opportunities of topography.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.48 LOTS.

Lots shall conform to the following.

(A) *Lot sizes.* No subdivision plat in the area included in a residential district shall hereafter be approved by the city unless all lots shown thereon shall have a frontage of 100 feet or more and a minimum area of 12,500 square feet; except that, lots fronting on cul-de-sac circles may have reduced frontage as approved by the Council, but shall not be less than 40 feet.

(B) *Lot lines.* Side lot lines shall be essentially at right angles to straight streets and shall conform to the radius of curved streets.

(C) *Width related to length.* Narrow, deep lots shall be avoided.

(D) *Corner lots.* Corner lots shall have sufficient extra width to permit appropriate building setback from both streets or orientation to both streets.

(E) *Uninhabitable areas.* Land subject to flooding or which shall otherwise be deemed to be uninhabitable shall not be platted for residential purposes or for any other uses that may increase or create a danger to health, life, or property or which may increase or create a flood hazard. Such land within a subdivision shall be set aside for other uses such as parks, green belts or other open space.

(F) *Back-up lots.* Lots shall back into such features as highways, arterial streets, shopping centers or industrial properties, except where there is a minor access street provided. Such lots shall contain a landscaped easement along the rear at least 20 feet wide in addition to the utility easement. The restricted access to the arterial street will minimize noise and protect outdoor living areas.

(G) *Lot frontage.* All rectangular lots shall have at least 100 feet of frontage upon a publicly- dedicated street. Variances may be permitted for an approved planned unit development.

(H) *Future arrangements.* Where parcels of land are subdivided into unusually large lots (such as when large lots are approved for septic tank operations) the parcels shall be divided, where feasible, so as to allow for future resubdividing into smaller parcels. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks. Whenever such future subdividing or lot splitting is contemplated, the plan thereof shall be approved by the Council prior to the taking of such action.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.49 PUBLIC SITES AND OPEN SPACES.

Public sites and open spaces shall conform to the following.

(A) *Public uses.* Where a proposed park, playground, school or other public use shown on the Comprehensive Plan is located in whole or part within a subdivision, a suitable area for this purpose shall be dedicated to the public or reserved for public purchase. If, within two years of plat recording, the purchase is not agreed on, the reservation shall be canceled or shall automatically cease to exist.

(B) *Natural features.* Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourse, historic spots and similar irreplaceable assets) shall be preserved, insofar as possible, in the design of the subdivision.

(Ord. passed 9-11-1995) Penalty, see § 152.99

§ 152.50 IMPROVEMENT STANDARDS.

(A) *Purpose.* It is the purpose of this section to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning design, construction and financing of public facilities and to further establish procedures for assuring compliance with these requirements.

(B) *Responsibility for plans.* It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer, a complete set of 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 which 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 city or Building Inspector and other responsible public agencies. All construction plans shall be prepared in accordance with the public agencies' standards or specification.

(C) *Required public improvements.* 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 Idaho Code § 50-1313.

(2) *Street and alleys.* All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the Council.

(3) *Drainage.* An adequate storm drainage system may be required in all subdivisions. The requirements for each particular subdivision shall be established by the Council and the appropriate construction shall follow the specifications and procedures established for such facility designed to retain or detain storm water.

(4) *Installation of public utilities.* Underground utilities are recommended and may be required by the Council in areas where overhead facilities would not be compatible with the surrounding properties.

(5) *Driveways.* All driveway openings shall be as specified by the city, highway district or state's Highway Department.

(6) *Water supply system and sewer service (when available).* When a proposed subdivision is to be serviced by a public water supply system (or sewer system, when available), fire hydrants and other required water system appurtenances shall be provided by the subdivider.

(7) *Private improvements and public utilities.* It shall be the responsibility of the subdivider to arrange and provide for the development, installation, construction or other improvement of private facilities and public utilities for and within the subdivision in accordance with applicable standards and requirements.

(8) *Construction of public works.*

(a) The scope of this section is to define the respective areas of responsibility of the subdivider and the city relative to the installation, construction or other improvements of public works en route to and within the boundaries of a subdivision.

(b) In certain instances, the city may require formal written agreements with the subdivider that more fully and specifically describe their respective obligations and responsibilities.

(c) It shall be the responsibility of the subdivider to complete, at his or her sole expense, all the development and construction of public works for and within his or her subdivision, except as specifically provided otherwise to be the obligation and responsibility of the city, or as may be accepted by the city as being within the spirit and intent of its responsibilities.

(d) The subdivider shall complete the installation or construction of all the different phases of public works for which he or she is responsible before the city will accept any of them. This requirement may be satisfied by completion of a stage if a staged development is called for in the approved development plan.

(9) *Guarantee of completion.* Until the public works for which the subdivider is responsible are completed, or an acceptable stage of the development is completed, the city will issue no building permits for private construction therein, unless a satisfactory performance bond or other suitable guarantee of performance acceptable to the city is provided by the subdivider.

(10) *Evidence of completion.*

(a) The subdivider shall notify the city in writing when the public works for which he or she is responsible have been completed.

(b) The city shall also certify in writing, a copy of which shall be sent to the subdivider, that the said public works have been inspected by its authorized representative, and that the said public works have been completed in accordance with applicable standards and specifications. As built, construction plans shall be submitted to the city on completion, if required.

(c) Compliance with the foregoing provisions shall constitute the city's acceptance of the public works. The city shall thereby accept said public works and be responsible for their operation and maintenance in accordance with city policies.

(11) *Streets.* The subdivider shall perform, install, construct or otherwise complete, at his or her sole expense, the following items relative to street improvements for and within the boundaries of the subdivision.

(a) The city shall perform, install, construct or otherwise complete, at its sole expense, installation of traffic control signs and signals and street name signs relative to street improvements within the boundaries of the subdivision.

(b) The city shall also improve to the extent it deems suitable, subject to budgetary limitation, such existing right-of-way it considers necessary to provide adequate access to the subdivision.

(12) *Water distribution system.* The subdivider shall be responsible for the installation of a culinary water distribution system for and within the boundaries of the subdivision on public right-of-way. The subdivider shall perform, install, construct or otherwise complete at his sole expense the following items relative to a culinary water distribution system:

(a) Preparation of plans and specifications for the construction of the water distribution system, including any required extensions from the existing system, and the approval of said plans and specifications by the state's Department of Health and Welfare. Construction surveys of line and grade within the subdivision;

(b) Installation of the water distribution system for and within the subdivision, including water lines, control valves, fire hydrants and appurtenant facilities;

(c) If water mains are located in a dedicated street or alley, installation of a water service line to the property lines of each lot; and

(d) Inspection of construction to assure compliance with the plans, specifications and applicable standards. Connections to the water mains shall be in accordance with existing procedures and policies of the city; and the subdivider shall be liable for the payment of water assessment and hookup charges as provided by city ordinances.

(13) *Reimbursement for oversizing.* In the event the city requires the subdivider to install oversized pipe lines or other excess facilities to make provisions for present or future service needs in excess of the requirements for the subdivision, the city shall reimburse the subdivider for the additional costs of material and installation resulting therefrom.

(14) *Building line setback.*

(a) In all new subdivisions, the building line setback shall be a minimum of 25 feet from the property line.

(b) In the event that a new subdivision is located along a street with existing residences, the setback line shall be not less than other structures along the street and preferable should be set back as an average of the existing structures.

(15) *Side and rear lot clearance.*

(a) In all new subdivisions no building of any nature shall be placed or constructed nearer than 15 feet from the side or rear property line.

(b) Where utility rights-of-way of other easements are provided along property lines and lot lines, no structure of any nature shall be permitted in such rights-of-way or easements, except for the purpose for which they are provided.

(Ord. passed 9-11-1995) Penalty, see § 152.99

SPECIAL DEVELOPMENT SUBDIVISIONS

§ 152.65 PURPOSE.

The purpose of this subchapter is to identify the various types of special developments that normally pose special concerns to the Council and elected officials when reviewing and acting upon subdivision requests. Therefore, this subchapter outlines the general plan submittal requirements and design standards that shall be taken into consideration when acting on special developments. The provisions of this subchapter are in addition to the plan requirements and design standards that are required by §§ 152.25 through 152.28 and 152.40 through 152.50 of this chapter. The required information shall be submitted to the Council with the preliminary plat.

(Ord. passed 9-11-1995)

§ 152.66 SUBDIVISION WITHIN A FLOODPLAIN.

(A) Flood areas.

(1) For any proposed subdivision that is located within or partially within a floodplain, the developer shall provide the Council with a development plan of adequate scale and supporting documentation that will show and explain at least the following:

- (a) Location of all planned improvements;
- (b) The location of the floodway and the floodway fringe per engineering practices as specified by the Federal Emergency Management Agency (FEMA);
- (c) The location of the present water channel;
- (d) Any planned rerouting or waterways;
- (e) All major drainage ways;
- (f) Areas of frequent flooding;
- (g) Means of flood-proofing buildings; and
- (h) Means of insuring loans for improvements within the floodplain.

(2) New construction and substantial improvements of residential structures within the floodplain shall have the lowest floor (including basement) elevated to or above the level of the 100-year flood; and, for new construction or substantial improvements of non-residential structures, the lowest floor (including basement) shall be elevated to or above the level of the 100-year flood, or together with attendant utility and sanitary facilities, shall be flood-proofed up to the level of the 100-year flood.

(B) Justification for development.

(1) Upon the determination that buildings are planned within the floodplain or that alterations of any kind are anticipated within the floodplain area that will alter the flow of water, the developer shall demonstrate conclusively to the Council that such development will not present a hazard to life, limb or property; will not have adverse effects on the safety, use or stability of a public way or drainage channel or the natural environment.

(2) No subdivision or part thereof shall be approved if levees, fills, structures or other features within the proposed subdivision will individually or collectively significantly increase flood flows, heights or damages. If any part of a proposed subdivision can be safely developed, the Council shall limit development to that part and shall require that development proceed consistent with that determination.

(3) Subdivisions shall be reviewed to assure that:

- (a) All such proposals are consistent with the need to minimize flood damage;
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages; and
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.

(4) New or replacement water supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

(Ord. passed 9-11-1995)

§ 152.67 SUBDIVISION WITHIN AN AREA OF CRITICAL CONCERN.

(A) *General.* Hazardous or unique areas may be designated as an area of critical concern by the Council or by the state. Special consideration shall be given to any proposed development within an area of critical concern to assure that the development is necessary and desirable and in the public interest in view of the existing unique conditions. Hazardous or unique areas that may be designated as areas of critical concern are as follows:

- (1) Sanitary landfills, dumps;
- (2) Earthquake locations;
- (3) Unstable soils;
- (4) Unique animal life;
- (5) Unique plant life;
- (6) Scenic areas;
- (7) Historical significance;
- (8) Floodplain; and
- (9) Other areas of critical concern.

(B) *Plan submission.* The developer shall prepare and submit an environmental assessment along with the preliminary plat application for any development that is proposed within an area of critical concern.

(C) *Content of environmental assessment.* The content of the environmental assessment shall usually be prepared by an interdisciplinary team of professionals that shall provide answers to the following questions:

- (1) What changes will occur to the area of environmental concern as a result of the proposed development?
- (2) What corrective action or alternative development plans could occur so as not to significantly change the area of environmental concern?
- (3) What changes in the area of environmental concern are unavoidable?
- (4) What beneficial or detrimental effect would the development have on the environment such as animal life, plant life, social concerns, economic, cultural resources, noise, visual, hazardous waste and others?

(Ord. passed 9-11-1995)

§ 152.99 PENALTY.

Violation of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Each day such violation continues shall be considered as a separate offense. The land owner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or of state law.

(Ord. passed 9-11-1995)

CHAPTER 153: ZONING

Section

General Provisions

- 153.01 Short title
- 153.02 Authority
- 153.03 Interpretation
- 153.04 Scope
- 153.05 Definitions
- 153.06 Use districts
- 153.07 Residential/Agriculture Zone
- 153.08 Commercial Zone
- 153.09 Industrial Zone
- 153.10 Non-conforming uses
- 153.11 District establishment; zoning map
- 153.12 Zoning permits
- 153.13 Building permits
- 153.14 Street access
- 153.15 Changes upon annexation of unincorporated areas
- 153.16 Administrative procedures
- 153.17 Land use schedule

Telecommunications Towers, Antennas and Related Facilities

- 153.30 Purpose
- 153.31 Definitions
- 153.32 County approvals; exemptions
- 153.33 Areas permitting location by conditional use or administrative approval
- 153.34 Areas limiting location
- 153.35 Areas prohibiting location
- 153.36 Facilities 125 feet or less in height
- 153.37 Conditional uses
- 153.38 Annual information report
- 153.39 Removal; security for removal
- 153.40 Preexisting towers
- 153.41 Compliance
- 153.42 Structural, design and environmental standards
- 153.43 Separations and setback requirements
- 153.44 Permits

- 153.99 Penalty

GENERAL PROVISIONS

§ 153.01 SHORT TITLE.

This subchapter shall be known and may be cited as the “Zoning Ordinance of the City of Hollister”.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.02 AUTHORITY.

This subchapter is adopted pursuant to authority granted by Idaho Code Title 67, Ch. 65, and Art. 12, § 2, of the Idaho Constitution, as amended or subsequently codified.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.03 INTERPRETATION.

(A) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare, to retain and enhance upon the aesthetics of the community, to preserve and enhance land values, to separate incompatible uses and to promote security within the community.

(B) To protect the public, among other purposes, such provisions are intended to provide for adequate light, safety from fire and other danger and undue concentration of populations.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.04 SCOPE.

(A) It is not intended by this subchapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinance, except those specifically repealed by this chapter, or with private restrictions placed upon property by covenants running with the land to which the city is a party.

(B) Where this subchapter imposes a greater restriction upon land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this subchapter shall control.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.05 DEFINITIONS.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word shall is always mandatory and not merely directory. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY USE OR BUILDINGS. A subordinate use or building customarily incident to and located on the same lot with the main use or building.

ALLEY. Any public space or thoroughfare 25 feet or less in width, but no less than 15 feet in width, which has been dedicated or deeded to the public for public travel and which affords secondary access to abutting property. Access through an **ALLEY** to property will not be considered legal access for purposes of fulfilling the requirements of this subchapter.

ALTERATIONS. As applied to a building or structure, a change or rearrangement in the structural parts or in the exit, facilities or an enlargement, whether by extending on a side or by increasing in height or in the moving from one location to another.

DAIRY. The congregation of more than one animal unit per acre on a single parcel of ground raised for the purpose of the production, sale and distribution of milk, butter or cheeses.

HOME OCCUPATION. Any gainful operation, profession or craft which is customarily incidental to carried on in a dwelling place and wherein the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and which occupation is carried on only by the immediate members of the family residing within dwelling place. Signage for the **HOME OCCUPATION** shall be limited to two square feet and traffic will be minimal. The business shall not create a nuisance to the surrounding neighborhood in the form of noise, odors, traffic generated or in any other manner.

JUNK YARD or SECONDHAND SALES. Any business in which used goods are collected and sold for reuse even as a secondary business related to the primary business on site. It shall consist of an outdoor space where junk, waste, discarded or salvaged material are stored or handled, including automobile wrecking yards and yards for used building materials and places or yards for storage of salvaged equipment, automobiles or machinery.

MANUFACTURED HOMES. A structure, constructed according to the HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or is 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be use as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air conditioning and electrical systems contained therein; except that, such term shall include any structure which meets all with the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. §§ 5401 et seq.

MOBILE HOME. A structure similar to a manufactured home, but built to a state mobile home code, which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

NON-CONFORMING BUILDING. A building, structure or portion thereof which does not conform to the regulations of this subchapter applicable to the zone or district in which such building is situated, but which existed prior to and was in compliance with the existing regulations as of the effective date of this subchapter.

NON-CONFORMING USE. A use of premises which does not conform to the regulations of this subchapter, but which was in existence and conformance with the existing regulations at the effective date of the subchapter.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.06 USE DISTRICTS.

The city is hereby divided into three use districts which shall be known, in order of restrictiveness as:

- (A) RA, Residential/Agriculture Zone;
- (B) C, Commercial Zone; and
- (C) I, Industrial Zone.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.07 RESIDENTIAL/AGRICULTURE ZONE.

(A) *Purpose.* The purpose of the RA Zone is to have land area set aside by zoning procedures and in accordance with the Comprehensive Plan to preserve and enhance predominately single-family living areas at a low-density standards with agricultural uses allowed.

(B) *Designated uses.*

- (1) The growing of all soil crops, including all farming, and all uses incidental to the farming operation;
 - (2) The raising of livestock and poultry under the following conditions. Excluding commercial feed lots, raising of swine commercial poultry, dairies (as defined), similar intensive agricultural use. Horses or other usual farm animals are permitted when kept under the following standards:
 - (a) To maintain or keep one cow or one horse or one sheep or one goat, the applicant must have at least 10,000 square feet of pastureland, exclusive of the homesite, for one animal and 5,000 square feet of pastureland for each additional animal. Fences enclosing such animals must be so constructed so as to prevent the animals from going upon the property of adjoining property owners in any manner whatsoever.
 - (b) To maintain and keep fowl or rabbits, the application must have at least 5,000 square feet of real estate, exclusive of the homesite, for no more than 25 fowl or rabbits. In no event shall the fowl or poultry house, rabbit hut, fowl, poultry or rabbit run be less than 40 feet from a dwelling other than that of the applicant.
 - (c) It is unlawful for any person to keep or maintain any pigs or hogs within the limits of the city.
 - (3) Single-family dwelling, including manufactured homes, under the following conditions.
 - (a) The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
 - (b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than 12 inches above grade.
 - (c) The manufactured home shall have a pitched roof; except that, no standards shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
 - (d) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwelling as determined by the local permit approval authority.
 - (e) Additions to a manufactured home shall be of compatible construction using like materials.
 - (f) The manufactured home shall be no more than ten years old at the time of its installation.
 - (4) Home occupations;
 - (5) Churches or parish halls; and
 - (6) Public facilities such as schools, city infrastructure, parks and playgrounds.
- (C) *Uses requiring special use permits.*
- (1) Farm animals exceeding units contained in the livestock ordinance;
 - (2) Temporary residence placed during the construction of permanent residence, not to exceed six months in duration;

- (3) Neighborhood commercial uses;
- (4) More than one permanent residence on a platted or recorded lot; and
- (5) Multi-unit dwellings.

(D) *Public facilities.* It is desirable that, in this zone, the principal designated uses involving structures be serviced from public sewer facilities. However, since such public facilities might, not be reasonably available or feasible throughout the zone then the minimum lot requirement will be controlled by the specific requirements as stated in division (E) below or the requirements of the Health Department, whichever is greater.

(E) *Newly erected or altered regulations.* In this Agricultural Zone, no building or premises not customarily incidental to agricultural pursuits, as herein noted, shall be used, nor shall any building, structure or land usage be hereafter erected or altered (unless otherwise provided in this subchapter), except for one or more of the above uses in accordance with the following standards.

(1) *General.* The lot per dwelling unit and for all uses in an RA Zone, dependent on city water supply and individual septic disposal systems in accordance with the state's Department of Health standards for subsurface sewage are to be used, lots shall not be less than 100 feet by 125 feet or 12,500 square feet. The site shall be shown to have sufficient space, complying with the Health Department standards, for future construction of a replacement sewage disposal system.

(2) *Front yard.* No building (not including uncovered porches or steps) shall be constructed nearer than 25 feet from the front lot line.

(3) *Rear yard.* No dwelling shall be constructed nearer than 15 feet from the rear lot line.

(4) *Side yard.* No dwelling shall be constructed nearer than 15 feet from the side lot line.

(5) *Accessory use buildings.* No building shall be constructed nearer than five feet from the side and rear lot line and 25 feet from front lot line.

(6) *Manufactured home.* One occupied mobile home may be placed on a lot size of the area 100 feet by 125 feet or larger area (12,500 square feet) and must be no more than ten years old at the time of installation.

(7) *Clear view of intersecting streets.* In all zones which require a front yard, no obstruction to view in excess of three feet in height shall be placed on any corner lot within triangular area, from the street property line, except for a reasonable number of trees pruned high enough to permit an obstructed view.

(8) *Sewage disposal.* All domestic and commercial sewage disposal facilities must be approved the Health Department.

(9) *Well water.* Well water for domestic use shall be drilled and supplied only by the city.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.08 COMMERCIAL ZONE.

(A) *Purpose.* The purpose of this zone is to provide for areas that will fulfill the need for travel-related services, retail sales and professional offices as well as neighborhood commercial services throughout the area, and servicing the major highways or arteries catering both to local and travel-related services. **NEIGHBORHOOD COMMERCIAL** shall be defined to provided local commercial service needs primarily located at selected places at the perimeter of low density residential neighborhoods. All commercial applications will be required to provide an environmental assessment of the use upon the community.

(B) *Designated uses.*

- (1) All commercial uses that are retail in nature, both highway-related and neighborhood commercial; and
- (2) Public facilities such as schools, city infrastructure, parks and playgrounds.

(C) *Uses requiring special use permit.*

- (1) Wholesale operations;
- (2) Residential use directly related to the commercial use on the property. Residential use for rental purposes, other than in a motel or RV park in which the stay is limited, shall not be allowed;
- (3) Churches and parish halls;
- (4) Junk yards/second hand sales; and
- (5) Adult book stores.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.09 INDUSTRIAL ZONE.

(A) *Purpose.*

(1) The purpose of the Industrial Zone is to provide areas by zoning procedures and in accordance with the Comprehensive Plan which encourage suitable areas in which industrial uses may locate, substantially free from residential, light industrial or retail commercial activities.

(2) The zone shall also provide for industrial park development areas to create, preserve and enhance areas containing manufacturing and related establishments within an open and attractive setting, typically appropriate in locations near major thoroughfares, freeways and other suitable places. All industrial development applications will be required to provide an environmental assessment of the use upon the community.

(B) *Designated uses.*

- (1) All industrial uses, including light and heavy industries, manufacturing plants, processing plants and related uses;
- (2) Wholesale commercial businesses; and
- (3) Public facilities.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.10 NON-CONFORMING USES.

The lawful use of any building, structure or land existing at the time of the enactment of this subchapter may be continued, although such use does not conform with the provisions of this subchapter; provided, the following conditions are met.

(A) *Unsafe structure.* Nothing in this subchapter shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

(B) *Restoration.* Nothing in this subchapter shall prevent the reconstruction, repairing, rebuilding and continued use of any non-conforming building or structure damaged by fire, collapse, explosion or Acts of God, subsequent to the date of this subchapter, wherein the expense of such work does not exceed 40% of the replacement value of the building or structure at the time such damage occurred.

(C) *Wear and tear.* Nothing in this subchapter shall prevent the reconstruction, repairing or rebuilding of a conforming building, structure or part thereof existing at the effective date of this subchapter, rendered necessary by wear and tear, deterioration or depreciation.

(D) *Unlawful use not authorized.* Nothing in this subchapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulation in effect at the time of the effective date of this subchapter.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.11 DISTRICT ESTABLISHMENT; ZONING MAP.

(A) *Use districts established.* For the purposes of this subchapter, the city is hereby divided into use districts, as hereinafter provided.

(B) *Maps and boundaries.* The boundaries of the use districts are hereby established as shown on a map entitled the Zoning Map of the city.

(C) *Alleys.* As much as possible, zoning district boundaries shall fall at the alleyway or back property line so that like uses will be facing each other.

(D) *Zoning across lot lines.* If a lot which was platted or recorded prior to the adoption date of this subchapter is split by two different zones, the lot shall be considered, in whole, zoned to that use in which a majority of the lot is zoned.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.12 ZONING PERMITS.

The following land use changes shall require a written application to the City Council, accompanied by the listed fees:

Change to the comprehensive plan	\$150
Changing of zoning boundaries	\$100
Special use permit	\$50
Vacation of streets/alleyways	\$50
Variance	\$50

(Ord. 96-9-4, passed 9-16-1996)

§ 153.13 BUILDING PERMITS.

No vacant land and buildings hereafter erected or altered shall be occupied or used in whole or in part, nor shall any owner or tenant of any land or building hereafter change the use classification or enlarge the use in any building or on any premises without a certificate of occupancy from the county. Reference should be made to the city code concerning building, electrical and plumbing permit processes.

(Ord. 96-9-4, passed 9-16-1996) Penalty, see §153.99

§ 153.14 STREET ACCESS.

(A) No lot shall be developed without proper access to a public street. Should such street not be improved, it shall be the responsibility of the property owner of the property being developed to improve the street to city standard:

- (1) Must have a recorded plat or other document dedicating public right-of-way;
- (2) Must be constructed to city standards with an eight-inch ballast surface, a four-inch gravel base and leveling course, graded and compacted with a 24-foot wide all weather driving surface placed in the center of the right-of-way with 12 feet on each centerline. Drainage pits on either side shall be of a four to one (4:1) ratio slope and at least one and one-half feet deep; and
- (3) Must be constructed with a turnaround of 60 feet for emergency equipment if longer than 150 feet.

(B) A private road will be all owed for access under the following conditions:

- (1) Must have a recorded, permanent perpetual easement and a recorded maintenance agreement sign by those served;
- (2) Must exist entirely upon private property and not make use of public right-of-way;
- (3) Must be constructed with six-inch gravel base and leveling course, graded and compacted with a 12-foot wide all weather driving surface;
- (4) Must be constructed with a turnaround of 60 feet for emergency equipment if longer than 150 feet; and
- (5) Must be extended to within 150 feet of the most distant corner of all inhabited buildings.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.15 CHANGES UPON ANNEXATION OF UNINCORPORATED AREA.

Prior to annexation of an unincorporated area, the county shall request and receive a recommendation from the Planning and Zoning Commission on the proposed Comprehensive Plan and Zoning Ordinance changes for the unincorporated area. The Commission and Council shall follow the notice and hearing procedures provided in Idaho Code § 67-6509. Concurrently or immediately following the adoption of an ordinance of annexation, the Council shall amend the Plan and Zoning Ordinance.

(Ord. 1451, passed 12-13-1977; Ord. 96-9-4, passed 9-16-1996)

§ 153.16 ADMINISTRATIVE PROCEDURES.

(A) Upon receipt of a development application, the county shall follow the notification and public hearing requirements specified in Idaho Code Title 67. All applications must be sign by the property owner in question. It shall be the applicant's responsibility to collect and turn into the city, as part of his or her application, the names of all property owners within 300 feet of the property (excluding streets and alleys) if such notification is required.

(B) Applications for variances to the code shall be considered when they are not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this subchapter will result in an unnecessary hardship because of the physical characteristics of the site. A variance is a modification of the requirements of this subchapter such as minimum lot size, width, depth, setbacks affecting the size or shape of the structure or the placement of the structure upon lots, or the size of the lots. A variance shall not be considered a right or privilege and will only be granted to the applicant if hardship is proven and it is not in conflict with the public interest.

(Ord. 96-9-4, passed 9-16-1996)

§ 153.17 LAND USE SCHEDULE.

<i>Land Use</i>	Zone		
	<i>R/A</i>	<i>C</i>	<i>I</i>
<i>Land Use</i>	Zone		
	<i>R/A</i>	<i>C</i>	<i>I</i>

AGRICULTURAL			
Agricultural, general	P	P	P
Farm animals (1 unit per acre)	P	P	P
Farm animals (more units per acre)	S	S	S
Roadside stand		P	P
COMMERCIAL			
Adult book store		S	
Amusement centers, indoor		P	
Auto sales/repair		P	
Bakery		P	
Bank		P	
Barber/beauty shop	S	P	
Bar		P	
Building supply outlet		P	
Car wash		P	
Child care facility	S	P	
Dairies			S
Dance studio	S	P	
Drive in restaurant		P	
Drug store	S	P	
Dry cleaner	S	P	
Equipment rental/sales		P	
Feed lots			S
Food store	S	P	
Gift shop		P	
Hotel/motel		P	
Junk yard/secondhand sales		S	S
Medical/dental	S	P	
Laundromat	S	P	
Nursery	S	P	S
Office, professional		P	
Recreational vehicle park		P	
Restaurant	S	P	
Retail stores/services		P	
Service station	S	P	
Theater		P	
Wholesale operations		S	P
INDUSTRIAL			
Heavy industries			P
Light industries			P
Manufacturing plants			P
Processing plants			P
PUBLIC/SEMI-PUBLIC			
Churches or parish halls	P	S	S
Public facilities	P	P	P
RESIDENTIAL			
Apartment houses	S		
Duplexes/triplexes	S		
Home occupations	P		
Manufactured home	P	S	S
Manufactured home park	S		

More than 1 dwelling per lot	S		
Single-family dwelling	P	S	S
Temporary housing (construction)	S	S	S

(Ord. 96-9-4, passed 9-16-1996)

TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES

§ 153.30 PURPOSE.

(A) The purpose of this subchapter is to provide a set of standards for the development and installation of telecommunication towers, antennas and related facilities. The regulations contained herein are designed to protect and promote public health, safety and the community welfare of the county, and to encourage managed development of telecommunications infrastructure, while not unduly restricting the development of needed telecommunications facilities.

(B) The county shall apply these regulations to accomplish the following:

(1) Minimize adverse visual effects of telecommunication towers, antennas and related facilities through design and siting standards;

(2) Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community;

(3) Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of the county citizens;

(4) Protect environmentally sensitive areas of the county by regulating the location, design and operation of telecommunication facilities; and

(5) Encourage the use of alternative support structures, colocation of new antennas on existing telecommunication towers, camouflaged towers and construction of towers with the ability to locate more than one provider.

(C) Furthermore, this chapter is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additionally, it is not intended to regulate satellite dishes/ antennas whose regulation is prohibited by state statutes or as preempted by federal law.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERNATIVE SUPPORT STRUCTURE. Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities.

ANTENNA. Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. **ANTENNAS** shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the **ANTENNA**.

ANTENNA, BUILDING MOUNTED. Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

ANTENNA, GROUND MOUNTED. Any antenna with its base placed directly on the ground.

BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

CAMOUFLAGED TOWER. Any telecommunication tower that due to design or appearance entirely hides, obscures or conceals the presence of the tower and antennas.

CARRIER. Any company, corporation, firm or individual who provides or supplies wireless telecommunication service. For the purpose of this subchapter, **PROVIDER** shall have the same meaning as **CARRIER**.

GUYED TOWER. A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

HEIGHT, TELECOMMUNICATIONS TOWER. The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, protection devices (e.g., lightning rods) and lighting.

LATTICE TOWER. A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

MONOPOLE. A telecommunication tower of a single pole design.

NAVIGABLE STREAM OR LAKE. As designated on the United States geological survey (USGS) map and/or the county zoning map.

NON-CONFORMING. Any preexisting telecommunications facility that was in existence prior to the adoption of this subchapter and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date hereof.

OPERATION. Other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications, it shall be deemed in **OPERATION**.

PLATFORM. A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

SATELLITE DISH. A device incorporating a reflective surface that is solid, open mesh or bar configured that is shallow dish, cone, horn or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs (satellite television receive only) and satellite microwave antennas.

TELECOMMUNICATION FACILITY. A facility, site or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices and support equipment, which is used for transmitting, receiving or relaying telecommunications signals.

TELECOMMUNICATION FACILITY COLOCATED. A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes or similar devices owned or used by more than one public or private entity.

TELECOMMUNICATION SUPPORT FACILITY. The telecommunication equipment buildings and equipment cabinets.

TELECOMMUNICATIONS TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guyed towers or monopole towers. This includes radio and television transmission towers, microwave towers, and common carrier towers.

UTILITY POLE MOUNTED ANTENNA. An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, utility support structure or other similar structure approved by the county's Planning and Zoning Department.

ZONING ADMINISTRATOR. The official appointed by the Board of County Commissioners to administer the county's Zoning Ordinance.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.32 COUNTY APPROVALS; EXEMPTIONS.

The following shall be permitted without county approvals:

(A) *Accessory use antennas.* The use of all television antennas, satellite dishes and receive only antennas; provided that, the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property;

(B) *Amateur radio.* This subchapter shall not govern the installation of any antenna and its supporting towers, poles and masts that is owned and/or operated by a federally licensed amateur radio operator, or is used exclusively for receive only antennas;

(C) *Temporary mobile services.* Mobile services providing public information coverage of new events of a temporary or emergency nature;

(D) *Freestanding antennas.* Freestanding (ground mounted antenna) antennas (not supported on or attached to a building) and their supporting towers, poles or masts and their equipment buildings 120 square feet or less in size, may be installed without a zoning permit when the overall height of the antennas and their supporting structures do not exceed a height of 20 feet above the original grade at the site of the installation;

(E) *Building, tower or structure mounted antennas.* Antennas installed on, or attached to, any existing building (building mounted antenna), an existing telecommunication tower or alternative support structure and their equipment buildings 120 square feet or less in size, when the height of the antenna and its supporting tower, pole or mast is 20 feet or less above the highest part of the building or alternative support structure to which it is attached. Antennas installed on, or attached to, any existing building, an existing telecommunication tower or alternative support structure and their equipment buildings; and

(F) *Utility pole mounted antennas.* Utility pole mounted antennas if the height of the antenna is 20 feet or less above the highest part of the utility pole.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.33 AREAS PERMITTING LOCATION BY CONDITIONAL USE OR ADMINISTRATIVE APPROVAL.

Telecommunications facilities may be permitted in the following zones, subject to the provisions of this subchapter:

- (A) Agricultural Range Preservation Zone;
- (B) Agricultural Zone;
- (C) Rural Residential Zone;
- (D) Commercial Zone; and
- (E) Industrial Zone.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.34 AREAS LIMITING LOCATION.

Telecommunication facilities may be permitted in the following areas, subject to the provisions of this subchapter and are subject to review and approval of the Federal Aviation Administration (FAA) and other appropriate agencies, if applicable:

- (A) Two-mile radius from heliports;
- (B) One-mile radius from private airport runway(s); and
- (C) Three-mile radius from public use airport runway(s).

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.35 AREAS PROHIBITING LOCATION.

No telecommunications facilities will be allowed in the following areas:

- (A) Historic sites, as defined by state and/or federal regulation;
- (B) Critical species habitats, as defined by state and/or federal regulation;
- (C) Wetlands, as defined by state and/or federal regulation; and/or
- (D) Floodplains, as defined by state and/or federal regulation.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.36 FACILITIES 125 FEET OR LESS IN HEIGHT.

(A) *General.* Locating and constructing telecommunication facilities or a new alternative support structure, including the buildings or other supporting equipment used in connection with said facilities, 125 feet or less in height shall require, except for exempt facilities, approval by the Planning and Zoning Department. The Zoning Administrator shall have the authority to approve or deny permits for telecommunications facilities in this category.

(B) *Application review and processing.* The applicant shall submit an application to the Planning and Zoning Department for review on a form prescribed by the county and shall include the information required in § 153.37 of this chapter. The Zoning Administrator shall review the application for completeness. Upon determination the application is complete, the process will proceed as follows.

(1) The Planning and Zoning Department will notify the applicant to proceed with notification as required by this subchapter.

(2) The applicant shall notify any property owner(s) within 300 feet of the proposed location by first class mail and provided proof of mailing to the Planning and Zoning Department within five days of mailing.

(3) The Planning and Zoning Department shall accept written comment for 15 days after date of mailing.

(4) The Zoning Administrator shall then produce a report, which includes a summary of such comment or evidence submitted, a reasoned explanation of the grounds for his or her decision and a final order granting or denying the permit, setting forth any conditions that the Zoning Administrator might deem appropriate. Such report shall be filed at the Planning and Zoning Department within 28 calendar days after the closing date for accepting written comment, unless additional time for filing such report is granted by the Board of County Commissioners, upon request of the Zoning Administrator. Notice of such filing shall be provided in writing to the applicant and to all parties entitled to notice by this subchapter.

(5) The decision of the Zoning Administrator may be appealed to the Board of County Commissioners in accordance with the provisions of the county ordinance.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.37 CONDITIONAL USES.

Locating and constructing telecommunication facilities or a new alternative support structure, including the buildings or other supporting equipment used in connection with said facilities, shall require a conditional use permit for telecommunication facilities over 125 feet in height.

(A) *Submittal information.* For all telecommunication facilities, the Planning and Zoning Department shall require the following information to accompany every application. Said information shall include, but may not be limited to:

- (1) Completed conditional use application;
- (2) Original signature of applicant and landowner (if the telecommunication facility is located in an easement or pursuant to a ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application);
- (3) The identity of the carrier, provider, applicant, landowner and service provider and their legal status;
- (4) The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application;
- (5) A plat of survey, showing the parcel boundaries, tower, facilities, location, access, landscaping and fencing;
- (6) A written legal description of the site;
- (7) In the case of a leased site, a lease agreement or binding lease memorandum, which shows on its face that it does not preclude the tower owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased;
- (8) A description of the telecommunications services that the applicant offers or provides, to persons, firms, businesses or institutions;
- (9) Federal Communication Commission (FCC) license numbers and registration numbers, if applicable;
- (10) Copies of finds of no significant impacts (FONSI) statement from the Federal Communication Commission (FCC) or environmental impact study (EIS), if applicable;
- (11) An alternatives analysis prepared by the applicant or on behalf of the applicant by its designated technical representative, subject to the review and approval of the Planning and Zoning Commission, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the county. The analysis shall address justification for proposed height, alternative sites, potential for colocation and potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the review and approval of the Planning and Zoning Commission. The county may require independent verification of this analysis at the applicant's expense; the consultant will be chosen by the Planning and Zoning Department from a list mutually agreed upon by the county and the applicant;
- (12) Plans indicating security measures (e.g., access, fencing, lighting and the like);
- (13) A tabular and map inventory of all of the applicant's existing telecommunications towers that are located within the county and including all of the applicant's existing towers within 1,500 feet of the county boundary; this information need not be resubmitted if already on file with the county's Planning and Zoning Department. The inventory shall specify the location, height, type and design of each of the applicant's existing telecommunication towers and the ability of the tower or antenna structure to accommodate additional colocation antennas;
- (14) A report prepared by an engineer licensed by the state certifying the structural design of the tower and its ability to accommodate additional antennas;
- (15) Proof of liability coverage;
- (16) Such other information as the Planning and Zoning Commission may require;
- (17) Proof of notification indicating that the airport operator and airport property owner(s) within the areas limiting telecommunication facility locations have been notified; and
- (18) Speculative tower builders shall provide proof of a carrier to locate on the proposed facility before consideration shall be given to the application.

(B) *Colocation.* All tower owners shall make available unused space for colocation of other telecommunication facilities, including space for those entities providing similar, competing services. Colocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service. All collocated and multiple user telecommunication support facilities shall be designed for compatible joining to facilitate site sharing.

(C) *Technical review.* The planning and zoning department, upon direction of the county's Planning and Zoning Commission, shall employ on behalf of the county an independent technical expert to review materials submitted. The consultant will be chosen from a list mutually agreed upon by the county and the applicant. The applicant shall pay all the costs of said review. The payment to the Planning and Zoning Department shall be due upon receipt of the invoice. All fees and charges accumulated for the technical review must be paid in full prior to the issuance of the conditional use permit.

(D) *Submittals required following the conditional use approval.* For each conditional use permit approved by the county's Planning and Zoning Commission, the applicant shall submit the following before the conditional use permit will be issued:

(1) Copies of the determination of no hazard from the federal aviation administration (FAA) including any aeronautical study determination or other findings and other agencies, if applicable;

(2) Copies of any environmental assessment (EA) reports on form 600 or form 854 submitted to the Federal Communication Commission (FCC), if applicable;

(3) Copies of any filings submitted to the Federal Communication Commission (FCC) shall be submitted within 30 days of filing, subject to the review of the Zoning Administrator; and

(4) Proof of bond as security for removal.

(E) *Notices and hearing process.*

(1) *Application review.* The applicant shall submit the application to the Zoning Administrator for review; upon determination by the Zoning Administrator that the application is complete, it will be scheduled for public hearing before the Planning and Zoning Commission.

(2) *Hearing notice.* Notice of time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county at least 15 days prior to such hearing. Notice shall also be posted on the property not less than one week prior to the public hearing. The applicant shall notify any property owner(s) within one mile of the proposed location by first class mail at least 15 days prior to such hearing. The applicant shall provide proof of mailing ten days prior to the public hearing. The proof of mailing shall be either copies of registered mail receipts or an affidavit that the notice was mailed. When notice is required to 200 or more property owners, the applicant may request that the following alternate form of notice be followed: The Board of County Commissioners may order that the notice be published three times in a newspaper of general circulation in the county, the last publication of such notice shall be at least ten days before the date set for the public hearing. The notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by county ordinance(s).

(F) *Planning and Zoning Commission.* The Planning and Zoning Commission will hear the application in accordance with the provisions of county ordinance(s) and may give consideration to all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed service. The Planning and Zoning Commission after hearing the application, will approve, approve with conditions or deny the application after giving consideration to the requirements of the ordinance and any such evidence that may be presented at the hearing.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.38 ANNUAL INFORMATION REPORT.

The purpose of the annual review report is to provide the county with accurate and current information concerning the telecommunications tower owners and providers who offer or provide telecommunications services within the county, to assist the county in enforcement of this chapter and to assist the county in monitoring compliance with the conditional use permit.

(A) *Owner's annual report.* All telecommunications tower owners of any new or existing telecommunication tower shall submit annually on or before January 31 of each year, to the Planning and Zoning Department a telecommunications facility annual information report. The annual report shall include the tower owner name(s), address(es), phone number(s), contact person(s), location(s) of facilities, annual review fee and proof of bond as security for removal. The tower owner shall supply the tower height and current occupancy (if applicable). This information shall be submitted to the county and shall become evidence of compliance.

(B) *Provider's annual report.* All telecommunications providers shall submit annually on or before January 31 of each year, to the Planning and Zoning Department a telecommunications facility annual information report. The annual report shall include the providers' name(s), address(es), phone number(s), contact person(s), location(s) of facilities and annual report fee.

(C) *Annual report fee.* Following the conditional use approval, every year thereafter, the tower owner shall submit, on or before January 31 of each year, to the Planning and Zoning Department an annual report fee of \$150 for each tower site. The fee submittal is the responsibility of each tower owner. Failure to provide this information shall be a violation of this chapter and shall be dealt in accordance with § 153.99(B) of this chapter.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.39 REMOVAL; SECURITY FOR REMOVAL.

(A) *Removal required.* It is the express policy of the county that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications tower owner's responsibility to remove such facilities and restore the site to its original condition or a condition approved by the county's Planning and Zoning Department. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to five feet below the surface. After a telecommunications facility is no longer in operation, the tower owner shall have 90 days to effect removal and restoration

unless weather prohibits such efforts.

(B) *Security for removal.* The telecommunications tower owner shall provide to the county, prior to the issuance of the conditional use permit or the issuance of a zoning permit, a performance bond in the amount of \$20,000 or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the telecommunications facility will be removed when no longer in operation. The county will be named as obligee in the bond and must approve the bonding company.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.40 PREEXISTING TOWERS.

(A) *Non-conforming and conforming.* Telecommunication towers and facilities may add to, move or replace the tower and facilities upon approval of the county's Planning and Zoning Department. An existing tower may be increased in height a maximum of 50 feet, relocated or reconstructed within 50 feet of its existing location to accommodate colocation subject to meeting all the other sections of this chapter, except §§ 153.36 and 153.37 of this chapter. Routine maintenance and repair on telecommunications facilities is permitted.

(B) *Existing use review.*

(1) *Existing use review for those towers structurally capable to colocate.* Beginning 7-1-2000, all telecommunications tower owners, applicable to the requirements of this chapter operating in the county prior to the adoption of this chapter, shall provide the information required under § 153.38 of this chapter (except proof of bond and proof of insurance), and pay an annual fee of \$150 per tower site on or before January 31 of each year. Failure to provide this information shall be a violation of this subchapter and shall be dealt in accordance with § 153.99 of this chapter.

(2) *Existing use review for those towers structurally incapable for colocation.* Beginning 7-1-2000, all telecommunications tower owners, applicable to the requirements of this subchapter operating in the county prior to the adoption of this subchapter, shall provide the information required under § 153.38 of this chapter (except proof of bond and proof of insurance), and submit documents that the tower is structurally incapable of colocation, and pay a one time fee of \$150 per tower site on or before January 31. Failure to provide this information shall be a violation of this subchapter and shall be dealt in accordance with § 153.99 of this chapter.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.41 COMPLIANCE.

(A) *Revocation.* Grounds for revocation of the conditional use permit shall be limited to one of the following findings:

(1) The owner of such site, service provider and/or tower owner fails to comply with the requirements of this subchapter;

(2) The permittee has failed to comply with the conditions of approval imposed; and

(3) The facility has not been properly maintained.

(B) *Revocation process.*

(1) The owner of such site, service provider and/or tower owner shall be notified by certified mail of non-compliance by the county's Planning and Zoning Department.

(2) The owner shall comply with such notice within 30 days to the satisfaction of the county's Planning and Zoning Department.

(3) If compliance is not obtained within 30 days, the county's Planning and Zoning Department shall notify the county's prosecutor of the non-compliance and proceed with the revocation process. (This time period may be extended by staff to adjust for seasonal limitations.)

(C) *Abandonment.* Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned. Time may be extended upon review and approval of the county's Planning and Zoning Department, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply.

(1) The owner of such antenna or tower shall remove said antenna and/or tower including all supporting equipment and building(s) within 90 days of receipt of notice from the Planning and Zoning Department notifying the owner of such abandonment. If removal to the satisfaction of the Planning and Zoning Department does not occur within said 90 days, the County Board may order removal utilizing the established bond and salvage said antenna or tower and all supporting equipment and building(s). If there are two or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.

(2) The recipient of a conditional use permit for a telecommunications facility under this subchapter shall notify the Planning and Zoning Department when the facility is no longer in operation.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.42 STRUCTURAL, DESIGN AND ENVIRONMENTAL STANDARDS.

(A) *Tower, antenna and facilities requirements.* All telecommunication facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

(1) All telecommunication facilities shall comply at all times with all Federal Communication Commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the federal government. All telecommunication towers and antennas shall meet or exceed the standards and regulations, in place at the time of the issuance of the conditional use permit, of the Federal Aviation Administration (FAA), the Idaho State Bureau of Aeronautics, Occupational Safety And Health Association (OSHA), the Federal Communication Commission (FCC) and authority to regulate towers and antennas.

(2) Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted.

(3) All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted to the Planning and Zoning Commission that a guyed tower is required.

(4) Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.

(5) Telecommunication support facilities (such as, equipment rooms, utilities, and equipment enclosures) shall be constructed out of nonreflective materials (visible exterior surfaces only). Telecommunication support facilities shall be no taller than one story, 15 feet in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility.

(6) Telecommunications towers, facilities and antennas shall be designed and constructed in accordance with the international building code, other applicable state and federal requirements.

(7) The maximum height of an antenna platform located on a rooftop shall be 20 feet above the roof.

(8) Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or supervisory controlled automated data acquisition (SCADA) operation telecommunication facilities. The applicant at no cost to the county shall correct any actual interference and/or obstruction.

(B) *Height.* The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crankup" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.

(C) *Lighting.* Telecommunication towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority.

(D) *Site development, roads and parking.*

(1) A leased parcel intended for the location of new telecommunication tower(s) and equipment building(s) shall maintain a minimum parcel size of 2,500 square feet. The county's Planning and Zoning Commission may modify the leased parcel size requirement after public hearing and review.

(2) A parcel owned by the telecommunication carrier and/or provider and intended for the location of new telecommunication tower(s) and equipment building(s) shall meet the minimum size requirement of this subchapter.

(3) All sites must be served by a minimum 25-foot wide easement with a turnaround. The county's Planning and Zoning Commission may modify the easement and turnaround requirement after public hearing and review. All sites shall use existing access points and roads whenever possible. The respective county highway district or the applicable road jurisdiction shall approve the access point to the site.

(E) *Vegetation protection and facility screening.*

(1) All telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, **MATURE LANDSCAPING** shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation.

(2) Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping.

(3) Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings, so as to reduce visual impacts.

(F) *Fire prevention.* All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

(G) *Noise and traffic.* All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end, all the following measures shall be implemented for

telecommunication facilities.

(1) Noise producing construction activities shall only take place Monday through Saturday, (non-holidays) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair.

(2) Backup generators shall only be operated during power outages and for testing and maintenance purposes.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.43 SEPARATIONS AND SETBACK REQUIREMENTS.

(A) *Minimum separation.* Minimum separation between telecommunication towers (by tower type):

<i>Proposed Tower Types</i>	<i>Lattice</i>	<i>Guyed</i>	<i>Monopole - 85 Feet in Height or Greater</i>
Guyed	1,500 feet	1,500 feet	750 feet
Lattice	1,500 feet	1,500 feet	750 feet
Monopole - 85 feet in height or greater	750 feet	750 feet	750 feet

(B) *Exceptions.*

(1) Two towers may be permitted to be located within 100 feet of each other subject to approval of the county's Planning and Zoning Commission.

(2) Three towers may be located within 100 feet of each other permitted subject to approval of the county's Planning and Zoning Commission.

(3) Camouflaged towers are exempt from separation between tower requirements listed above.

(C) *Setbacks.* All setbacks shall be measured from the base of the tower or structure.

(1) *Setbacks from all habitable residential buildings, except buildings located on the subject parcel.* All new towers shall be set back a distance equal to 125% of the height of the tower.

(2) *Setbacks from all historic sites and districts.* All new towers shall be set back a distance equal to 125% of the height of the tower from historic sites and districts.

(3) *Setbacks from property lines.* All new towers shall be set back a minimum of 50 feet from all property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.) The county's Planning and Zoning Commission may modify this setback requirement after public hearing and review.

(4) *Setback from the ordinary high water mark (OHWM).* All new towers shall be set back a minimum of 75 feet from the ordinary high water mark (OHWM) of a navigable stream and a minimum 125% of the tower height from the ordinary high water mark (OHWM) of a navigable lake.

(5) *Guy wire anchor setback.* All guy wire anchors shall be at least 25 feet from all property lines. The county's Planning and Zoning Commission may modify this setback requirement after public hearing and review.

(6) *Power poles exempt.* Power pole change outs are exempt from setback requirements.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.44 PERMITS.

A conditional use permit is required for the location of all telecommunication facilities in the county. Proposed collocation on facilities previously approved by the county's Planning and Zoning Commission shall be approved administratively by the county's Planning and Zoning Department; provided that, the applicant complies with the provisions of this chapter and provides a completed application and permit fee.

(Ord. 11-05-2009, passed 11-5-2009)

§ 153.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Violations of any of the provisions of §§153.30 through 153.44 of this chapter, or failure to comply with any of its requirements, may be dealt with in the following manner. Each day such violation continues shall be considered a separate offense and shall constitute a misdemeanor, as defined by state law, and is punishable by up to six months in jail and up to a \$300 fine, or both; the county may seek civil penalties and forfeitures to the maximum extent allowed by law.

(Ord. 11-05-2009, passed 11-5-2009)