

KOOTENAI COUNTY SUBDIVISION ORDINANCE NO. 394
CASE NO. OA-130-06 (Subdivision Ordinance Text Amendments)
Title 10, Kootenai County Code

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An Ordinance in and for the unincorporated areas of Kootenai County, Idaho, amending the following sections of Kootenai County Ordinance Number 344: to clarify definitions of common driveway, gated community and Wetland Specialist, 1.06 (B) Exemptions, 2.01 (A) Application Requirements- Preliminary Subdivision Approval, 2.01 (B) Application Requirements- Final Subdivision Approval, Table 2-1, 2.01 (C) Approval Process and Requirements, 2.02 Minor Subdivisions, 2.01 (B) Approval Process and Requirements, 3.01 (B) Levels of Utilities and Services, 3.01 (E) Subdivision and Lot Design, 3.01 (E) Roads and Trails, 4.01 Bonus Densities, 4.04 Conservation Design Procedure, 4.05 Additional Requirements for Conservation Design Subdivisions, and renumbering sections and making stylistic changes in language for purposes of codification; adding Appendix E, Natural Resources Report and Map- Requirements for Bonus Densities with Conservation Design Subdivisions; establishing subdivision regulations; providing purposes, definitions, and applicability; application requirements and approval procedures; design, improvement and maintenance requirements; standards for Conservation Design Subdivisions; administration and enforcement procedures; Appendices; repealing conflicting Ordinances; providing for severability; providing an effective date.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF KOOTENAI COUNTY, IDAHO:

SECTION 1. That former Titles 10A and 10B, Kootenai County Code, be, and the same are hereby combined as Title 10, Kootenai County Code, the provisions of which shall read as set forth in this Ordinance.

SECTION 2. That Kootenai County Ordinance No. 344, adopted on December 29, 2004, be, and the same is hereby designated as Title 10, Kootenai County Code, and is hereby amended to read as follows:

CHAPTER 1 GENERAL PROVISIONS

Section 10-1-1 Title
Section 10-1-2 Authority
Section 10-1-3 Purpose
Section 10-1-4 Definitions
Section 10-1-5 Acronyms
Section 10-1-6 Applicability and Exemptions

10-1-1: TITLE:

This Title shall be known as the *Subdivision Ordinance of Kootenai County, Idaho*.

10-1-2: AUTHORITY:

These regulations are authorized by Title 31, Chapter 7, Title 50, Chapter 13, and Title 67, Chapter 65 of *Idaho Code*; and Article 12, Section 2 of the *Idaho Constitution*, as amended or subsequently codified.

10-1-3: PURPOSE:

The purpose of this Title is to promote and protect the health, safety, and general welfare of the public and to:

- Ensure that development is in conformance with *Idaho Code*, with the goals and policies of the *Kootenai County Comprehensive Plan*, with the requirements of County ordinances, and with the requirements of other agencies.
- Provide for orderly development of land.
- Ensure that development mitigates negative environmental, social and economic impacts.

- Create buildable lots of reasonable utility and livability.
- Preserve, protect and enhance ground and surface water quality.
- Establish a transportation system for vehicles, bicycles and pedestrians that is safe, efficient, and cost effective and that minimizes congestion.
- Provide for adequate and affordable fire, water, sewer, stormwater and other services.
- Encourage the conservation of open space and environmentally sensitive areas.
- Provide for the administration of these regulations.

10-1-4: DEFINITIONS:

Words used in the present tense include the future tense. Words used in singular number include the plural, and vice versa. The word “shall” and “must” are mandatory, and the word “may” indicates the use of discretion. Unless clearly stated otherwise, the following words and phrases shall have the following meanings:

Affected Person - One having an interest in real property that may be affected by a decision.

Agent - One who acts for or in the place of another.

Agency - Any city or political subdivision of the State, including but not limited to counties, school districts, highway districts, any agency of State government, and any city or political subdivision of another state.

Amended Plat - A plat that has minor corrections or modifications.

Approach - An access point onto a public or private road.

Best Management Practices (BMP’s) - Land management practices, approved by the State of Idaho or other Idaho public agency, designed to minimize the discharge of sediment and other pollutants. These include, but are not limited to, the *Idaho Forest Practices Rules*, the *Rules Governing Solid Waste Management*, the *Rules for Individual and Subsurface Sewage Disposal Systems*, the *Rules and Minimum Standards for Stream Channel Alterations*, the Rathdrum Prairie sewage disposal and critical materials regulations, the *Rules Governing Exploration and Surface Mining Operations in Idaho*, the *Idaho Well Construction Standards Rules*, the *Rules Governing Placer and Dredge Mining in Idaho*, the *Rules Governing Dairy Wastes*, *Best Management Practices for Containing Critical Materials During Above Ground Storage and Handling*, and the *Catalog of Storm Water Best Management Practices for Idaho Cities and Counties*.

Board - The Kootenai County Board of Commissioners.

Building Envelope - A designated area, shown on a plat, within which all structures must be located.

Conservation Design Subdivision - A subdivision design that maximizes the conservation of open space and the natural, cultural or historic characteristics of an area. The subdivision name for a conservation design subdivision will be followed by the suffix “CDS”.

Conservation Easement - A non-possessory interest of a holder in real property, imposing limitations or affirmative obligations for retaining or protecting natural, scenic, or open space values of real property; for assuring its availability for agriculture, forest, recreation or open space use; for maintaining or enhancing air or water quality; or for preserving the historical, architectural, archeological or cultural aspects of real property (*Idaho Code* §55-2101).

Conservation Organization - A charitable corporation, association, or trust, whose purposes or powers include: a) retaining or protecting the natural, scenic, or open space values of real property for agriculture, forest, recreation, or open space use, b) protecting natural resources, c) maintaining or enhancing air or water quality, or d) preserving the historical, architectural, archaeological, or cultural aspects of real property. Conservation organizations are allowed, by *Idaho Code*, to be the holders of conservation easements (*Idaho Code* §55-2101).

Contiguous - Sharing a mutual boundary line.

Conveyance - The transfer of title, or grant of an interest in land, by the owner. Conveyances may include land, easements, and rights-of-way transferred to either public or private entities.

Cooperative Corporation - Any nonprofit corporation, operating on a cooperative basis, owned, operated, organized and maintained by its members, for the purpose of providing goods or services to its members.

Design Professional - An individual with specialized knowledge and experience, who is qualified to develop plans for various components of a subdivision development. With regard to stormwater plans, the design professional must meet the definition found in the *Kootenai County Site Disturbance Ordinance*.

Department - Kootenai County Building and Planning Department.

Director - The Director of the Kootenai County Building and Planning Department or their designee.

Drainageway - A water course that does not meet the definition of a Class I or Class II stream.

Driveway - A means of vehicular access from a public or private road to a lot or parcel of land.

Driveway, Common - A driveway that provides vehicular access from a public or private road to not more than four lots or parcels of land.

Easement - A right of use, falling short of ownership, usually for a certain stated purpose (*Idaho Code* §50-1301).

Final Plat - The final drawing of a subdivision and associated conveyances, to be recorded as a public document.

Financial Guarantee - An irrevocable letter of credit, cash deposit, bank account, or surety bond, pledged to secure the performance of an obligation.

Fire District - A structural fire protection district.

Frontage - The portion of a lot that is contiguous with the road used to access the lot.

Functional Classification - The classification of roads based on their function, with respect to both mobility and access. Functional classifications include interstates and state highways, principal and minor arterials, collectors and local streets.

Gated Community - A form of closed community with more than ten residential lots, characterized by a controlled entrance for pedestrians, bicycles, and automobiles, may be staffed by full-time, private security guards, may lead into one or more small residential streets, with walls or fences surrounding the perimeter of the entire development. Many gated communities may have various amenities which make it possible for residents to stay within the community for day-to-day activities.

Grade - Ground level. Also, the slope of a road specified in percent (%).

Green Space - Land meeting the definition of Green Space in Chapter 4 of this Title.

Gross Acreage - The size of a lot or parcel including one-half (½) of adjoining rights-of-way.

Hearing Body - The entity charged with the conduct of a public hearing and a decision or recommendation on an application. The hearing body may be a Hearing Examiner, the Planning Commission or the Board of County Commissioners.

Hydrologic Protection Area - The area adjoining a lake, river, stream, wetland, water course or drainageway that must be reserved and shown on the plat. The purpose of this area is to protect downstream property owners and water resources from increased or decreased flows, to prevent sedimentation, to promote good water quality, and to protect fish and wildlife habitat.

Infrastructure - Support facilities for a subdivision including, but not limited to, water, sewer, road, fire protection, stormwater and utility systems. This term includes both project support facilities, and public system facilities serving the area.

Ladder Fuel - Shrubs, brush and woody debris that can carry a fire into the tree canopy.

Lake - A body of perennial, standing open water, larger than one (1) acre in size. Lakes include the bed, banks and wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds.

Land Disturbing Activity - Any man-made change to the land surface, including the removal of vegetation and topsoil, filling, and grading, but not including landscaping or agricultural land uses such as planting, cultivating and harvesting of crops or trees.

Large Organic Debris (LOD) - Live or dead trees, and parts or pieces of trees that are large enough or long enough, or sufficiently buried in the stream bank or bed, to be stable during high flows. Pieces longer than the channel width, or longer than twenty (20) feet, are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form.

Lot - A legally created, platted parcel of land.

Major Subdivision - A subdivision that proposes to: a) create five (5) or more lots, or b) re-divide land that has been subdivided in the previous five (5) years, when the two subdivisions together will create five or more lots, or c) create 2-4 lots with shared infrastructure or improvements, or a water system that requires engineering, that must be constructed to meet the requirements of the County or other agencies.

Maintenance Entity - An organization, such as a homeowners association, that provides maintenance for land, infrastructure or shared improvements within a subdivision.

Minor Subdivision - A subdivision that proposes to create four (4) or fewer lots, with no shared infrastructure or improvements other than a water system and/or a common driveway that does not require engineering that must be constructed to meet the requirements of the County or other agencies. Property that has been subdivided within the previous 5 years cannot be re-divided as a minor subdivision, except when the two subdivisions together will create four or fewer lots.

Mitigate - To cause to become less harsh or hostile, to make less severe, or to lessen the negative consequences of an action.

Natural Slope - The slope of the land prior to any man-made disturbance.

Net acreage - The size of a lot or parcel excluding adjoining rights-of-way.

Ordinary High Water Mark - The mark on the bed and banks of water courses, where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to impart upon the soil and vegetation a character distinct from that of the abutting upland.

Parcel - A piece of land that is separately described in a deed of conveyance. Parcel boundaries, as used in this Title, may or may not coincide with parcel boundaries as assigned by the Kootenai County Assessor.

Perpetual - Continuing forever, valid for all time.

Plat - A map or drawing of a subdivision of land into lots, blocks, and roads, along with associated conveyances, to be filed as a public document.

Preliminary Subdivision Plan - A map or drawing illustrating a preliminary subdivision proposal.

Professional Forester - An individual with at least a bachelor's degree in forestry.

Professional Wildlife Biologist - An individual with at least a bachelor's degree in wildlife biology.

Planned Unit Development - A Planned Unit Development (PUD) is an integrated design for development of residential, commercial or industrial uses, or combinations of uses, under single ownership or control, in which the standards of the Zoning Ordinance may be varied. PUD's allow flexibility and creativity in site and building design and location, in accordance with an approved plan, and the goals and policies of the Zoning Ordinance and Comprehensive Plan.

Rathdrum Aquifer - A groundwater aquifer located beneath the Rathdrum Prairie in Northern Kootenai County. The official boundary of the Rathdrum Aquifer is designated in the February 9, 1978 Federal Register, Vol. 43, No. 28, and is depicted on an associated map published by the Environmental Protection Agency.

Replat - The process by which a previously recorded subdivision plat, or portion of a plat, is modified.

Right-of-way - Land conveyed to the public and under the jurisdiction of a public highway agency.

Road, Public - A travel way for vehicles, owned and/or maintained by a public agency.

Road, Private - A travel way for vehicles, that is not owned or maintained by a public agency.

Sanitary Restrictions - Water and sewer requirements imposed on a subdivision plat per *Idaho Code* §50-1326.

Sensitive Areas - Sensitive areas are defined as a) land in, or within 300 feet of wetlands, streams, or lakes, b) areas where the water table is within 6 feet of ground surface at any time of the year, c) areas with slopes $\geq 25\%$ or that exhibit signs of instability, d) habitat for rare, threatened or endangered plants or animals, e) areas where the ground surface is within 50 feet of an unconsolidated, sand or gravel aquifer, and f) areas of special flood hazard (flood zones).

Sewage Disposal System - A system of piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat or dispose of wastewater. This definition includes individual sewage disposal systems such as a septic system and drainfield.

Slope - An incline, described by the vertical change in elevation that occurs in 100 feet of horizontal distance (rise divided by run), expressed in percent (%). Slope is measured perpendicular to the contour of the land, and is the maximum incline for a given area.

Stream - A natural water course of perceptible extent, with definite beds and banks, which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow.

Class I - A stream used for domestic water supply, or which is important for the spawning, rearing or migration of fish. Such waters will be considered to be class I upstream from the point of domestic diversion for a minimum distance of 1,320 feet.

Class II - Usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, streams shall be considered Class II where the total upstream watershed is less than two hundred forty (240) acres. The principal value of Class II streams lies in their influence on water quality and quantity in class I streams.

Structure - That which is built or constructed.

Substantial change - Any change that will likely cause a material or directly relevant bearing on the decision making process or the public's, or an agency's, reasonable expectation of information provided at the time of application. Additionally, for purposes of this section, any change in the number or configuration of lots may constitute a substantial change.

Subdivision - The division of land into two or more lots or parcels of land by recording a deed or plat.

Topography - The configuration of the ground surface.

Topographic Map - A map with lines of equal elevation, showing the relief and configuration of the ground surface.

Utility - A service provided to a subdivision, including water, telephone, power, cable, sewer and stormwater treatment and disposal.

Unobtrusive - Inconspicuous, not prominent.

Vested - Guaranteed as a legal right. The right to have a subdivision application processed according to regulations in place at the time a complete application was submitted.

Water System - A system of wells, pumps, piping, treatment devices, receptacles, and structures, designed, used or dedicated to obtain, convey, treat, or store water. A shared water system is a system that serves two or more lots within a subdivision.

Watershed - The surrounding land areas from which water drains to a given point.

Wetland - Those areas that are inundated or saturated by surface or ground water, at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation

adapted for life in saturated soil conditions. Wetlands generally include swamps, marches, bogs and similar areas.

Wetland Specialist - A specialist in the field of wetlands delineation and assessment. A wetlands specialist has the ability to delineate wetlands, assess the function and value of particular wetlands, and provides assistance with wetland regulations and permits including the completion of application and permit forms, and provide technical advice about avoidance, minimization and compensatory mitigation of effects to wetlands. A wetlands specialist shall have at a minimum of a Bachelors of Science degree from an accredited university in biology, botany, ecology or a similar related field and a minimum of two years full time field work experience as a wetlands professional or additional education that includes completion of a wetland-specific training program. This field experience may be in the form of certification from the Society of Wetlands Specialists or a list of accepted and approved plans from the U.S. Army Corps of Engineers or other applicable local, state or federal agencies. Any additional education or training shall include comprehensive information on wetland hydrology, hydric soils and hydroptic vegetation. Experience in wetland delineation should include delineating wetlands using state or federal regulatory manuals, preparing wetlands delineation reports as outlined by state or federal regulations, conducting wetland function and value assessments, and developing and implementing mitigation plans.

Will Serve Letter - A written statement from the owner of a water and/or a sewage system indicating that the system has the capacity to provide water or sewage service, and that the owner is willing to provide service, to all of the lots in the proposed subdivision.

10-1-5: ACRONYMS:

BMP's	Best Management Practices
CC&R's	Covenants, Conditions and Restrictions
DEQ	Idaho Department of Environmental Quality
EMS	Emergency Medical Service
EPA	U.S. Environmental Protection Agency
P.G.	Professional Geologist
IDL	Idaho Department of Lands
IDWR	Idaho Department of Water Resources
ITD	Idaho Transportation Department
NPDES	National Pollution Discharge Elimination System
P.E.	Professional Engineer
PHD	Panhandle Health District
PUD	Planned Unit Development

10-1-6: APPLICABILITY AND EXEMPTIONS:

A. Applicability - These regulations apply to the division of land into two (2) or more lots or parcels, and to the reconfiguration, combination or change in status of a platted lot or right-of-way (e.g. conversion of a utility lot to a building lot), within the unincorporated areas of Kootenai County, unless otherwise specified by an Area of City Impact ordinance adopted pursuant to *Idaho Code* §67-6526.

B. Exemptions

1. The following divisions of land are exempt from the requirements of this Title. Parcels of land created under these provisions will be recognized as separate pieces of property on the day the instrument creating them is recorded.
 - a. Divisions made for cemeteries or burial plots when used for that purpose.

- b. Divisions resulting from the conveyance of a parcel of land to a taxing district, government agency, or utility regulated by the Public Utilities Commission, providing the parcel will not be used for habitable structures such as offices or service centers. Divisions used for the purpose of housing emergency service responders such as fire stations, police stations or ambulance services are permitted.
- c. Divisions resulting from the conveyance of land to a conservation organization, providing the land is conveyed as one parcel, and a conservation easement meeting the requirements of Appendix D, is recorded on the parcel. Any further divisions must be in accordance with this Title.
- d. Adjustments to platted lot lines, or to a combination of the boundary lines of platted and legally created, un-platted parcels providing: a) no additional lots or parcels are created, b) the lots or parcels are changed less than 20% from the original platted lot boundary, c) the resulting lots meet the minimum size for the zone and are otherwise in conformance with all County ordinances, d) the lot line adjustment does not result in lots separated by a right-of- way or road and e) a statement is included on the deed of conveyance indicating that the instrument is being recorded for lot line adjustment purposes, and that the property being transferred is not a separate, buildable lot. Lot line adjustments that do not meet these requirements must go through the replat or minor replat process.
- e. Boundary line adjustments to legally created, un-platted parcels, providing: a) no additional parcels are created, b) the resulting parcels meet the minimum size for the zone and are otherwise in conformance with all County ordinances, and c) the boundary line adjustment does not result in lots separated by a right-of-way or road. A parcel of land that is not buildable because it does not conform to County ordinances, or was created improperly, cannot be converted to a buildable parcel through a boundary line adjustment. *Note: Lot and boundary line adjustments are accomplished by recording a deed of conveyance for the property that will be transferred, and then, for the receiving parcel, recording a second deed describing the new, exterior parcel boundaries (so that an additional parcel of land is not inadvertently created).*
- f. For original parcels of land, division into a maximum of four (4) parcels, providing each parcel is at least twenty (20) acres in size, the parcels are in conformance with all County ordinances, and providing each parcel has a recorded access easement to a public road. One-half (1/2) of adjoining rights-of-way may be included in acreage calculations. For purposes of determining eligibility for this exemption, acreage that has not been surveyed may be based on the aliquot parts of the section of land in which the parcel is located. For example, one-half (1/2) of a quarter quarter section will be considered to be 20 acres. Surveying will, however, be required for any subsequent divisions of land, and the parcels created will then be required to meet minimum lot sizes.

An original parcel of land is one that was separately described in a deed of conveyance prior to May 14, 1974, and was held as an individual parcel (it was not combined by deed). For original parcels less than eighty (80) acres in size, a maximum of one parcel may be created for each twenty (20) acres. For example, on a 60-acre original parcel, a maximum of three 20-acre parcels may be created. To receive this exemption, the property owner must provide documentation verifying that these requirements have been met, and that the exempt land divisions have not been previously taken.

- g. Divisions made pursuant to a Last Will and Testament, following the death of the property owner, providing no more than four (4) parcels are created, each parcel has a recorded

access easement to a public road, and each parcel meets the minimum size for the zone and is otherwise in conformance with all County ordinances.

- h. Division resulting from the exercise of eminent domain. Per *Idaho Code* §67-6527, this is not a violation of this Title.
- 2. Parcels of land created by court order, not associated with a Last Will and Testament, will not be eligible for building permits until the subdivision is approved, and a plat is recorded in conformance with the procedures of this Title.

CHAPTER 2 APPLICATION REQUIREMENTS AND APPROVAL PROCEDURES

Section 10-2-1 Major Subdivision

- A. Application Requirements - Preliminary Subdivision Approval
- B. Application Requirements - Final Subdivision Approval
- C. Approval Process and Requirements

Section 10-2-2 Minor Subdivision

- A. Application Requirements
- B. Approval Process and Requirements

Section 10-2-3 Minor Re-plats and Amendments

- A. Application Requirements
- B. Approval Process and Requirements

Section 10-2-4 Plat, Right-of-Way or Easement Vacation

Section 10-2-5 Time Extension for Preliminary Subdivision Approval

- A. Application Requirements
- B. Approval Requirements

Section 10-2-6 Condition Modification

- A. Application Requirements
- B. Approval Process and Requirements

10-2-1: MAJOR SUBDIVISION:

A Major Subdivision is one that proposes to: a) create five (5) or more lots, or b) re-divide land that has been subdivided in the previous five (5) years, when the two subdivisions together will create five or more lots, or c) create 2-4 lots with shared infrastructure or improvements, or a water system that requires engineering, that must be constructed to meet the requirements of the County or other agencies.

A. Application Requirements - Preliminary Subdivision Approval

The subdivision application and plat contain the information that the hearing body and Board need to make a decision on the proposal. To gain approval, adequate information must be provided to demonstrate that the project can meet the requirements of the County and of other agencies.

For preliminary subdivision approval, the applicant is required to submit one complete application packet to the County, plus additional packets for each agency/ organization reviewing the proposal. The Director determines which agencies will receive applications and the County will forward the application packets to those agencies. An Applicant may request that an incomplete application be accepted by submitting a letter stating which items are missing, and giving a detailed explanation and rationale for the incomplete submission. If the Director determines that the information is not

necessary to establish conformance with the required findings (Section 10-2-1(C)(1)(k), he may approve the request, the application will be deemed to be complete, will be vested under current ordinances, and will be processed. If the Director denies the request, the application will not be processed or scheduled for public hearing until it is complete. This determination may be appealed in accordance with Section 10-5-2. An application shall be governed by the rules and policies in effect on the day a complete application is submitted to the Department.

The following items constitute a complete application for preliminary approval of a major subdivision, with the required elements of agency packets identified by a ☆ symbol. (Items shown with a ♦ are required for minor subdivision applications, which are explained in Section 10-2-2).

1. ☆♦ Application Form - completed application form with property owners' signatures or a notarized letter from the property owners' authorizing the applicant to file the subdivision application.
2. ♦ Completed check list of application requirements.
3. ♦ Fees, as adopted by Board Resolution.
4. ♦ Title Report or similar document containing the legal description, ownership and easements for the property (two copies).
5. ☆ Large plan and supplemental pages - must meet the requirements outlined in Table 2-1 (three copies for the County, two for highway district, one for other agencies).
6. Small Plan - 11" x 17" copy of the plan and supplemental pages.
7. Surrounding Area/ Adjoining Subdivisions Map - scale not less than 1"= 400', showing adjoining subdivisions; street and lot layout sufficiently distant from the project to illustrate the relationship to proposed streets and lots; neighboring land owned by the same applicant; and surrounding properties within ¼ mile or 2 parcels (whichever is greater) in every direction (three copies).
8. ☆♦ Photos - at least six pictures of the site, taken at various angles, depicting the general character of the site, accompanied by a map showing the location and orientation of the photos.
9. ☆♦ Narrative - listing the acreage of the subdivision; the number of lots proposed; the location, approximate dimensions, and intended use of any nonresidential lots (e.g. for utilities, schools, churches, parks or open space); the characteristics of the site, including existing vegetation, soils and wildlife; what is proposed for water, sewer service, roads, trails or other improvements; plans for preserving land for timber, agriculture, recreation, wildlife or other open space uses; proposed phasing; proposed conveyances, including conservation easements; special design features of the subdivision such as clustering of lots or conservation design; the proposed completion schedule; and proposed methods of ownership and maintenance of open space, shared infrastructure and improvements. As part of the application narrative, a qualified professional engineer, land surveyor, biologist or other qualified-professional with expertise in the initial determination of wetlands, must provide a written statement regarding the presence or absence of wetlands on the property, and the applicant must identify sensitive areas, as defined by this Title.

10. ♦ Groundwater quantity - adequate information must be provided to ensure that new or existing wells will provide sufficient water for the subdivision, without negatively affecting nearby property owners. The following are required:
- a. Subdivisions served by a well on each lot: Documentation by an Idaho licensed professional engineer (P.E.) or geologist (P.G.) that the aquifer proposed for water supply has sufficient production capability to provide drinking water to all of the lots in the proposed subdivision, and that a location is available within each lot for installation of a well without conflicting with proposed sewage systems.
 - b. Subdivisions served by a new water system serving from two to nine lots: Documentation by an Idaho licensed P.E. or P.G. that the sources proposed for water supply have sufficient production capability to provide drinking water to the lots in the proposed subdivision.
 - c. Subdivisions served by a new public drinking water system: DEQ written approval of an engineering report prepared by an Idaho licensed P.E. or P.G. demonstrating that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision.
 - d. Subdivisions served by connection to an existing public water system: A letter from the owner of the system indicating it has sufficient reserve production capacity to supply water to the lots in the proposed subdivision.

At a minimum, available well logs within one-half (1/2) mile of the boundary of the site must be provided as part of the above submittals. For residential uses, 1,500 gallons per day, with a minimum flow of 5 gallons per minute for four hours, per residence, will be considered adequate if no more than one-half (1/2) acre of property will be irrigated. For low flow wells, storage may be provided to meet this requirement. If approved by the Idaho Department of Environmental Quality, other methods of estimating water demand may be used, including the *Washington State Water System Design Manual*. If conformance with these requirements is questionable, the Applicant shall secure an option for a secondary water source that does meet the requirements. If necessary to demonstrate compliance, the Director may require additional information, such as historic and current static water levels in the area (two copies).

11. ♦ Conceptual Site Disturbance and Stormwater Plan - a plan, developed by a design professional, proposing suitable methods and locations for stormwater treatment systems. Proposed systems must conform to the *Kootenai County Site Disturbance Ordinance*, associated resolutions, and approved best management practices (BMP's), such as the *State of Idaho Catalog of Storm Water Best Management Practices for Idaho Cities and Counties*. If slopes, soils, groundwater or other conditions may not meet the design parameters of proposed BMP's, the Director may require that test holes be evaluated to determine soil types in the vicinity of the stormwater systems. Test holes that have been examined by the Panhandle Health District for sewage disposal suitability may be used to fulfill this requirement, if they are in the vicinity of the proposed stormwater systems. Otherwise, test holes must be evaluated by a soils expert, or an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering (four copies). For minor subdivisions, when land disturbing activity is proposed in areas where the natural slope is less than 15%, a Conceptual Site Disturbance and Stormwater Plan does not need to be submitted as part of the application package.

12. ♦ Conceptual Engineering Plan - When land disturbing activity is proposed in areas where the natural slope equals or exceeds 15%, the Director may require a conceptual engineering plan as part of a subdivision application. The plan shall be developed by an Idaho licensed civil engineer, and shall depict proposed building sites, road and driveway grades, profiles and cross sections, and the slope and location of cuts and fills. The purpose of this plan is to demonstrate the feasibility of the proposed subdivision design and to illustrate the nature and extent of earth work required for site preparation and construction. (four copies).
13. Traffic Impact Study - when requested by a road agency or the Director. This study shall include: a) existing traffic counts and level of service on adjacent and nearby streets, b) vehicle trips that will be generated by the development, c) the effect the subdivision will have on the level of service on affected streets, d) the effect added traffic will have on signals, turn lanes, or other transportation infrastructure, e) improvements needed to maintain adequate levels of service, and f) any other information required to evaluate impacts to the transportation system (three copies).
14. ♦ Geotechnical Analysis - for proposed building sites, roads, driveways or other development where the natural slope equals or exceeds 15%, where there is a high water table (within 6 feet of ground surface at any time of year), where soils are highly erodible, or where there are scarps, slumps, seeps or other geologic features that may be unstable, as determined by the Director. The geotechnical analysis shall be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering. The geotechnical analysis shall explain the geologic and hydrologic features of the area, shall evaluate the suitability of the site for intended uses, shall identify potential problems relating to the geology and hydrology, shall summarize the data upon which conclusions are based, and shall propose mitigation measures (two copies).
15. ♦ Wetland Delineation and Analysis – If National Wetlands Inventory maps show wetlands on the site, or if soil survey maps indicate the presence of hydric soils, or if a qualified professional or the Director determine there may be wetlands on the site, a more detailed delineation and classification shall be provided and shown on the supplemental page of the plan. The wetlands delineation must be provided by a qualified professional, which includes but is not limited to professional engineer, landscape architect or wetlands specialist in accordance with the *Corps of Engineers Wetlands Delineation Manual* and the *Classification of Wetlands and Deepwater Habitats of the United States*, published by the U.S. Dept. of the Interior, Fish and Wildlife Service. In addition to delineating the boundaries and classifying the wetland, the professional must provide a report explaining the likely impacts of the project on the wetland, and recommend actions to mitigate the impacts and preserve the wetland plants and animals.
16. Existing Resources Report/Site Analysis Map, as delineated in Appendix E (only required for conservation design subdivisions requesting bonus lots) - The report must be prepared by a landscape architect in consultation with a professional wildlife or conservation biologist or the Idaho Department of Fish and Game. The map must be prepared by a landscape architect in consultation with a professional wildlife or conservation biologist or the Idaho Department of Fish and Game, and shall be shown as a supplemental page to the plan at a scale between 1"= 40' and 1"= 100'.

B. Application Requirements - Final Subdivision Approval

The following items constitute a complete application for final approval of a major subdivision. The Applicant is required to submit one application packet. An application that is incomplete will not be

processed. (Items shown with a ♦ are required for minor subdivision applications, which are explained in Section 10-2-2).

1. Application Form - a completed application form with property owners' signature(s) or a notarized letter from the property owners' authorizing the Applicant to file the application.
2. Completed check list of application requirements.
3. Fees, as adopted by Board resolution.
4. ♦ Large Plat, signature page and supplemental pages prepared by an Idaho- licensed surveyor, meeting the requirements outlined in Table 2-1 and *Idaho Code* Title 50 Chapter 13.
5. ♦ Small Plat - 11" x 17" copy of the plat and supplemental pages.
6. Narrative - explaining how the conditions of approval were met; the status of phasing and infrastructure improvements; the total acres and number of lots in the final proposal; any modifications from the original proposal; and confirming that road signs and corner monuments have been installed.
7. For major subdivisions in timbered areas, a Wildfire Mitigation Plan, prepared by a professional forester, and certification from the forester that the plan has been implemented. The plan must meet the requirements of Appendix A and be approved by the fire district, the Director, or Idaho Dept. of Lands.
8. A Site Disturbance Permit or written exemption issued by the Department, and if stormwater management systems are completed, as-built approval from the design professional.
9. Any documentation needed to show compliance with requirements or conditions of approval, including a written agreement for garbage collection service.
10. Construction Plans (if not previously submitted) - as approved by agencies with jurisdiction, including plans for roads, trails, water, sewer systems, dust control, etc. If improvements are completed, as-built plans and written approvals are required from the design professionals.
11. ♦ If noxious weeds have been identified, an approved weed mitigation plan and proof that the plan has been implemented (e.g. receipts for spraying).
12. For watersheds that drain to surface water, a copy of the NPDES Notice of Intent that was provided to the EPA.
13. ♦ Associated Documents - copies of any documents, such as conservation easements, restrictive covenants, by-laws and homeowners association articles of incorporation that are associated with the subdivision. These must be approved by the Director and must meet the requirements of this Title.
14. Financial Guarantees - draft copies of financial guarantees that will be submitted for the required warranty, or in lieu of completed, approved infrastructure improvements. Financial guarantees must be approved by the Director and agencies with jurisdiction, must meet the requirements of Section 10-3-4, and must be accompanied by a subdivision completion and/or warranty agreement meeting the requirements of Appendix C. If an agency is unable or unwilling to approve a financial guarantee, the Director shall assume this authority.

15. ♦ If necessary to bring the site into compliance with applicable BMP's, a land management plan, approved by the agency with jurisdiction (conservation design subdivisions only).
16. ♦ Letters from affected agencies and entities, as determined by the Director, dated within six (6) months, indicating that: a) construction plans have been reviewed and approved, b) if construction is complete, that it has been approved, c) if construction is not complete, that the amount of proposed financial guarantees is acceptable, d) that proposed conveyances will be accepted, e) that any other requirements have been met, and f) that the mylar plat will be signed and sanitary restrictions lifted. For private roads in gated communities, the letter from the highway district must verify that the roads meet the *Highway Standards for the Associated Highway Districts of Kootenai County, Idaho* (with or without variances granted by the highway district). For final subdivision applications, the applicant is responsible for obtaining agency letters. If an agency is unable or unwilling to approve a financial guarantee, the Director shall assume this authority.

**TABLE 2-1
FORM AND CONTENT OF SUBDIVISION PLAT/ PLAN AND SUPPLEMENTAL PAGES**

The items with an * must be shown on supplemental pages. All other items must be included on the plat/plan.

PLAT/ PLAN COMPONENT	MAJOR SUB.		MINOR SUB. PLAT
	PREL PLAN	FINAL PLAT	
1. Size and Format (see <i>Idaho Code</i> §50-1304) - 18" x 27". Plat must encompass all land involved in the subdivision, including open space that will not be used for building lots. Must also include north arrow, date, legend, vicinity map and scale. Scale must be suitable to insure clarity, between 1 in.= 40 ft. and 1 in.= 100 ft	X	X	X
2. Subdivision Name - must meet <i>Idaho Code</i> §50-1307. For conservation design subdivisions the name must include the suffix "CDS".	X	X	X
3. Location - section, quarter section, township, range, meridian, county and state.	X	X	X
4. Proposed lot lines, or estimated number of lots for each area. All lots numbered consecutively in each block and each block lettered or numbered. Adjacent parcels shown with dashed lines. Approximate gross and net acreage of each lot (with/ without right-of-way.	X		
5. Final lot lines and the exterior boundary of the plat shown by distance and bearing. Description of lot corner and centerline monuments, including material, size, and length. Initial points and basis of bearings. Tie to two public land surveys or other monuments recognized by the County Surveyor. Curve and radius data. Reference to records of survey. Net lot sizes in square feet, or acreage to three decimal places.		X	X
6. Roads and Trails - within and adjacent to the subdivision. Existing and proposed rights-of-way and easements, with centerlines, widths, and location clearly shown and instrument			

numbers noted. Easements and rights-of-way not dedicated to a highway jurisdiction must be dedicated or conveyed to the entities responsible for maintenance. Road names must meet County ordinance, and be approved by the Department. Privately maintained roads must be designated as such.	X	X	X
7. Other Easements - the location, dimensions, and purpose of other existing or proposed easements, with instrument numbers noted. Required easements must be shown for protection areas along streams, wetlands and other water bodies, for components of shared infrastructure and improvements, and for individual sewage lines and drainfields that will not be located on the same parcel as residences.	X	X	X
8. *Topographic Elevations - contours shown at vertical intervals of not more than 5 ft., at a scale between 1 in.= 40 ft. and 1 in.= 100 ft., and identifying the following slope zones: 0-14% 15-34% ≥35% For minor subdivisions, topographic elevations are only required for areas where land will potentially be disturbed for roads, driveways or structures. Contours shall be generated from field survey or aerial photography, and may not be interpolated from USGS maps. Contours are not required for lots designated as open space that will not be used for roads or structures.	X		X
9. *Hydrography - drainages, water courses, water bodies, and wetlands, including required hydrologic protection areas.	X	X	X
10. *Physical Features - the location of significant physical features such as ridges, rock outcrops and wooded areas.	X		
11. *Flood Plain - the location of any areas of special flood hazard, and language required by the County Flood Damage Prevention Ordinance.	X	X	X
12. *Existing built features including structures, wells and sewage systems.	X		X
13. *Building envelopes if required by the Director or hearing body.		X	X
14. Purpose for which lots, other than building lots, are delineated or reserved.	X	X	X
15. A line for referencing the Book, Page, Instrument Number and Recordation Date of CC&R's that will be recorded.		X	X
16. Any conditions of approval intended to run with the land in perpetuity.		X	X

<p>17. The signature page for the plat, with the following unsigned certificates:</p> <p>a. Notarized owner(s) certification containing the legal description of the land, a statement as to the intent of the owners to include the property in the subdivision, a statement regarding the domestic water source, and, if applicable, statements of conveyance (e.g. conveyance of easements or rights-of-way for public streets, common areas, water or stormwater systems etc.). The plat must be signed by all owners of the property within the subdivision.</p> <p>b. Certification of acceptance of rights-of-way or property conveyances.</p> <p>c. Certification by an Idaho licensed surveyor that the plat is accurate and conforms to the provisions of these regulations and <i>Idaho Code</i>. The signature must be dated and must include the surveyor's Seal.</p> <p>d. Certification by Panhandle Health District that the plat meets the requirements of <i>Idaho Code</i> §50-1326 through §50-1329, Sanitary Restriction Laws.</p> <p>e. Certification of acceptance by the applicable highway district Commissioners. If any roads or rights-of-way will be dedicated to the public, the Certification must include acceptance of the conveyance.</p> <p>f. In Areas of City Impact, certification of approval by the city council, with signatures of the city clerk and city engineer, or as specified in an adopted Area of City Impact ordinance.</p> <p>g. Certification, within 30 days prior to recording, by the County Treasurer that the taxes on the described property are current.</p> <p>h. Certification by the County Surveyor that the plat conforms to the requirements of <i>Idaho Code</i> Title 50, Chapter 13.</p> <p>i. Certification by the Board of County Commissioners that the plat meets County requirements.</p> <p>j. Certification by the County Recorder's Office that the plat has been accepted for recording, with the date of recordation.</p>		X	X
<p>18. *Existing Resources/ Site Analysis Map (only required for Conservation Design Subdivisions requesting bonus lots). See Section 10-2-1(A) and Appendix E for map and report requirements.</p>	X		X
<p>19. All other items required by <i>Idaho Code</i> Title 50, Chapter 13, or the County Surveyor.</p>		X	X
<p>20. *If requested by PHD or DEQ for areas off the Rathdrum Aquifer, approved drainfield locations.</p>		X	X

21. *Sensitive areas, as defined by this Title, if their location is known and they can be shown on the plan.	X		X
22. For subdivisions recorded prior to as-built approval of required infrastructure, a statement must be included on the plat that non-infrastructure building permits will not be issued until the infrastructure is completed and approved by the agencies with jurisdiction.		X	
23. If required by the Board for subdivisions with common driveways, a statement must be included on the plat that common driveways may not serve, have the potential to serve, or be used to access more than four lots or parcels of land, and that further subdivision of the lots, or additional access to the driveway, is prohibited until the driveway is constructed in accordance with this Title and the <i>Highway Standards for the Associated Highway Districts, Kootenai County, Idaho</i> (with or without variances).		X	

C. Approval Process and Requirements

The major subdivision process has three steps, 1) preliminary subdivision approval, 2) construction approval (including review and approval of plans prior to construction and as-built approval when construction is complete), and 3) final subdivision approval followed by plat recordation. Phasing of subdivisions and improvements is permitted, providing it is requested in the preliminary application, each phase includes at least ten (10) lots, and a proposed completion schedule is provided.

1. Preliminary Subdivision Approval Process and Requirements

The steps for gaining preliminary approval of a subdivision are as follows. Subdivisions with lots < 5 acres and natural slopes that equal or exceed 35%, must a) be developed as a conservation design subdivision in accordance with Chapter 4 of this Title, or b) receive concurrent approval of a Planned Unit Development (PUD) permit, and design the development to fit the houses and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, that will not result in soil erosion, and that is compatible with the natural characteristics of the area. Applications for a subdivision and PUD permit may be combined.

- a. Site inspection and sketch plan review with a County planner. The applicant must provide a sketch plan, consisting of simple, conceptual drawings, showing the layout of proposed streets, lots (or areas for lots) and conservation areas. The planner and applicant will review the approval process and consider the design and feasibility of the proposal. In conservation design subdivisions where bonus lots will be requested, the applicant must also provide an Existing Resources/ Site Analysis Map.
- b. Existing Site Disturbance and Violations. If any un-permitted site disturbance or subdivision development has previously occurred (e.g. construction of roads, driveways, building pads), a County site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems meeting the requirements of the *Kootenai County Site Disturbance Ordinance*, associated resolutions, and applicable BMP's must be installed and approved before an application for a subdivision will be accepted. As a condition of preliminary subdivision plan approval, the Board may require replacement of trees and vegetation needed for screening and buffering of the subdivision. Any other violations of County ordinances must also be corrected prior to application.

- c. Subdivision Design. The Applicant and their design consultant lay out the proposed subdivision, and the project surveyor draws the proposed plan. Surveying of lot lines is not necessary until after preliminary approval is granted. Conservation design subdivisions must follow the design procedure presented in Section 10-4-5.
- d. Neighborhood Meeting. Prior to submitting an application for a major subdivision, the Applicant is encouraged to meet with neighbors to discuss the proposed project.
- e. Application. Applicant submits complete application packets for the County and other reviewing agencies as determined by the Director. The application and plat must meet the requirements of Section 10-2-1(A) and Table 2-1. Incomplete applications will not be processed.
- f. Agency Review. If the application is complete, the County forwards it to other agencies and organizations with relevant expertise or jurisdiction, requesting their evaluation and response within 30 days. Some agencies have additional requirements, and after the packets have been mailed, the applicant should contact each agency and meet their requirements. Agency responses should explain whether the proposal appears feasible and will meet the agency's requirements; any negative effects that may result from the subdivision; any actions needed to mitigate negative effects and ensure that the development does not compromise the quality, or increase the cost of public services and facilities; additional information that may be needed, and what is required or recommended prior to final approval. If an agency requests actions or fees to mitigate impacts of the subdivision, the requested mitigation must be commensurate with the impacts, and fees must be authorized by law.

Entities that may be asked to comment include, but are not limited to, the Fire District, Panhandle Health District, Highway District, Idaho Transportation Department, School District, cities (for projects in an Area of City Impact), Idaho Department of Environmental Quality, Idaho Department of Water Resources, water and sewer service purveyors, utility providers, Army Corps of Engineers, Kootenai County Noxious Weeds Department, Idaho Department of Lands, Idaho Department of Fish and Game, Kootenai-Shoshone Soil Conservation District, and the Coeur d'Alene Tribe. In addition to providing general comments, agencies shall also be asked to address the following items:

Panhandle Health District - What is required to lift the sanitary restrictions (sanitary restrictions must be lifted on all lots prior to recordation).

Public Highway Districts or Idaho Transportation Department - Verification that the surrounding road system is or is not adequate for the increase in traffic.

Water Purveyor - A "will serve" letter, any action required to secure water connections (e.g. payment of connection fees), and confirmation that the water system is adequate, particularly if hydrants are proposed or required.

Sewer District - A "will serve" letter and any action required to secure sewer connections.

School Districts - What is needed to mitigate the effect that new students from the subdivision will have on the District, so that there will be no substantial cost to existing residents.

Fire Districts - The minimum required fire flows in gallons per minute and duration.

- g. Scheduling. After all required agency letters are received, the Department will review the application and schedule it for public hearing. Prior to scheduling, the applicant may make minor changes, but once the application is scheduled for hearing the proposal should not be modified. If new information is provided after scheduling, the Director or hearing body may require new agency letters, additional public notice, rescheduling or continuation of the hearing to allow time for review.
- h. Application Report. Prior to the hearing, a County planner prepares a report on the proposal. The report shall include an evaluation of the proposal's compliance with applicable County ordinances and recommended conditions of approval.
- i. Notice. At least 28 days prior to the hearing, the Department publishes a notice of the hearing in the newspaper. Once the notice is published in the newspaper (28 days), no new information can be received from the Applicant. In accordance with instructions provided by the Department, the Applicant mails the notice to property owners within 300 feet of the site (including any contiguous lots or parcels under the same ownership). Notices to neighbors must be mailed on or before the newspaper publication date. At least twenty-one (21) days prior to the hearing, the Department also posts a notice on site.
- j. Hearing. The hearing is conducted in accordance with current County ordinances. The applicant presents their proposal, addresses any issues that have been identified, and demonstrates the project can meet the requirements of all agencies. Department staff may provide additional testimony. Public testimony is taken, followed by closing remarks by the Applicant. The hearing body must then take one of the following actions:
 - (1) Close the hearing and recommend approval, with or without conditions. Conditions that are proposed to mitigate impacts must be commensurate with the impact;
 - (2) Close the hearing and recommend denial; or
 - (3) Continue the hearing to allow for additional information or testimony. If the hearing is continued, action (e.g. approval, denial, scheduling of another hearing) must be taken within eight (8) weeks, unless otherwise approved in writing by the Applicant.

Unless otherwise approved by the Applicant, the Hearing Body shall make a recommendation within five (5) weeks of the close of the hearing. In the event the hearing body fails to carry out its responsibilities according to these regulations, the Board shall assume the duties of the hearing body.

- k. Hearing Body Recommendation and Required Findings. In making the recommendation to the Board, the Hearing Body shall consider the application materials that were submitted, and the relevant evidence and facts in the record. The Applicant bears the burden of demonstrating compliance with requirements. To recommend preliminary approval of the proposal, the Hearing Body must make the following findings:
 - (1) The Applicant provided adequate information to determine compliance with requirements.
 - (2) The plan and supplemental pages meet the requirements of Table 2-1.
 - (3) The subdivision proposal meets (or is capable of meeting) the requirements of this Title.
 - (4) The plan, project and proposed lots are capable of meeting all other applicable County ordinances without variances (e.g. the Zoning, Site Disturbance, Road Naming, Area of City Impact and Flood Ordinances).

- (5) The plan, project and proposed lots are capable of meeting the requirements of other agencies.
- (6) The proposal will contribute to orderly development of the area. Proposed uses, design and density are compatible with existing homes, businesses, neighborhoods, and with the natural characteristics of the area. The subdivision will create lots of reasonable utility and livability, which are capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development are designated as open space.
- (7) Where appropriate, the proposed subdivision will have adequate open space for recreation, wildlife, agriculture or timber production. Road construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion. The design will adequately address site constraints or hazards and will adequately mitigate any negative environmental, social or economic impacts.
- (8) Services and facilities such as schools, electricity, water, sewer, stormwater management, garbage disposal, EMS, police and fire protection are feasible, available and adequate. The proposal includes on and off site improvements, and if necessary payments, to mitigate the impacts of the subdivision so that it does not compromise the quality, or increase the cost, of public services. Mitigation actions or fees must be commensurate with the impacts of the subdivision, and fees must be authorized by law.
- (9) Proposed roads, sidewalks and trails establish or adequately contribute to a transportation system for vehicles, bicycles and pedestrians that is safe, efficient and that minimizes traffic congestion.
- (10) The proposal is not anticipated to result in significant degradation of surface or ground water quality as determined by DEQ.
- (11) Public notice and the processing of this application met the requirements set forth in this Title, County adopted hearing procedures and *Idaho Code*.

If the proposal meets these requirements, the Hearing Body shall recommend preliminary approval. If the proposal cannot meet these requirements, or if insufficient information was provided to determine compliance, the Hearing Body may recommend denial. In its recommendation, the Hearing Body shall cite the applicable legal standards; state the evidence and conclusions on which the decision was based; explain any relevant contested facts and its evaluation of these facts; and if the recommendation is for denial, the actions, if any, the applicant could take to gain approval.

1. Board Decision. The Board of County Commissioners makes the final decision on subdivision applications. Upon receipt of the Hearing Body recommendation, the Board considers the application at its next available Board deliberations. After reviewing the evidence in the record and the above standards, the Board must then take one of the following actions:
 - (1) Approve the request, with or without conditions;
 - (2) Deny the request;
 - (3) Remand to the hearing body;
 - (4) Schedule its own public hearing to allow additional information to be entered into the record, and then make a decision.

Unless otherwise approved by the Applicant, the Board shall take one of the above actions within five (5) weeks of receipt of a recommendation from the Hearing Body.

- m. After a decision is made, the County issues an Order of Decision, signed by the Board. This Order shall cite the applicable legal standards; state the evidence and conclusions on which the decision was based; explain any relevant contested facts and the Board's evaluation of these facts; and if the decision is a denial, the actions, if any, the applicant could take to gain approval.

Preliminary subdivision approval shall be valid for two (2) years. For subdivisions done in conjunction with a Planned Unit Development, or that include three or more phases with a total of 50 or more lots, an alternate completion schedule may be requested in the preliminary application, and may be approved by the Board. At any time prior to expiration of the approval, the Applicant may make a written request to the Director for a single extension of up to two (2) years, according to the extension process provided in Section 10-2-5. For phased developments, one automatic two year extension will be granted when the first phase is recorded. Subsequent extensions for phased developments may be requested in accordance with Section 10-2-5.

2. Construction Approval

- a. Pre-construction Plan Approval. After receiving preliminary subdivision approval, construction plans are developed for review and approval by Kootenai County and other agencies with jurisdiction, and construction permits are issued. No construction or site disturbance may commence until plans are approved and a County site disturbance permit is issued. At this time the Department will review the plans for conformance with the design standards of this Title (presented in Chapter 3), and with any applicable conditions of approval. Construction plans may include plans for roads, water and sewer systems, trails, vegetation buffers, and stormwater, erosion and dust control.
- b. Construction Approval. After construction plans are approved and permits issued, the applicant may either: a) install the improvements, obtain written approval of the construction by the design professionals and applicable agencies, and apply for final subdivision approval, or b) submit a financial guarantee and subdivision completion agreement meeting the requirements of Section 10-3-4 and Appendix C, and approved by the Director and agencies with jurisdiction, and then apply for final subdivision approval. If an agency is unable or unwilling to approve a financial guarantee, the Director shall assume this authority.
- c. Prior to plat recordation, a building permit for one model home may be issued, if a financial guarantee is provided to ensure completion of infrastructure for the home, and a Certificate of Occupancy is not issued until roads, water, fire, sewage systems and other infrastructure serving the home are complete and approved. Except for the model home, non-infrastructure building permits will not be issued until the plat has been recorded and all required improvements are completed and approved by the applicable agencies.

3. Final Subdivision Approval and Plat Recordation

The steps for gaining final approval of a subdivision are as follows:

- a. Application. The Applicant submits one complete application packet. The application and plat must meet the requirements of Section 10-2-1(B) and Table 2-1 of this Title, *Idaho Code* Title 50, Chapter 13, any other applicable County ordinances (e.g. Zoning, Road Naming, Area of City Impact , Flood ordinances), as well as agency requirements. For

final subdivision applications, the applicant is responsible for obtaining agency approval letters. If the application is not complete, it will not be processed.

- b. Director Recommendation and Required Findings. The Department reviews the application and the relevant facts and evidence in the record and the Director issues a recommendation. The applicant bears the burden of demonstrating compliance with requirements. To recommend final approval of the subdivision, the Director must make the following findings:
- (1) The Applicant provided adequate information to determine compliance with requirements.
 - (2) The plat meets the requirements of Table 2-1 and *Idaho Code* Title 50, Chapter 13, and is substantially the same as was presented in the preliminary application.
 - (3) The project and the lots meet the requirements of this Title.
 - (4) The plat, the project and the lots are in compliance with other County ordinances without variances (e.g. Zoning, Site Disturbance, Road Naming, Area of City Impact and Flood Ordinances).
 - (5) The plat, the project and the lots meet the requirements of all agencies.
 - (6) The subdivision creates lots of reasonable utility and livability, capable of being built upon without imposing an unreasonable burden on future owners.
 - (7) Negative environmental, social and economic impacts have been (or will be) mitigated.
 - (8) On and off site improvements and, if necessary and authorized by law, payments have been made to mitigate the impacts of the subdivision, so that it does not compromise the quality or increase the cost of services.
 - (9) The sanitary restrictions will be lifted prior to recordation.
 - (10) All conditions of approval were met.
 - (11) Improvements are either a) complete and approved by the appropriate agencies, or b) construction plans have been approved and a financial guarantee, approved by the Director and the agencies with jurisdiction, and meeting the requirements of Section 10-3-4 and Appendix C, has been provided. If an agency is unable or unwilling to approve a financial guarantee, the Director shall assume this authority.
 - (12) If any land, shared infrastructure, or improvements will be privately maintained, documents establishing the maintenance organization have been approved by the Director, and are ready to be recorded with the plat.
 - (13) Any required conservation easements or other documents have been approved by the Director and are ready to be recorded with the plat.
 - (14) For phased projects, the current phase, in and of itself, is in compliance with all of the requirements of Kootenai County and other agencies.
 - (15) Public notice and the processing of this application met the requirements set forth in this Title and *Idaho Code*.

If the application and the subdivision meet these requirements, the Director shall recommend approval; if it does not meet these requirements, or if insufficient information was provided to determine compliance, the Director may recommend denial. Unless otherwise approved by the applicant, the Director shall make a recommendation within five (5) weeks of the receipt of a complete application for final subdivision approval.

- c. Board Decision. The Board of County Commissioners makes the final decision on subdivision applications. Upon receipt of the Director's recommendation, the Board considers the application at its next available Board deliberations. After reviewing the

evidence in the record and the above standards, the Board must then take one of the following actions:

- (1) Approve the request;
- (2) Deny the request; or
- (3) Schedule a public hearing to allow additional information to be entered into the record, and then make a decision.

Unless otherwise approved by the Applicant, the Board shall take one of the above actions within five (5) weeks of receipt of a recommendation from the Director.

After a decision is made, the County issues an Order of Decision, signed by the Board. This Order shall cite the applicable legal standards; state the evidence, findings and conclusions on which the decision was based; and if the decision is a denial, the actions, if any, the Applicant could take to gain approval.

- d. Recordation. Within one-hundred twenty (120) days of approval, the Applicant must submit the Mylar plat and associated documents (e.g. CC&R's, Conservation Easements) in a form ready to record. The Applicant obtains all signatures on the documents and plat, except County signatures. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. A current title report, or similar document verifying ownership, must also be submitted with the plat. The Department obtains the County signatures and, with the Applicant, records the plat and other documents. If the plat is not submitted within one-hundred twenty (120) days, and an extension is not granted by the Director, final approval shall be null and void, and a new application for final approval must be submitted. An extension of time for recordation may be granted by the Director for cause. As part of a subsequent application, updated agency letters may be required if conditions or approvals may have changed.
- e. Lot Sales and Building Permits. With the exception of one model home, no non-infrastructure building permits may be issued until the plat is recorded, and all improvements are complete and approved by applicable agencies. A building permit for one model home may be issued if a financial guarantee is provided to ensure completion of infrastructure serving the home, and the Certificate of Occupancy is not issued until infrastructure serving the home is complete and approved.

If a portion of the property that is the subject of a subdivision request is divided prior to recordation of the plat, the application becomes null and void, and a new application must be filed by the owners. If the property is not divided, and is sold in its entirety, a new application is not required and the new owner or owners may proceed through the subdivision process with the existing application.

10-2-2: MINOR SUBDIVISION:

The minor subdivision process may be used to create up to and including four (4) lots, when no shared infrastructure or improvements, other than a water system and/or a common driveway that does not require engineering, must be constructed to meet the requirements of the County or other agencies, and when the property has not been subdivided within the past five (5) years (or if it has been subdivided, the two subdivisions together will create four or fewer lots). This is an administrative process that does not require a public hearing.

A. Application Requirements

The subdivision application and plat contain the information that the County needs to make a decision on a subdivision proposal. To gain approval, adequate information must be provided to demonstrate that the project can meet the requirements of the County and of other agencies.

For a minor subdivision, the Applicant is required to submit one complete application packet to the County, plus additional packets for each agency/ organization reviewing the proposal. The Director determines which agencies will receive applications and the County will forward the packets to those agencies. An Applicant may request that an incomplete application be accepted, by submitting a letter stating which items are missing and giving a detailed explanation and rationale for the incomplete submission. If the Director determines that the information is not necessary to establish conformance with the required findings (Section 10-2-2(B)(8)), he may approve the request, the application will be deemed to be complete, will be vested under current ordinances, and will be processed; if the Director denies the request, the application will not be processed until it is complete. This determination may be appealed in accordance with Section 10-5-2 5.02. An application shall be governed by the rules and policies in effect on the day a complete application is submitted to the Department.

The items that constitute a complete application for a minor subdivision are listed in Sections 10-2-1(A) and (B) and are identified by a ♦ symbol. The required elements of agency packets also have a ☆ symbol.

B. Approval Process and Requirements

The steps for gaining approval of a minor subdivision are as follows. Subdivisions with lots <5 acres and natural slopes that equal or exceed 35%, must be designed to fit the houses and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, that will not result in soil erosion, and that is compatible with the natural characteristics of the area.

1. Site inspection and sketch plan review with a County Planner. The Applicant must provide a sketch plan, consisting of simple, conceptual drawings showing the proposed layout of lots and, if applicable, conservation areas. The Planner and Applicant will review the approval process and consider the feasibility of the proposed design.
2. Existing Site Disturbance and Violations. If any un-permitted site disturbance or subdivision development has previously occurred (e.g. construction of roads, driveways, building pads), a County site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems meeting the requirements of the *Kootenai County Site Disturbance Ordinance*, associated resolutions, and applicable BMP's must be installed and approved before an application for a minor subdivision will be accepted. As a condition of approval, the Board may require replacement of trees and vegetation needed for screening and buffering of the subdivision. Any other violations of County ordinances shall also be corrected prior to application.
3. Subdivision Design. The Applicant and their design consultant lay out the subdivision, and the project surveyor then draws the plat.
4. Neighborhood Meeting. Prior to submitting an application for a minor subdivision, the Applicant is encouraged to meet with neighbors to discuss the proposed project.
5. Application. The Applicant submits complete application packets for the County and other reviewing agencies, as determined by the Director. Incomplete applications will not be processed.

6. Agency Review. If the application is complete, the County forwards it to other agencies and organizations with relevant expertise and jurisdiction, requesting their review and response within 30 days. Some agencies have additional requirements, and after the packets have been mailed, the applicant should contact each agency and meet their requirements. Agency responses should explain whether the proposal appears feasible and will meet the agency's requirements; any negative effects that may result from the subdivision; any actions needed to mitigate negative effects and ensure that the development does not compromise the quality, or increase the cost of public services and facilities; any additional information that may be needed, and what is required or recommended prior to recordation. If an agency requests actions or fees to mitigate impacts of the subdivision, the requested mitigation must be commensurate with the impacts and fees must be authorized by law.

Entities that may be asked to comment include, but are not limited to: the Fire District, Panhandle Health District, Highway District, ITD, School District, cities (for projects in an Area of City Impact), DEQ, IDWR, water and sewer service purveyors, utility providers, Army Corps of Engineers, Kootenai County Noxious Weeds Department, IDL, Idaho Department of Fish and Game, the Kootenai-Shoshone Soil Conservation District, and the Coeur d'Alene Tribe. In addition to providing general comments, agencies shall be asked to address the following items:

Panhandle Health District - What is required to lift the sanitary restrictions (sanitary restrictions must be lifted on all lots prior to recordation).

Water Purveyor - A "will serve" letter, any action required to secure water connections (e.g. payment of connection fees), confirmation that the water system is adequate, and whether improvements are required.

Sewer District - A "will serve" letter and any action required to secure sewer connections.

7. Comment Period. After all required agency letters are received, the Department will review the application and schedule it for a 30-day public comment period. The Department publishes a Notice of the Comment Period in the newspaper. In accordance with instructions provided by the Department, the Applicant mails the notice to property owners within 300 feet of the site (including any contiguous lots or parcels under the same ownership). Notices to neighbors must be mailed on or before the first day of the Comment Period. Information submitted prior to the close of the Comment Period will become a part of the record on the application.
8. Order of Decision and Required Findings. After the close of the Comment Period, the Director reviews the relevant evidence in the record and issues an Order of Decision. The Order shall cite the applicable legal standards; state the evidence and conclusions on which the decision was based; explain any relevant contested facts and his evaluation of these facts; and if the decision is a denial, the actions, if any, the Applicant could take to gain approval. The Applicant bears the burden of demonstrating compliance with requirements. To approve a minor subdivision, the Director must make the following findings:
 - a. The Applicant provided adequate information to determine compliance with requirements.
 - b. The plat meets the requirements of Table 2-1 and *Idaho Code* Title 50, Chapter 13.
 - c. The project and the lots meet the requirements of this Title.
 - d. The plat, the project and the lots are in compliance with other County ordinances without variances (e.g. Zoning, Site Disturbance, Road Naming, Area of City Impact and Flood Ordinances).
 - e. The plat, the project and the lots meet the requirements of other agencies.

- f. The design and proposed uses are compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area. The subdivision creates lots of reasonable utility and livability, capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development are designated as open space.
- g. Negative environmental, social and economic impacts have been, or will be mitigated. Driveway construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion. The design adequately addressed site constraints or hazards.
- h. Services and facilities for subdivision residents are available and adequate; if necessary and authorized by law, payments have been made to mitigate the impacts of the subdivision, so that it does not compromise the quality or increase the cost of services. Mitigation actions must be commensurate with the impacts of the subdivision.
- i. Trails and sidewalks for the subdivision establish or adequately contribute to a transportation system for bicycles and pedestrians that is safe, efficient and that minimizes traffic congestion.
- j. The sanitary restrictions will be lifted prior to recordation.
- k. If any land, shared infrastructure, or improvements will be privately maintained, documents establishing the maintenance organization have been approved by the Director, and are ready to be recorded with the plat.
- l. Any required conservation easements or other documents are ready to be recorded with the plat.
- m. Public notice and the processing of this application met the requirements set forth in this Title and *Idaho Code*.

Unless otherwise approved by the Applicant, the Director shall make a decision within five (5) weeks of the close of the comment period. If the proposal meets these requirements, it shall be approved. If it does not meet these requirements, or if insufficient information was provided to determine compliance, it may be denied. Conditions may be attached to the approval, and the County will check for compliance with these conditions before the plat is recorded. The Director's decision may be appealed in accordance with the process outlined in Section 10-5-2 of this Title.

- 9. Recordation. Within 120 days of approval, the Applicant must meet any conditions and submit the mylar plat and any associated documents in a form ready to record. The Applicant obtains all signatures on the plat and documents, except County signatures. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. A current Title Report, or similar document verifying ownership, must also be submitted with the plat. The Department obtains the County signatures and with the Applicant records the plat and other documents. If the plat is not submitted within 120 days, and an extension is not granted by the Director, approval is null and void and a new application must be submitted. An extension of time for recordation may be granted by the Director for cause. As part of a subsequent application, updated agency letters may be required, if conditions or approvals may have changed.
- 10. Lot Sales. If a portion of the property that is the subject of a subdivision request is divided prior to recordation of the plat, the application becomes null and void, and a new application must be filed by the owners. If the property is not divided, and is sold in its entirety, a new application is not required and the new owner or owners may proceed through the subdivision process with the existing application.

10-2-3: MINOR REPLATS AND AMENDMENTS:

This section outlines the requirements for making minor modifications to a previously recorded subdivision plat or portion of a plat, when the modification cannot be accomplished as a lot line adjustment in accordance with Section 10-1-6(B). Minor modifications include insignificant changes in wording, corrections, and for up to four (4) lots, consolidations and lot line adjustments where no additional lots are created. Un-platted land may be added to existing subdivision lots as part of a minor lot line adjustment replat. Substantial changes to a plat, such as those that would affect the location of roads, driveway approaches, septic systems, building sites, easements or utilities; that would create additional lots; that would affect more than four (4) lots; or significant changes in verbiage that might affect a property owner's use of their land, or of commonly held land or easements, must go through the minor or major subdivision process (whichever applies).

A. Application Requirements. The following items constitute a complete application for approval of a minor replat or Amendment. The Applicant is required to submit one complete application packet to the County, plus additional packets for each agency/ organization reviewing the proposal, as determined by the Director. Incomplete applications will not be processed nor vested under current ordinances.

1. Application - a completed application form signed by the property owners whose land is included in the amended plat or replat, or a notarized letter of authorization from them.
2. Fees as adopted by Board resolution.
3. Current title report for the affected lots.
4. Large Plat - meeting the final plat requirements of Table 2-1 and *Idaho Code* Title 50, Chapter 13 (2 copies).
5. Small plat (11" x 17").
6. Narrative - explaining the proposed changes to the plat and responding to any questions from the Department. The title of the plat shall state that it is a replat or amendment of the subdivision, or of the particular lots within the subdivision.

B. Approval Process and Requirements

The steps for gaining approval of a minor replat or amendment are as follows:

1. Application. The Applicant submits complete application packets for the County and other reviewing agencies as determined by the Director. Incomplete applications will not be processed.
2. Agency Review. If the application is complete, the Department forwards application packets to the affected agencies for their review and approval. If the number of lots will be reduced, approval letters are required from water and/or sewer purveyors serving the subdivision. Some agencies have their own fees and forms and after the County mails the packets, the applicant should contact each agency and meet their requirements.
3. Order of Decision. After agency letters are received, the Director reviews the relevant evidence in the record and issues an Order of Decision. The Order shall cite the applicable legal standards; state the evidence and conclusions on which the decision was based; explain any relevant contested facts and his evaluation of these facts; and if the decision is a denial, the

actions, if any, the Applicant could take to gain approval. To approve a minor replat or amendment, the Director must make a finding that the proposed changes and the plat are in compliance with *Idaho Code* Title 50, Chapter 13 and with requirements of the County and other agencies; that the proposed changes are not substantial in nature; and that there will be no negative effects on public agencies and private corporations that provide services and facilities for the subdivision. Unless otherwise approved by the applicant, the Director shall make a decision within five (5) weeks of the receipt of a complete application. The Director's decision may be appealed in accordance with the process outlined in Section 10-5-2 of this Title.

4. Recordation. Within one-hundred twenty (120) days of approval, the Mylar plat must be submitted in a form ready to record. The Applicant obtains all signatures on the plat except County signatures. All property owners whose land is included in the amended plat or replat must sign the Owners' Certificate on the plat. All signatures and stamps must be in reproducible, quick drying, permanent, indelible black ink. A current Title Report, or similar document verifying ownership, must also be submitted. The Department obtains County signatures and, with the Applicant, records the plat. If the plat is not submitted for recordation within one-hundred twenty (120) days, and an extension is not granted by the Director, approval is null and void and a new application must be submitted. The Director may grant an extension for cause.

10-2-4: PLAT, RIGHT-OF-WAY OR EASEMENT VACATION:

Vacation of existing plats, rights-of-way, easements, or other conveyances shall be processed in accordance with *Idaho Code*, Title 50, Chapter 13. Vacations of public streets and rights-of-way shall be administered by the highway agency with jurisdiction.

10-2-5: TIME EXTENSION FOR PRELIMINARY SUBDIVISION APPROVAL:

Preliminary subdivision approval is valid for two (2) years, unless an alternate completion schedule was requested in the preliminary application, and was approved by the Board. This option is only available for subdivisions done in conjunction with a Planned Unit Development, or that include three or more phases with a total of 50 or more lots per subdivision.

At any time prior to expiration of preliminary approval of a major subdivision, one extension of up to two (2) years may be requested according to the following procedure. For phased developments, one automatic two-year extension will be granted when the first phase is recorded. Subsequent extensions for phased developments may be requested in accordance with this Section.

A. Application Requirements. The following items constitute a complete application:

1. Application form.
2. Fees as adopted by Board resolution.
3. Narrative explaining: a) the reasons the subdivision was not developed within the original timeline, b) the status of compliance with the original conditions of approval, and c) the anticipated time schedule for completing the platting process.
4. As part of a complete application, the Director may require additional information to determine compliance with conditions of approval, County ordinances, or the requirements of other agencies.

B. Approval Requirements

The Director may grant the extension providing: a) a complete application was submitted, b) the project is in compliance with the requirements of the County and other agencies (those that were in place at the time a complete preliminary application was received by the Department), and c) the project is in compliance with its conditions of approval. Unless otherwise approved by the applicant, the Director shall make a decision within five (5) weeks of the receipt of a complete application. The Director’s decision may be appealed in accordance with Section 10-5-2 of this Title.

10-2-6: CONDITION MODIFICATION:

At any time prior to expiration of subdivision approval, a modification of a condition of approval may be requested according to the following procedure:

A. Application Requirements. The following items constitute a complete application:

1. Application Form.
2. Fees as adopted by Board resolution.
3. A Narrative explaining why a condition modification is necessary.
4. As part of a complete application, the Director may require additional information to determine compliance with County ordinances, or the requirements of other agencies.

B. Approval Process and Requirements

For Major Subdivisions, the approval process and required findings are the same as that for preliminary approval of the subdivision, as presented in Section 10-2-1(C)(1).

For Minor Subdivisions the approval process and required findings are the same as the original approval process, presented in Section 10-2-2(B).

**CHAPTER 3
DESIGN, IMPROVEMENT AND MAINTENANCE REQUIREMENTS**

Section 10-3-1 Design Requirements

- A. General Requirements
- B. Levels of Utilities and Services
- C. Utility and Service Standards
- D. Easements and Rights-of-Way
- E. Subdivision and Lot Design
- F. Roads and Trails
- G. Sensitive Area Requirements

Section 10-3-2 Improvement Requirements

- A. Installation of Improvements
- B. Plan Approval and Site Disturbance Permit

Section 10-3-3 Maintenance Requirements

- A. Maintenance Required
- B. County Authority to Maintain Private Systems

Section 10-3-4 Financial Guarantees

- A. Financial Guarantee in Lieu of Improvements
- B. Warranty
- C. Subdivision Completion and Warranty Agreements
- D. Types of Financial Guarantees
- E. Failure to Complete Improvements
- F. Release of Financial Guarantee

10-3-1: DESIGN REQUIREMENTS: This section delineates the minimum, on site design requirements for both major and minor subdivisions. While off site improvements may also be required to mitigate the effects of the development, these will be considered project by project.

A. General Requirements

- 1. Land Suitability. No land shall be subdivided which the Board finds to be unsuitable for building sites because of potential hazards, such as flooding, inadequate drainage, severe erosion potential, site contamination, excessive slope, rock fall, landslides, subsidence (sinking or settling), high ground water, inadequate water supply or sewage disposal capabilities, high voltage power lines, high pressure gas lines, poor air quality, vehicular traffic hazards, or any other situation that may be detrimental to the health, safety, or welfare of residents or the public, unless the hazards are eliminated or adequately mitigated.
- 2. Within the Kootenai County Airport Overlay Zone, the proposal must be in conformance with the Airport Master Plan and the plat must include an Avigation Easement approved by the Airport Director.
- 3. For lots that will not be used for habitable structures, such as open space, unmanned utility lots and dock lots, the Board may waive the requirements for some services and facilities listed in Chapter 3, providing the public, agencies, infrastructure, and future lot owners will not be negatively affected.

B. Levels of Utilities and Services

Development of land shall occur in conjunction with services and facilities that are appropriate for the size and density of the development, with urban services being provided for urban size lots. Services and facilities necessary to serve the subdivision must be feasible, available and adequate, and the proposal must include on and off site improvements to mitigate the impacts of the development so that the existing quality of services is not compromised, and so there is no substantial increase in the cost of services to existing residents. If authorized by law, mitigation may include payments and fees, donation of land, or off site improvements. Required improvements shall be directly related to the subdivision under consideration, shall be located in the vicinity of the subdivision, and shall be commensurate with anticipated impacts.

The following are minimum requirements. Other services and facilities may be required on a project by project basis.

- 1. For lots less than one (1.00) acres, the following services are required:
 - a. A sewage disposal system meeting the requirements of Panhandle Health District or DEQ.
 - b. A shared water system that can provide fire flows or water storage, if required by the Fire District. Shared water systems may require DEQ approval. The Director may waive the shared water system requirement if the constraints of the site warrants a modification to the requirement.

- c. Electrical service to each lot.
 - d. Fire protection from a Fire District.
 - e. Road access to each new lot meeting the standards of Section 10-3-1(F) of this Title.
 - f. For subdivisions with thirty (30) or more lots, garbage collection after the construction of fifteen (15) homes.
2. For lots between one (1.00) and 4.99 acres, the following services are required:
- a. A sewage disposal system meeting the requirements of Panhandle Health District or DEQ.
 - b. Reasonable assurance of an adequate and reliable water source for each lot.
 - c. Electrical service to each lot.
 - d. Fire protection from a Fire District.
 - e. Road access to each new lot meeting the standards of Section 10-3-1(F) of this Title.
 - f. For subdivisions with thirty (30) or more lots, garbage collection after construction of fifteen (15) homes.
3. For lots of 5.00 acres or more, the following services are required:
- a. A sewage disposal system meeting the requirements of Panhandle Health District or DEQ.
 - b. Reasonable assurance of an adequate and reliable water source.
 - c. Fire protection from a Fire District.
 - d. Road access to each new lot meeting the standards of Section 10-3-1(F) of this Title.
 - e. For subdivisions with thirty (30) or more lots, garbage collection after construction of fifteen (15) homes.
4. The following services are required for subdivisions in Commercial, Light Industrial and Industrial Zones:
- a. Adequate infrastructure for the proposed use, including treatment of non-domestic wastewater in a wastewater treatment plant approved by DEQ. No subsurface discharge of non-domestic wastewater is permitted.
 - b. A water system that meets the State requirements for a public water system and can provide fire flows, as required by the Fire District.
 - c. Electrical service to each lot.
 - d. Fire protection from a Fire District.
 - e. Publicly maintained road access to each lot, as approved by the Highway District.
 - f. Garbage collection.

Note: For lots equal to or greater than 5.00 acres, the size of the lot may be figured using gross acreage (including ½ of adjoining rights-of-way). All other lot sizes are based on net density, being the amount of land per dwelling unit excluding the area for roads, parks, common open space, utility facilities, and any other nonresidential use.

C. Utility and Service Standards

1. Domestic Water Systems.
- a. When a water district or utility regulated under *Idaho Code* Title 61 (Public Utility Regulation) provides a “will serve” letter for a subdivision, annexation and/or connection may be required. If not required, for shared water systems serving 10 or more lots, the applicant shall form a water district or utility corporation (non-profit or for profit) to own, operate and maintain the system. Water districts and utility corporations must be established in conformance with applicable law, and cooperative corporations such as homeowners associations must also meet the requirements of Section 10-3-3 and Appendix B of this Title.

- b. The new components of a water system and any necessary improvements to an existing system, must be designed and constructed in conformance with the requirements of the Idaho Department of Environmental Quality, the *Idaho Division of Public Works, Idaho Standards for Public Works Construction*, the fire district, and if applicable, the water district, utility or corporation. Distribution lines shall be installed to each lot.

2. Fire Protection Systems

Subdivisions shall meet the requirements of the Fire District, including those pertaining to roads, driveways, fire flows, hydrants, water storage and defensible space. In addition, each lot shall have a building site capable of being accessed by a driveway meeting the minimum standards of the *Kootenai County Zoning Ordinance* or the Fire District.

Subdivisions shall also minimize the hazards associated with wildfire, and major subdivisions in timbered areas shall provide a Fire Mitigation Plan, developed by a professional forester, that meets the requirements of Appendix A and is approved by the Director, the Fire District, or the Idaho Department of Lands. The Plan must be implemented as part of the required improvements for the subdivision.

3. Sewage Disposal Systems. If a public sewage system is available and provides a “will serve” letter, connection shall be required. If a private, shared sewage system is available and provides a “will serve” letter, connection may be required, providing the cost of service is commensurate with that charged to existing customers. If connection to a shared system is required, collection lines shall be installed to each lot. All sewage disposal systems shall meet the standards of the Panhandle Health District and/or DEQ. If required, shared sewage systems shall be installed and approved, or the necessary improvements secured by a financial guarantee, prior to final approval of the subdivision. Individual septic systems may be installed after final subdivision approval, in conjunction with building permits.
4. Underground Utility Placement. Unless utility providers determine that site conditions preclude underground utility installation, all utilities shall be installed underground.
5. Stormwater Management. Lots shall be laid out to provide drainage away from building sites. Stormwater management and erosion control shall meet the requirements of the *Kootenai County Site Disturbance Ordinance* in accordance with best management practices approved by the County. Infiltration of stormwater in small quantities is preferred. The collection and concentration of stormwater in detention and retention basins, wet ponds, constructed wetlands or similar facilities is discouraged and shall only be allowed when there is no feasible alternative. The installation of curbing is also discouraged because it concentrates runoff. Discharge of untreated stormwater into streams, lakes, natural wetlands or groundwater is prohibited.
6. Under Road Utilities. Whenever a utility is proposed to be installed under a road, the utility's location and construction shall meet the requirements of the Highway District, ITD or the road owner(s). In all instances, placement of utilities shall be coordinated with proposed road improvements and shall be installed before the road is completed.

D. Easements and Rights-of-Way

1. Utility Easements. A minimum ten (10) foot general utility easement shall be provided to each lot. Any shared components of sewage, water, stormwater or other infrastructure systems, shall either be within the general utility easement or an easement dedicated or conveyed to the entity

responsible for maintenance. Easements must also be provided for individual sewage lines and drainfields that will not be located on the same parcel as residences.

2. Road rights-of-way shall meet the requirements of the Highway District or, if applicable, ITD. Common driveway easements shall be at least 40 feet in width. Cut and fill slopes and stormwater systems adjacent to roads and driveways must either be shown as easements or rights-of-way, in favor of the maintenance entity. When future access may be needed to adjacent parcels of land, road easements and rights-of-way shall extend to the property line of the subdivision. Except for gated communities and common driveways approved by the Board, roads and associated rights-of-way shall be dedicated to the applicable highway agency. Private roads and common driveways shall be dedicated to the maintenance entity.
3. Public trail easements or rights-of-way may be required, depending on the location of the subdivision and the need for pedestrian trails and/or sidewalks. If required, they shall be dedicated or conveyed to Kootenai County or to the entity that will provide maintenance as approved by the Board. The width of trail easements and rights-of-way shall be adequate for the intended use, and shall meet the requirements of the County or maintenance entity. When future access may be needed to adjacent parcels of land, trail easements and rights-of-way shall extend to the property line of the subdivision.
4. Public Access, Parks and Facilities. Public access easements or the conveyance of land for public access, parks or facilities may be required for subdivisions that are contiguous to: a) public lands, b) streams, lakes, ponds, wetlands or similar areas, or c) for areas designated in a County facilities acquisition plan. If so required, the property owner shall be paid fair market value for the easement or land.
5. The Board or Director may require that Hydrologic Protection Areas be shown as easements or rights-of-way.
6. Required easements and rights-of-way shall be depicted on the face of the plat.

E. Subdivision and Lot Design

1. Subdivisions shall be designed to be compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area. Subdivisions shall minimize grading, road construction and disturbance of the terrain, vegetation, soils, and drainageways, and shall prevent soil erosion. To achieve this, the Board may require building envelopes, No-disturbance Zones, height restrictions and planting or retention of vegetation.
2. Lot Design. Subdivisions shall result in lots of reasonable utility and livability. Irregular configurations that result in unusable land, or that may cause future land use conflicts, are prohibited. All building lots must have at least one building site that can meet required setbacks and be accessed with a driveway meeting the standards of the *Zoning Ordinance* or Fire District.
3. Lot Access. All new lots shall have frontage and direct access onto a road or common driveway meeting the standards of Section 10-3-1(F) of this Title. A lot with an existing residence shall not be considered a new lot. For irregularly shaped subdivisions, or sites with severe physical constraints, the Board may allow access to individual lots via an easement. Driveway approaches to public roads must be approved by the Highway District or ITD. No new accesses to individual lots are permitted from State Highways or arterial roads as shown on the highway district's current Functional Classification Map. In some cases ITD or the highway district may require relocation, reconfiguration, consolidation or elimination of existing approaches.

4. Continuity. No single lot shall be divided by a right-of-way, road, municipal or County boundary line, or other parcel of land. To the greatest extent possible, no single lot shall be divided by a common driveway.

F. Roads and Trails

1. Road Standards. Roads in major subdivisions shall meet the *Highway Standards for the Associated Highway Districts, Kootenai County, Idaho*, including all provisions for variance, exception or other means of deviation from the Standards, as approved by the applicable Highway District. If a highway district approves a road with a variance, the road will be deemed to comply with the *Standards* and with the requirements of this Title. Except for gated communities approved by the Board, such roads shall be dedicated to the applicable Highway District; in gated communities the Highway District shall verify that the road meets their *Standards*, and the road shall be dedicated to the maintenance entity. If a road meeting Highway District standards is required, it shall be constructed through the subdivision, to the property line, unless topography or other factors make continuation of the road impossible.

The Board may approve a privately maintained, common driveway for major subdivisions and the Planning Director may approve a privately maintained, common driveway for minor subdivisions as the means of access to new lots if it serves, or is used to access no more than four lots or parcels, and the highway district with jurisdiction makes the following findings:

- a. A road through the land proposed for subdivision is not appropriate or necessary to provide access to private lands lying adjacent to or beyond the subdivision, and
- b. Access through the land is not now necessary, nor will it be necessary in the future, to provide continuity of public roads with functional grades and design, and
- c. The lots being created will not be further subdivided, and no additional access to the driveway will be allowed, until it is constructed in accordance with this Title and the *Highway Standards for the Associated Highway Districts, Kootenai County, Idaho* (with or without variances approved by the Highway District). The Board may require a restriction on the plat, or the recordation of a public covenant in favor of the County and the Highway District, to ensure compliance with this requirement.

Common driveways are a required infrastructure improvement and shall be constructed prior to final approval of a major subdivision, unless a financial guarantee is provided, then they shall be constructed prior to issuance of non-infrastructure building permits. Common driveways in minor subdivisions shall be constructed prior to recordation. Common driveways must be constructed in accordance with the *Kootenai County Code*, Title 9, Section 9-1-4, Access Roadway/ Driveway Standards for Residential Properties.

2. Connectivity. Roads, trails and sidewalks in subdivisions shall be designed to complement and enhance existing transportation systems, so as to create an integrated network that allows for the safe and efficient movement of people within the subdivision, to adjacent subdivisions, and to nearby commercial areas, schools, churches and other community facilities. Roads shall be designed with as many connections as possible, and with relatively direct routes in and out of the subdivision, without running traffic through neighborhoods. Cul-de-sacs are discouraged, but may be approved where natural or built features preclude connection to existing or future roads. A dead end road shall not be constructed that serves more than 25 lots or parcels of land. Where feasible, subdivisions shall have at least two (2) means of emergency access meeting the

requirements of *Kootenai County Code*, Title 9, Section 9-1-4, “Access Roadway/Driveway Standards for Residential Properties”, or Fire District standards. When future access may be needed to adjacent parcels of land, road and trail rights-of-way shall extend to the property lines of the subdivision. Roads and trails shall be designed to minimize conflict between vehicles and pedestrians.

3. Hydrologic Protection Areas. Roads shall not be constructed within Hydrologic Protection Areas for lakes, streams, drainageways, or wetlands, except for crossings in conformance with Section 10-3-1(G).
4. Road Names, Signing, and Addressing. All road names, identification signs, and addressing shall conform to the provisions of the *Kootenai County Road Naming and Addressing Ordinance* and the requirements of the Highway District.
5. Pedestrian/ Bicycle Access. Off road trails, lanes or walkways may be required a) if shown on a bicycle facilities plan adopted by a road agency, b) along through streets in subdivisions within 1.5 miles of a school, park, bicycle trail, recreational area, or community facility, or c) when necessary to ensure the safety of pedestrians and bicyclists. The trail shall be designed to serve the intended use, and except for bicycle lanes, shall be separated from the road by a vegetation strip at least five (5) feet wide. If there is no direct route through a subdivision, or if cul-de-sacs are proposed, one or more trails may be required to provide short, direct routes for pedestrians. For safety, trails should be located in close proximity to and visible from homes and streets. If a trail or walkway is required, an easement or right-of-way must be dedicated or conveyed in conformance with Section 10-3-1(D).

G. Sensitive Area Requirements

1. Flood Zones. If any portion of the site or infrastructure to serve the subdivision is in an Area of Special Flood Hazard, the plat and the development plans must conform to the *Kootenai County Flood Damage Prevention Ordinance*.
2. Subdivisions in Viewsheds

Mountain views and vistas are an important part of the character of Kootenai County, contributing to the visual quality of the area, increasing property values, attracting visitors, and enhancing the desirability and livability of the community. As such, it is in the public interest that land be developed in a manner that is visually unobtrusive, environmentally responsible, and is compatible with the character of the area.

- a. Subdivisions with lots <5 acres and natural slopes that equal or exceed 35%, must be designed to fit the houses, structures and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, that will not result in soil erosion, and that is compatible with the natural characteristics of the area.
 - b. If the vertical height of any cut or fill slope, or any combination thereof, will exceed thirty (30) feet, effective measures must be taken to mitigate the visibility of the slope.
3. Hydrologic Protection Areas.

When a subdivision abuts a lake, river, stream, wetland, or drainage way, a Hydrologic Protection Area must be reserved and shown on the plat. The purpose of this area is to protect downstream property owners and water resources from increased or decreased flows, to prevent sedimentation, to promote good water quality, and to protect fish and wildlife habitat. The area

shall be labeled “Stream (lake or wetland, as applicable) Protection Area”, and within this area native vegetation and large organic debris shall be protected or replanted to leave the area in the most natural condition possible. Any necessary maintenance must be in conformance with the *Kootenai County Site Disturbance Ordinance* and with applicable best management practices. Proposed road and utility crossings must be shown on the plat, must be kept to a minimum, and must take the shortest possible route across the area. Other than approved crossings, roads and utilities shall not be constructed within this area. Fences, walkways which do not exceed four (4) feet in width, stairway landings which do not exceed six (6) feet in length or width, and trams may be constructed in hydrologic protection areas, providing there is minimal disturbance of the ground and vegetation. The Board may require that this area be shown as an easement, including a conservation easement, or that ownership of the area be transferred to a homeowners association, highway district or other maintenance entity.

Hydrologic Protection Areas shall be as follows:

Lakes	45 feet from the ordinary high water mark
Spokane and Coeur d’Alene Rivers	45 feet from the ordinary high water mark
Class I Streams	75 feet from the ordinary high water mark
Class II Streams	30 feet from the ordinary high water mark
Drainageways	5 feet
Wetlands	Determined by the Board based on the wetland analysis.

10-3-2: IMPROVEMENT REQUIREMENTS:

A. Installation of Improvements. Before application for final approval of any plat, required improvements shall either a) be installed and approved by the design professional who developed the plans and the agencies with jurisdiction, or b) a financial guarantee and subdivision completion agreement, in conformance with Section 10-3-4 and Appendix C, and approved by the Director, shall be provided to ensure installation. If a portion of the work has been completed and approved by the design professional and agency with jurisdiction, only the remaining work need be covered by the Financial Guarantee.

B. Plan Approval and Site Disturbance Permit.

1. No site disturbance, terrain modification, construction or clearing shall take place until preliminary subdivision approval has been granted, construction plans have been approved by the appropriate agencies, and a site disturbance permit has been issued by Kootenai County.
2. All construction plans shall be stamped and/or signed by an Idaho-licensed professional engineer or other appropriate design professional.
3. Dust Control Required. Dust control is required on all construction sites, and a Dust Control Plan must be submitted for review and approval by the County prior to the start of any site work.

10-3-3: OPERATION AND MAINTENANCE REQUIREMENTS:

A. Operation and Maintenance Required. All subdivision improvements, common areas and green space shall be operated and maintained by the owner(s), in accordance with applicable best management practices (BMP’s) and approved plans. An organization that will operate and maintain shared land and improvements must be established prior to or concurrent with final approval and recordation of the plat. Organizational options include taxing districts (such as water or sewer

districts), for profit corporations, including utility corporations, and cooperative corporations such as homeowners associations. If private maintenance by a cooperative corporation is proposed, the documents establishing the organization must meet the minimum requirements outlined in Appendix B, must be approved by the Director, and must be recorded concurrently with the plat. In addition, if land or improvements are going to be owned and managed by a cooperative corporation, and the corporation ceases to exist, or fails to fulfill its obligations, the individual lot owners must be responsible for operation and maintenance of the land and improvements.

- B. County Authority to Maintain Private Systems.** If a private maintenance organization fails to maintain commonly-owned land, shared infrastructure or improvements in accordance with applicable BMP's and approved maintenance plans, the County or its agent may perform, or contract for, the maintenance and bill individual property owners for the associated costs. Any unpaid assessments may—result in termination of the service. Prior to taking action, the County shall notify the maintenance organization and the property owners within the subdivision of the deficiencies and the intended action, by first class mail. The County shall give the property owners and maintenance organization at least 45 days to correct the deficiencies before taking action. If requested in writing within 28 days of receipt of the notice, an affected person may make an appeal to the Board of County Commissioners for reconsideration of the action. Nothing in this section shall obligate the County to provide maintenance of private systems.

10-3-4: FINANCIAL GUARANTEES:

A. Financial Guarantee in Lieu of Improvements.

Financial Guarantees provided in lieu of improvements shall be reviewed and approved by the Director and affected agencies prior to application for final approval of a subdivision. If an agency is unwilling or unable to approve a Financial Guarantee, the Director shall assume this authority. The amount of the guarantee shall be 150% of the estimated cost of construction and the expiration date of the guarantee shall be at least sixty (60) days after the expected agency approval date for the improvements. Cost estimates shall be developed by the design professionals who developed the construction plans. If it is anticipated that improvements will be completed over a period of time, separate financial guarantees should be provided (e.g. one for roads, another for the water system). Partial releases are not permitted.

- B. Warranty.** A separate financial guarantee is required as a warranty to ensure correction of any deficiencies identified within twelve (12) months of final agency approval of improvements. The amount of this warranty shall be 10% of the total cost of construction. If improvements are completed and approved by applicable agencies and design professionals prior to application for final subdivision approval, the warranty shall be provided with the application. If improvements are to be completed after final approval, the warranty shall be provided prior to release of the financial guarantee for construction. If the Applicant fails to provide this warranty, the County may withdraw a portion of the construction guarantee to meet this requirement, or take other enforcement action as authorized by law.

- C. Subdivision Completion and Warranty Agreements.** A Subdivision Completion and/or Warranty Agreement, meeting the requirements of Appendix C and approved by the Director, shall accompany each financial guarantee. These agreements shall be considered to be contracts between Kootenai County, the property owner, and if a party to the Agreement, the contractor. Financial Guarantees shall provide for installation and agency approval of improvements within two (2) years from the date of final subdivision approval. Upon written request by the property owner, the Director may grant one extension of up to one (1) year for cause.

- D. Types of Financial Guarantees.** The County will accept the following types of Financial Guarantees:
1. Irrevocable Letter of Credit.
 2. Cash deposit (cash, cashiers check, bank draft, or money order).
 3. CD or other bank account, providing the Board of Commissioners has exclusive access to the account.

The County may, at its discretion, accept Surety Bonds for required Warrantees, and for a portion of Financial Guarantees for incomplete improvements, except those related to stormwater and erosion control. A Surety Bond will not be accepted for stormwater/erosion control work. If accepted for other incomplete improvements, at least \$7,500 of the required Financial Guarantee must be provided in the form of a Letter of Credit, cash or a bank account.

- E. Failure to Complete Improvements** or correct deficiencies in accordance with a subdivision completion or warranty agreement and approved plans, shall be cause for the County to take enforcement action as authorized by law, and/or to draw on the funds and contract for completion of the work. In addition to direct costs to complete the work, the County may also withdraw funds to cover their administrative costs. The County shall give the property owner written notice, by first class mail, prior to taking action. The property owner shall permit the County, or its agent, access to the property to complete improvements. If the County is unable to gain access to the funds, or if costs exceed the value of the Financial Guarantee, the property owner will be billed for the outstanding balance.
- F. Release of Financial Guarantee.** No Financial Guarantee shall be released until the associated improvements have been approved in writing by the applicable agencies, the developer's design professionals and the Director. No partial releases are permitted.

CHAPTER 4 CONSERVATION DESIGN SUBDIVISIONS AND BONUS DENSITY

- Section 10-4-1 Conservation Design Subdivisions; Purpose
- Section 10-4-2 Bonus Densities
- Section 10-4-3 Green Space
- Section 10-4-4 Public Access
- Section 10-4-5 Conservation Design Procedure
- Section 10-4-6 Additional Requirements for Conservation Design Subdivisions
- Section 10-4-7 Conservation Design Subdivisions Without Bonus Lots
- Section 10-4-8 Ownership Options for Green Space

10-4-1: CONSERVATION DESIGN SUBDIVISIONS; PURPOSE: Kootenai County encourages the use of conservation designs for subdivisions. The purpose of a conservation design is to fit the development to the land, to cluster homes on smaller lots, to minimize road construction, to reduce stormwater and water quality impacts, to make it possible to develop shared water and sewage systems, and to save large areas of green space for farming, pasture, timber production, wildlife habitat, recreation and other uses that benefit the community. In Rural and Agricultural Suburban Zones, bonus lots may be granted as an incentive to do this type of development (i.e. the County may allow the platting of additional lots that otherwise could not be approved). This Chapter explains the requirements for conservation design subdivisions and for obtaining approval of bonus lots.

Note: The density of this type of subdivision will be considered to be as compatible as that of a traditional subdivision, and clustered lots in a conservation design subdivision are not considered to be urban density.

10-4-2: BONUS DENSITIES (Rural and Agricultural-Suburban Zones Only):

In Conservation Design Subdivisions in the Rural and Agricultural Suburban Zones, the following actions, when done in conformance with this Chapter, may earn additional building lots. For each action, the number of lots that can be approved in a standard subdivision (base density) may be increased by the listed percentage. After the bonus is applied, fractions of a lot are rounded up to the next whole number. If bonus lots are requested in more than one category, the percentage figures are added together, multiplied by the base number of lots for the zone, and then rounded up to a whole number. If the property being subdivided is located in both Rural and Agricultural-Suburban Zones, the base number of lots is calculated for the acreage in each zone, then added together to yield the base number of lots for the project. Density may not be transferred from Restricted Residential or other zones.

Note: Bonus lots may not be available for properties located over the Rathdrum Prairie Aquifer that use septic systems for sewage disposal. Panhandle Health District should be consulted regarding their requirements. Right-of-Way (ROW) cannot be used as a part of or in calculating percentage of land preserved.

A. Conserve Green Space (conservation of at least 50% of the property is required of all subdivisions requesting bonus lots)

Amount of Land Preserved as Green Space (net acreage)	Increase in Approved Building Lots
20 - 49%	0%
50 - 64%	10%
65% - 79%	15%
≥80%	20%

B. Other Actions

	Additional Increase in Approved Building Lots
1. Provide subdivision residents with usable access to green space or adjacent streams, lakes or public land.	5%
2. Provide the general public with usable access to green space, or adjacent streams, lakes or public land. <i>(Note: This option is in lieu of, not in addition to Option 1.)</i>	10%
3. Provide other public amenities. The Board may approve bonus lots for other actions and amenities, both on and off site, if they benefit and are desired by the public. In all such cases the value of the extra lots shall be commensurate with the cost of proposed amenities, and the bonus lots granted shall not exceed 10%. Improvements required to mitigate impacts shall not be used to earn bonus lots.	≤10%

Example: If an applicant proposes to retain 80% of their land as green space (20% lot bonus), and to allow subdivision residents access to a road along the green space (5% lot bonus), the number of building lots would be increased by 25%. To determine the total number of building lots that would be allowed, the base

number of lots for the zone would be multiplied by 1.25. For a 100-acre parcel in a zone with a base density of one (1) lot per five (5.00) acres, twenty (20) lots could be approved in a standard subdivision and 25 lots could be approved in a conservation design subdivision.

10-4-3: GREEN SPACE:

Green space is land with natural, cultural or historic resources of value to the community. To qualify for bonus lots, green space land that is to be preserved must be a part of the land being divided, must be unencumbered by existing conservation easements, must be in good condition (e.g. stable, in conformance with applicable best management practices), and must fall into one or more of the following categories:

- A. Actively managed pasture, farm or timber land, except agricultural uses the Board deems incompatible in a residential area. Appurtenant structures are allowed, including residential structures in conformance with the *Kootenai County Zoning Ordinance*. If the green space lot will have residential structures, it must, however, be counted as one of the allowable building lots. If the proposed agricultural use requires irrigation, water rights, sufficient to support the use, must be retained with the land.
- B. Wildlife habitat or wildlife corridors as identified by the Idaho Department of Fish and Game or Coeur d'Alene Tribe. These areas might include stream corridors, draws, wetlands, grassland, stands of mature timber, areas with snags, wintering areas, nesting and roosting sites, waterfront areas and travel corridors between habitat blocks and sources of food and water. *Note: Any fencing in these areas must allow for the safe movement of wildlife.*
- C. Areas with native vegetation, including native grass land, or unique vegetative communities as identified by the Idaho Conservation Data Center.
- D. Recreational areas, including trails and wildlife viewing areas, but excluding uses the Board deems incompatible in a residential area.
- E. Historic or culturally significant areas.
- F. Natural landmarks and scenic areas.
- G. Parks, playgrounds, picnic areas, community gardens and similar uses. Up to 10% of the green space area may be used for structures appurtenant to such uses, in conformance with County ordinances and the requirements of other agencies.
- H. Sensitive areas as defined by this Title.
- I. If required by the Board to allow public use of green space, up to 2% of the green space may be used for public parking.
- J. Ridge tops and other prominent, natural features.
- K. Hydrologic protection areas and land adjacent to these areas.
- L. Land preserved to protect drinking water supplies.
- M. Sites for shared water, wastewater or stormwater systems.
- N. Other land with natural, cultural or historic value as approved by the Board.

10-4-4: PUBLIC ACCESS:

- A. To earn density bonuses for public access (either to residents of the subdivision or to the public in general), a trail must be provided to and either through, around or next to the green space area. This trail must be convenient and accessible to lots that are not adjacent to the green space. This does not mean the public necessarily has access to the entire site. For example, granting an easement that allows people to walk on a road along the edge of a field or pasture is adequate to qualify for bonus lots. If the trail doesn't already exist, it must be constructed as part of the subdivision improvements, and the trail and easement must meet the requirements of Chapter 3 of this Title.
- B. To earn density bonuses for providing access to the general public, the Board may require installation of a small parking area, and may require a vegetative buffer and/or fencing to separate it from nearby residences.

10-4-5: CONSERVATION DESIGN PROCEDURE:

Conservation subdivisions shall be designed according to the following procedure:

Step One: Identify potential green space areas that meet the requirements of this Chapter.

Step Two: If requesting bonus lots, develop an Existing Resources Report/Site Analysis Map. Refer to Section 10-2-1(A) and Appendix E. for report and map requirements.

Step Three: Determine zoning districts and expected numbers of base and bonus lots. Select building sites positioned to avoid slopes in excess of 15% and to take advantage of views and green space. *Note: Though building sites should be designed to avoid slopes, this is a recommendation, not a requirement.*

Step Four: Align streets and trails to be compatible with topography, to minimize road length and site disturbance, to avoid drainageways, sensitive areas, green space lands, and slopes >15%, and to meet the requirements of this Title and the highway district.

Step Five: Draw lot lines.

10-4-6: ADDITIONAL REQUIREMENTS FOR CONSERVATION DESIGN SUBDIVISIONS:

- A. To the extent possible, green space must be contiguous within the subdivision, and must be contiguous with that on adjacent properties, so as to eventually develop a network of interconnected open space.
- B. Concurrent with recordation of the subdivision plat, a perpetual conservation easement meeting the requirements of Appendix D, and approved by the Director and the entities accepting the easement, must be recorded on the land that is to be conserved. Each easement will be tailored to the specific situation, and though it limits future development of the property, it does not affect the land owner's ability to sell the land or use it within the parameters of allowed green space uses and the easement. As approved by the Board, conservation easements shall be dedicated or conveyed to a land trust, a governmental body, or a conservation organization that has expertise in managing the type of green space that is proposed, and who meets the requirements of *Idaho Code* §55-2101(2). Prior to any preliminary application submittal for a conservation design subdivision, as part of the application package, the applicant shall provide the conceptual boundaries of the conservation easement and the name of the entity that will receive and hold the future easement. As part of the plat submittal, the Applicant shall provide Kootenai County with a letter from the proposed holder of the easement that indicates the organization will accept the conservation easement. Kootenai County, as a government

entity will not be considered as a holder of conservation easements. If the green space is located over the Rathdrum Aquifer, Panhandle Health District must be given an opportunity to approve and be signatory to the easement, and must be granted third party right of enforcement.

- C. Prior to application for final subdivision approval, any required payments must be made to the stewardship fund of the organization that will hold the conservation easement. This payment is to cover the easement holder's yearly costs for site inspections and, if necessary, enforcement.
- D. Green space lands must be actively managed by the landowner, in conformance with applicable best management practices and approved land management plans.
- E. If the green space is going to be owned by a homeowners association, documents establishing the association must be approved by the Director, must meet the requirements of Appendix B, and must be recorded concurrently with the plat.
- F. Conservation design subdivisions are subject to all other provisions of this Title.
- G. If necessary to bring the site into conformance with applicable BMP's, a Land Management Plan must be developed and approved by the agency with jurisdiction.

10-4-7: CONSERVATION DESIGN SUBDIVISIONS WITHOUT BONUS LOTS:

Conservation Design Subdivisions which conserve 20-49% of the property as green space, or which conserve property that does not fall into one of the approved green space categories are permitted, however, no bonus lots will be granted. The subdivision must follow the conservation design procedure in Section 10-4-5, as well as the requirements outlined in Section 10-4-6. Conservation of at least 20% of the property is required for all Conservation Design Subdivisions.

10-4-8: OWNERSHIP OPTIONS FOR GREEN SPACE:

Green space may be owned and managed by one of the following, providing all green space is under the same ownership:

- A. An individual or individuals.
- B. A corporation (for profit or non-profit).
- C. An incorporated homeowners or condominium association established in conformance with Appendix B. The CC&R's must state that the common green space cannot be encumbered, and that the homeowners' association is responsible for upkeep, taxes, insurance and other ownership responsibilities.
- D. A nonprofit conservation organization. If green space is to be held by a conservation organization, appropriate provisions must be made for transfer to another conservation organization or agency in the event that the organization becomes unwilling or unable to manage the land.
- E. A public agency or governmental body.

CHAPTER 5 ADMINISTRATION

Section 10-5-1 Administrative Authority and Requirements

- A. Fees
- B. Forms
- C. Adoption of Criteria for Supporting Documents
- D. Interpretation
- E. Right to Inspect
- F. Amendments
- G. Penalty for Sale of Un-platted Lots
- H. Mediation

Section 10-5-2 Administrative Appeal

Section 10-5-3 Enforcement

- A. Unlawful Land Division and Site Work
- B. Criminal Penalties
- C. Civil Enforcement
- D. Stop Work Order
- E. Withholding of Permits
- F. Processing of Applications

Section 10-5-4 Sunsetting of Unrecorded Plats

10-5-1: ADMINISTRATIVE AUTHORITY AND REQUIREMENTS:

The Director shall be responsible for administering this Title within unincorporated Kootenai County.

- A. Fees.** The Director is authorized to collect fees, as approved by resolution of the Board, for services associated with subdivision development.
- B. Forms.** The Director is authorized to develop and require the completion of forms to aid in the administration of this Title.
- C. Adoption of Criteria for Supporting Documents.** The Board may adopt, by resolution, criteria for supporting documents that may be necessary in the administration of this Title.
- D. Interpretation.** In applying this Title to situations that are not specifically addressed, the actions taken shall be in conformance with the purpose and intent of this Title, and shall be in the best interest of the public.
- E. Right to Inspect.** The property owner or authorized applicant's signature on the subdivision application shall constitute approval for the Department to enter onto and inspect the subdivision property.
- F. Amendments.** The Board may, from time to time, amend, supplement, or repeal the provisions of this Title in accordance with *Idaho Code*. When any provision of this Title is amended after the County accepts a complete application for subdivision approval, the applicant may elect to have the application processed under either the provisions of this Title in existence at the time of application, or under the provisions of this Title as amended. A request to proceed under the provisions of this Title as amended must be submitted in writing, and the applicant shall be bound by all the provisions of this title as amended. Where no written request is made, the application shall be processed under the provisions of this Title in effect on the date a complete application was received.

G. Penalty for Sale of Lots. In accordance with *Idaho Code* §50-1316, any person who shall dispose of or offer for sale any lots prior to recordation of a plat, as provided in §50-1301-§1325, shall pay \$100.00 (one hundred dollars) for each lot and part of a lot sold or disposed of or offered for sale. Enforcement of this penalty does not preclude the County from taking additional enforcement action as authorized by law.

Notice of Penalty and Hearing:

1. A person upon whom a penalty is imposed shall receive a written notice of the penalty to be assessed and the factual basis upon which the penalty has been imposed. Such notice shall be sent by first class mail, postage prepaid, to the owner(s) of record, at the address on file with the County Assessor.
2. A person cited for violating this Title shall have the right to file, within five (5) days after receiving notice, a written request for a hearing before the Board of County Commissioners to contest the citation.
3. The hearing shall be informal and strict rules of evidence shall not apply. The alleged violator may be represented by counsel, present oral and written evidence and cross-examine witnesses.
4. The Board of County Commissioners shall issue a decision within a reasonable time after the close of the hearing and shall notify the alleged violator in writing of the decision.
5. If the alleged violator fails to appear at a hearing or fails to request a hearing, it shall be conclusively established that this Title was violated, and the \$100.00 forfeiture shall be applied as well as any applicable appropriate criminal and civil sanctions.

In addition to the above penalty, if a portion of the property that is the subject of a subdivision request is divided prior to recordation of the plat, the application becomes null and void, and a new application must be filed by the owners. If the property is not divided, and is sold in its entirety, a new application is not required and the new owner or owners may proceed through the subdivision process with the existing application.

H. Mediation. Pursuant to *Idaho Code* §67-6510, the Board may require an applicant and affected persons objecting to a subdivision application to participate in at least one mediation session. If required, the Board shall select and pay the expense of the mediator for the first meeting. Compensation of the mediator for additional meetings shall be determined among the parties at the outset of any mediation undertaking. Requests for mediation must be submitted to the Board in writing, and may be submitted by the applicant, an affected person, the Planning Commission, or a hearing examiner.

Mediation may occur at any point during the decision-making process or after a final decision has been made, however, if mediation occurs after a final decision, any resolution of differences must be the subject of another public hearing before the hearing body. The mediation session shall not be a part of the official record for an application. During mediation, any relevant time limitation on the application shall be tolled. Such tolling shall cease when the applicant or other affected person, after having participated in at least one mediation session, provides the County with a written statement that no further participation is desired, and the other parties are notified. If no mediation is scheduled, tolling shall cease 28 days from the date of the request.

10-5-2: ADMINISTRATIVE APPEAL:

Any affected person may appeal a decision made by the Director by submitting, within 28 days of the decision, a written request for a public hearing before a hearing examiner, an explanation of the grounds for the appeal, and applicable fees. An affected person is defined as one having an interest in real property which may be affected by the decision. The hearing and public notice shall be conducted according to Section 10-2-1(C)(1) of this Title, and any other applicable County ordinances, and the final decision on the appeal shall be made by the Board of County Commissioners. Decisions made by the Board of County Commissioners may be appealed to the district court as provided by law.

10-5-3: ENFORCEMENT:

- A. Unlawful Subdivision and Site Work.** As provided in *Idaho Code* §67-6518 and §67-6527, it shall be unlawful for any person, firm or corporation, or their agent, to knowingly and willfully participate in constructing a road, installing utilities or otherwise developing a subdivision, except in conformance with this Title. In addition to the actions and penalties provided in *Idaho Code* Title 50 Chapter 13, any person, firm or corporation, or their agent, who knowingly and willfully commits, participates in, assists in or maintains a violation of this Title may be subject to the following criminal and civil remedies, fines and penalties.
- B. Criminal Penalties.** As provided in *Idaho Code* §67-6518 and §67-6527, a violation of this title shall be a misdemeanor punishable as set forth in section 1-4-1 of this code, with each day of an ongoing offense considered a separate violation. In addition, if found guilty, the violator shall pay all reasonable expenses incurred in enforcing this Title. In cases where multiple individuals, firms, corporations or agents participated in violating this Title, they shall be held jointly and severally liable for the above payment and any restitution awarded by the Court and each person so involved, either as a principal or a co-conspirator, shall be subject to the full criminal penalties.
- C. Civil Enforcement.** The County may also take civil action in district court to prevent, restrain, correct, abate, or otherwise enforce this Title. In addition to other actions that may be ordered by the court, if the County prevails, the violator shall pay to the County a sum equal to two times the monetary gain associated with the violation and shall pay all reasonable expenses incurred in enforcing this Title. In cases where multiple individuals, firms, corporations or agents participated in violating this Title, they shall be held jointly and severally liable for the above penalties and payments.
- D. Stop Work Order.** Whenever any terrain modification, construction, or other site work is not in compliance with this Title, specific conditions of approval, or other related laws, ordinances, or requirements, the Director may order the work stopped by written notice. Such notice shall be served on any persons engaged in doing or causing such work to be done, and persons shall forthwith stop such work until authorized by the Director to proceed. Stop work orders may be appealed according to the procedure outlined in Section 10-5-2.
- E. Withholding of Permits.** The Director may withhold issuance of permits, including building permits, for subdivisions, lots, or parcels of land that are in violation of this Title. Withholding of permits may be appealed according to the procedure outlined in Section 10-5-2.
- F. Processing of Applications.** Applications for approvals authorized by this Title will not be accepted until all violations of County ordinances are corrected, and the property is brought into compliance. If any un-permitted site disturbance or subdivision development has previously occurred (e.g. construction of roads, driveways, building pads), a site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems meeting the requirements of the *Kootenai County Site Disturbance Ordinance* and applicable BMP's, must be installed and

approved before an application will be accepted. These requirements may be appealed according to the procedure outlined in Section 10-5-2.

10-5-4: SUNSETTING OF UNRECORDED PLATS:

Any plats previously approved without recordation deadlines, including Idaho Code Plats submitted prior to November 17, 1995, shall be null and void if not recorded within ninety (90) days of the effective date of this Title.

SECTION 3. That Title 10, Kootenai County Code, be, and the same is hereby amended by the addition thereto of a **NEW CHAPTER**, to be known and designated as Title 10, Chapter 6, Kootenai County Code, and to read as follows:

10-6-1: APPENDICES:

APPENDIX A WILDFIRE MITIGATION PLAN REQUIREMENTS FOR MAJOR SUBDIVISIONS IN TIMBERED AREAS

Site plans showing:

- The location of draws, ridges, steep slopes and other hazardous, physical features. Slopes shall be depicted according to the following categories: 0-14%, 15-34% and $\geq 35\%$
- Aspect (north, south, east, west facing)
- The approximate location of proposed structures.
- Railroad lines.
- Existing or proposed roads that could be used for emergency ingress and egress, with the slope and width of the roads noted. Emergency access roads must meet *Zoning Ordinance* or fire district requirements for access driveways, turnarounds at the end of driveways must be at least fifty (50) feet from structures, and one pullout should be provided for every 400 feet of driveway length. Two (2) means of access to the subdivision should be provided. *Note: Turnarounds must be located away from structures so they are accessible if the structures are on fire.*
- Fuel Hazard Rating Map, broken into the following categories:
 - Low Hazard - fuels consist of grass, weeds, and shrubs
 - Medium Hazard - fuels consist of brush, large shrubs and small trees
 - High Hazard - heavy accumulation of large fuels (timber, large brush)
- Existing or proposed fire breaks.
- The location of existing or proposed overhead power lines, propane tanks or other features that might cause or accelerate a wildfire.
- The location of hydrants and emergency sources of water.

A written report that:

- Explains features of the site that might help fire fighting efforts, such as nearby water systems or fire stations.
- Outlines how perimeter and internal fuel breaks will be designed, constructed and maintained.
- Provides short and long term plans for eliminating dangerous vegetative and fuel conditions in and around proposed building sites. Canopy cover in these areas should be less than 50%, lower branches should be pruned, the ground should be relatively free of debris, and ladder fuels and dead and dying trees must be removed. Snags that do not present a fire hazard should, however, be left standing to provide habitat for birds and wildlife.
- Verifies that power lines will be installed underground, unless underground installation is precluded by physical features of the land. If lines cannot be installed underground, the report must include an explanation of why they cannot be installed underground, and it must include plans for routine trimming of overhanging tree limbs, and for removal of ground debris below the lines.
- Confirms that there will be safe and adequate emergency access for residents and emergency personnel entering and exiting individual lots and the general area.
- Identifies sufficient and accessible emergency water supplies for fire fighting purposes. Water sources cannot be located within fifty (50) feet of a structure, must be surrounded with defensible space, and should be clearly identified with signs approved by the fire district, IDL or Kootenai County.
- Describes any modifications or appurtenances needed to allow use of water sources (e.g. pumps or hydrants). If pumps are served by above ground power lines, plans for emergency power generation may be required.

APPENDIX B
MINIMUM REQUIREMENTS FOR DOCUMENTS ESTABLISHING
COOPERATIVE CORPORATIONS TO OPERATE AND MAINTAIN SHARED LAND OR
IMPROVEMENTS WITHIN SUBDIVISIONS

Cooperative corporations, such as homeowners and road maintenance associations, may be needed when commonly owned land, shared infrastructure, or improvements are privately maintained. This Appendix outlines Kootenai County's minimum requirements for documents establishing these organizations. Please note that this is not a comprehensive listing of all the necessary elements of these documents. The needs of each corporation are different and it is essential that the documents be tailored to fit each organization.

Required Governing Documents

Cooperative corporations must be created with the following governing documents, with the CC&R's recorded concurrently with the plat:

1. **Articles of Incorporation**, filed with the Idaho Secretary of State, establishing the organization as a corporation. Articles of incorporation and the organization must follow the requirements of *Idaho Code* Title 30.
2. **Declaration**, more commonly referred to as the Covenants, Conditions, and Restrictions (CC&R's). This document creates obligations regarding the use and improvement of real property that are binding upon the corporation and lot owners, and which must run with the land.
3. **By-Laws**. By-laws govern the corporation's internal affairs, including voting rights, elections, officers, meetings, and the amendment process. By-laws are also subject to the requirements of *Idaho Code* Title 30. The articles of incorporation and by-laws must establish a corporation that can affectively collect assessments and maintain commonly owned land, shared infrastructure and improvements.
4. **A summary of what will be owned by the corporation**, copies of recorded deeds, rights-of-way and easements allowing the corporation access to property not within their ownership, and copies of easements on land that will be owned by the corporation (e.g. conservation easements).
5. **Capital Replacement Plan**. This plan must be developed by the project engineer and must include an inventory, projected service life and estimated replacement cost for all components of all improvements that will be operated and maintained by the corporation (water, sewer, and stormwater systems etc.). This document is necessary to allow the corporation to plan for periodic, major expenses associated with replacement of system components.
6. **Operation and Maintenance Plans and Manuals** for infrastructure improvements. O & M plans must be developed by the project engineer, and must include:
 - a. A schedule of routine maintenance, performance checks and preventive practices.
 - b. Manufacturer's literature.
 - c. A contact list for system repairs.
 - d. Operational procedures.
7. **Budget**. This document summarizes anticipated expenses and revenues over the first five (5) years of operation, including accrual of an emergency fund (adequate to replace the largest system component), a cash operating fund (adequate to operate the systems for two months in case there is a revenue shortfall), and a capital replacement fund (based on the capital replacement plan). This budget must include costs associated with any land owned by the corporation such as taxes, insurance, upkeep etc.

8. **Land Management Plan.** If property will be owned by the corporation, a land management plan must be provided. This plan must conform to applicable BMP's, and if bonus lots were granted, it must ensure that designated green space land will remain in conformance with Chapter 4 of this title.

Recommended Documents

Optional, recommended documents include separate rules and regulations governing the use of commonly owned land, shared infrastructure or improvements (e.g. a water system or recreation area).

ARTICLES OF INCORPORATION

In addition to the requirements of *Idaho Code*, articles of incorporation must include:

- The purpose and responsibilities of the corporation.
- Provisions for the membership of lot owners in the corporation.
- Authorization to levy assessments upon members, enforceable by civil action or lien upon real property to which membership rights are appurtenant.
- A statement that the corporation shall have perpetual duration and succession in its corporate name, and shall have the same powers as an individual to do all things necessary or convenient to carry out its affairs.

If specific provisions are included for managing the affairs of the corporation; for collecting assessments; or defining the powers, rights, limitations or obligations of the corporation, its board or members, those provisions must be consistent with the required elements of the by-laws and CC&R's.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

The following are required elements of the CC&R's:

- A statement that the owner of any lot in the subdivision, by acceptance of a deed or other conveyance, is deemed to consent to membership in the corporation, and to covenant and agree to the terms and requirements of the CC&R's, which constitute a contract between the corporation and each lot owner.
- A statement that use of the services provided by the corporation is required.
- A statement that each lot owner shall pay to the corporation, assessments for the operation and maintenance of commonly owned land, shared infrastructure or improvements, together with applicable interest, late charges, attorney's fees, court and other collection costs. The CC&R's must also state that assessments and other charges are the personal obligation of the owner of each lot at the time the assessment was due, and that his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.
- Effective methods of enforcing payment of assessments, which must include the authority to withhold service, to take civil action to recover a money judgement for unpaid assessments, and to assess, record and foreclose a lien against the real property of corporation members. Other, optional methods of enforcing payment include late fees and restrictions on voting. Individual lot owners must also have the ability to enforce the CC&R's.
- A statement that commonly owned land and improvements shall be operated and maintained in conformance with applicable best management practices and approved land management plans.
- A requirement that the Board maintain a capital replacement plan for improvements managed by the corporation, and a statement that annual assessments must be adequate to cover anticipated capital expenses. Funds collected as reserves for capital expenses must be deposited in separate accounts and held in trust.

- A statement that if the corporation, or individual lot owners, fail to operate and maintain commonly owned land, shared infrastructure or improvements in accordance with approved plans and applicable best management practices, that the County may contract for necessary operation and maintenance and bill the individual lot owners on a pro-rata basis. If it is necessary for the County to assume this responsibility, the County shall have the same authority as the corporation board, including the right to suspend service for non-payment of assessments.
- Enforcement procedures, including recourse for improper use of common property.
- Notification procedures.
- Procedures for amending the CC&R's and a requirement that amendments be recorded.
- A statement that the corporation shall not divest itself of responsibility for operating and maintaining common land or shared improvements except to the individual lot owners or a public agency or organization that agrees to assume the responsibilities. At a minimum, the individual lot owners must have a means of taking over the responsibilities and authorities of the Board if it fails to carry out its obligations, and if that occurs each lot owner must be given an equal and undivided interest in property previously owned by the corporation.
- Duration. The CC&R's of a corporation that has operation or maintenance responsibilities must be of perpetual duration unless the individual lot owners, a public agency or other organization agrees to assume those duties.
- A statement that until management of the corporation is transferred from the developer to the corporation Board, the developer must fulfill all of the duties and responsibilities of the corporation, and have the authority to exercise the rights and powers of the corporation. At the time the corporation is turned over to the Board, commonly owned land and all components of shared improvements must be in good operating order and in compliance with applicable laws, regulations, conditions of approval, BMP's, and approved O&M and land management plans. Prior to transfer to the Board, the corporation must be fully funded and operational, and the developer must provide sufficient funds to meet anticipated expenses for one year.
- Statement of the location of the articles of incorporation, by-laws, CC&R's, rules and amendments.
- Severability clause.
- Required approval signatures.

ATTACHMENTS

- Legal description of land to which the CC&R's apply.

COOPERATIVE CORPORATION BY-LAWS

The following are required elements of the by-laws for cooperative corporations.

NAME, PRINCIPAL OFFICE AND DEFINITIONS

- Name of the corporation
- Address for the office of the corporation.
- Definition of terms.

MEMBERSHIP: MEETINGS, QUORUM, VOTING, PROXIES

- Membership. Membership in the corporation must be automatic and mandatory when property is purchased within the development. The by-laws must include a statement that the owner of any lot within the subdivision, by acceptance of a deed or other conveyance, is deemed to consent to membership in the corporation, to use the services furnished by the corporation, and to abide by the terms and requirements of the corporation. The by-laws should also inform members that "the patrons of

a cooperative corporation, by dealing with the corporation, acknowledge that the terms and provisions of the articles of incorporation and by-laws, as well as policies, rules and regulations, shall constitute and be a contract between the corporation and each patron, and both the corporation and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions” (*Idaho Code* §30-3-21 (3)).

- Meetings. The place, time, and notice requirements of all regular and special membership meetings. The corporation must hold at least one (1) membership meeting each calendar year at a time and place stated in, or fixed in accordance with the by-laws. Notice and conduct of meetings must be in accordance with *Idaho Code* Title 30, Chapter 3.
- A process by which the members may call for a special meeting in accordance with *Idaho Code* Title 30, Chapter 3.
- Voting. Who is entitled to vote, how proxies are handled, what constitutes a quorum, and what majority is needed to enact resolutions, rules, amendments, and other actions.
- Conduct of membership meetings. At a minimum the president and chief financial officer must report on the activities and financial condition of the corporation, and members must be given an opportunity to consider and act upon other matters.
- Action without a meeting. Provisions for actions that can be taken without a membership meeting.

BOARD OF DIRECTORS: SELECTION, MEETINGS, POWERS and DUTIES

- Board of Directors. The number of directors, length of terms, and procedures for nomination, election, removal from office, and the filling of vacancies. The board must consist of at least three individuals.
- Board of Director meetings. For both regular and special meetings, what constitutes a quorum, and what actions can be taken by the Board with and without a formal meeting.
- Conduct of board meetings, including when meetings are required to be open and when they may be held in executive session.
- Duties of the Board of Directors. The duties of the Board must include: a) recording and retaining minutes of regular and special meetings, b) retaining a record of actions taken by members, committees or directors without a meeting, c) keeping accurate records of expenses and payments, d) maintaining the names and addresses of members and officers, along with the number of votes they are entitled to cast, e) maintaining a capital replacement plan for improvements managed by the corporation, and f) providing lot owners with information on corporation finances.
- Powers of the Board of Directors. The powers of the Board must include: a) authority and procedures for establishing budgets, adopting fees, billing and collecting assessments, borrowing money, making payments, and contracting for maintenance and repairs, b) the ability to adopt rules for governing common property and improvements, c) the ability to establish special committees to assist in management of the corporation, d) methods of enforcing the covenants, conditions, restrictions, or rules of the corporation, and e) the authority to levy and collect assessments, including effective methods of enforcing collections (must include the authority to withhold service, to take civil action to recover a money judgment for unpaid assessments, and to assess, record and foreclose a lien –against the real property of its members (ref: *Idaho Code* §45-810).
- Specific procedures must be included for regular, special and long term capital improvement assessments. Annual assessments must be adequate to cover anticipated capital expenses, and funds collected as reserves for capital expenses must be deposited in a separate account held in trust for the purposes for which they are collected.

OFFICERS

- Officers. The number of officers, the length of terms, and procedures for nomination, election, removal from office, and the filling of vacancies. It is recommended that maintenance corporations have a president, vice-president, secretary, and treasurer at a minimum.

- Powers and duties of the officers.

MISCELLANEOUS

- Procedures for the transfer of control of the corporation from the developer to the Board of Directors. Until management of the corporation is turned over to the Board, the developer must fulfill all of the duties and responsibilities of the corporation, and have the authority to exercise the rights and powers of the corporation. At the time the corporation is turned over to the Board, commonly-owned land and all components of shared improvements must be in good operating order and in compliance with applicable laws, regulations, conditions of approval, BMP's, and approved O&M and land management plans. Prior to transfer to the Board, the corporation must be fully funded and operational, and the developer must provide sufficient funds to meet anticipated expenses for one year.
- Amendments to the by-laws. The amendment process must be specified including who may initiate an amendment, what majority is needed to pass an amendment, and who may sign an approved amendment.
- Renewal. A corporation that has operation or maintenance responsibility must be established in perpetuity, unless the individual lot owners, a public agency or other organization agrees to assume those duties.
- Default of the corporation. How system maintenance will be handled if the corporation fails to fulfill its responsibilities. At a minimum, the individual lot owners must have a means of taking over the responsibilities and authorities of the Board if it fails to carry out its obligations, and each lot owner must be given an equal and undivided interest in any property previously owned by the corporation.
- Provisions for the declarant to assign his rights and responsibilities to another party upon transfer of ownership of the subdivision property.
- Fiscal year.
- How conflicts of interest are handled.
- Books and records. A third party financial audit must be conducted every 3-5 years.
- Notification procedures and requirements (e.g. to homeowners, lenders).
- An indemnification statement for officers of the corporation.
- Statement of the location of the articles of incorporation, by-laws, CC&R's, rules and amendments.
- Signature of the appropriate officials, in accordance with law, the articles of incorporation, and, if previously adopted, the by-laws.
- Severability clause

ATTACHMENTS

- Legal description of land governed by the cooperative corporation.

APPENDIX C
MINIMUM REQUIREMENTS FOR SUBDIVISION COMPLETION AND WARRANTY
AGREEMENTS

- Date
- Name, mailing address and phone number of the property owner and County representative. If someone other than the property owner is providing the financial guarantee (developer, contractor), they must be included as a third party.
- Subdivision name and case number.
- General description of the subdivision location.
- Parcel number(s).
- Section, Township, Range.
- Size of subdivision in acres.
- Reference to subdivision improvements being required to meet the requirements of this title, and be in conformance with approved plans on file with the Department (file number of plans cited).
- Cost estimate, or for warranties the actual cost of construction, for required improvements, provided by the design professionals who developed the construction plans, and referenced as Exhibit A.
- For financial guarantees in lieu of improvements, a statement that the applicant has established a financial guarantee to ensure completion of required improvements in the amount of 150% of the estimated cost, with the amount listed. (Any improvements that have not been completed and approved by the applicable agencies and design professionals must be included in the cost estimate).
- For warranties, a statement that the applicant has established a financial guarantee to ensure completion of required warranty repairs. Warranties, which are a separate financial guarantee required for all subdivisions, must cover 10% of the actual cost of all required improvements.
- Type of the guarantee, with the original attached and referenced at Exhibit B (or for cash, a copy of the check and receipt). (*Note: See Section 10-3-4 of this Title for the types of financial guarantees that may be accepted*).
- A completion schedule for required improvements labeled Exhibit C.
- Anticipated agency approval date for the improvements (must be at least sixty (60) days before expiration of the financial guarantee).
- For warranties on completed, approved infrastructure, the actual date of agency approval, and the deadline for completion of any warranty work. Warranties must cover a period of one (1) year after initial agency approval of improvements, and the deadline for completion of warranty work must be at least sixty (60) days before the expiration of the financial guarantee.
- A statement that this agreement is considered a contract between the parties.
- Statement that upon completion of the improvements, and written approval by applicable agencies, design professionals, and the Director, the County shall release the guarantee.
- Statement that partial releases are not permitted. (*Note: If improvements will be completed in phases, the applicant should provide separate financial guarantees with separate agreements*).
- Statement that if the required improvements are not completed and approved by the design professionals and applicable agencies prior to the above date, or within the time allowed by a written extension granted by the Director, that the County may withdraw necessary funds from the financial guarantee, hire a contractor, enter onto the property, and have the improvements completed. In addition to contracting costs, the County may also withdraw funds to cover their administrative costs, including attorney's fees.
- For warranties, a statement that any necessary repairs shall be completed in a timely manner, in accordance with deadlines established by the County or other agency with jurisdiction. If repairs are not completed and approved by applicable agencies at least sixty (60) days prior to expiration of the warranty, the County may withdraw funds adequate to pay for the repairs, along with the County's expected administrative costs.

- A statement that the County is required to give written notice, by first class mail, to the property owner and other parties to the agreement, prior to taking action to withdraw funds from the financial guarantee. Any remaining funds, after completion of improvements, shall be returned to the party that provided the financial guarantee.
- Process for renegotiation of the agreement.
- Process by which the agreement may be transferred, with County approval, to a developer's successors. If transferred, the agreement must be binding on any successors.
- Governing laws shall be the laws of the State of Idaho. The venue for any dispute shall be the First Judicial District Court, Kootenai County, Idaho.
- Notarized signature of the property owner(s).
- If the financial guarantee is provided by someone other than the property owner, the notarized signature of that party is required, in addition to the signature of the property owner.
- Signature line for the Chairman of the Board of County Commissioners.

APPENDIX D MINIMUM REQUIREMENTS FOR CONSERVATION EASEMENTS

Following are items that must be included in conservation easements on green space. This is not a comprehensive list. Each easement will be different and will need to be negotiated, with legal counsel, between the parties to the easement.

IDENTIFICATION OF PARTIES AND RECITALS

- Names of grantors and grantees, including governmental bodies or conservation organizations with third party right of enforcement.
- Date.
- Statement that the grantors are the sole owners, in fee simple, of the real property, described in an attached exhibit (the legal description of the property that will be covered by the easement).
- Description of the characteristics of the property that have been identified for protection and the general purpose for the easement.
- Reference to an attached baseline inventory that establishes the condition of the property at the time of conveyance.
- Qualifications of the grantee (must be a conservation organization or public agency).
- Statement granting the easement, signed by all parties with an interest in the property.
- Statement accepting the easement, signed by all holders of the easement and all organizations with third party right of enforcement. Holders of the easement and organizations with third party right of enforcement must meet the requirements of *Idaho Code 55-2101(2)*.
- Statement that the easement is created pursuant to the Uniform Conservation Easement Act, *Idaho Code Title 55, Chapter 21*.

GRANT PROVISIONS

- Detailed statement of purposes. This section must include a statement that the land is to be preserved for one or more uses meeting the definition of “Green Space” in Chapter 4 of this title.
- Requirement that the land be managed in conformance with applicable best management practices and approved land management plans.
- Rights of the grantee, including the right to protect the conservation values of the land, to inspect the property to determine compliance with the easement, and the right to enforce the terms of the easement. This section must also outline notification and inspection procedures.
- Enforcement of the easement. This section must outline enforcement procedures, specific remedies available to the grantee to correct violations of the easement, and how enforcement costs will be handled.
- Prohibited uses of the property. This must include further division of the land, any industrial or mining activities, and any uses that are inconsistent with the purposes of the easement. If the green space lot is counted as one of the allowable residential lots, it may have residential structures in conformance with County ordinances and the requirements of other agencies.
- Permitted uses of the property. Permitted uses may include any that meet the definition of “Green Space”, including the construction of structures appurtenant to those uses (e.g. agricultural buildings).
- Reserved rights of the grantors.
- May include third party right of enforcement (e.g. granted to a governmental or conservation organization eligible to be a holder of a conservation easement as provided in *Idaho Code 55-2101(2)*). Conservation easements on the Rathdrum Aquifer must grant Panhandle Health District third party right of enforcement.
- The easement must be perpetual.

MISCELLANEOUS PROVISIONS

- A requirement that any future deed or lease conveying an interest in the property refers to the conservation easement, and that the easement holder be provided with the name and address of new landowners.
- Costs and Liabilities. A description of how costs and liabilities (such as taxes) will be handled.
- Condemnation provisions.
- Assignment. The grantee may assign its rights and obligations to another conservation organization or government agency that agrees to enforce the terms of the easement.
- Notification procedures between the parties, and names, addresses and telephone numbers of the grantor and grantee.
- Encumbrances. All mortgages, liens or similar encumbrances on title to the property must either be discharged or subordinated to the easement, so that the easement cannot be terminated in the event of foreclosure.
- Recordation requirement.
- Controlling law (Idaho).
- Severability clause.
- Successors. The covenants, terms, conditions and restrictions of the easement must be binding upon, and inure to the benefit of the parties and their heirs, successors and assigns, and must continue as a servitude running in perpetuity with the land.
- Amendment procedures.
- Notarized signatures of grantor and grantee.

ATTACHMENTS

- Legal description of property subject to the easement.
- Baseline inventory of property.
- Site plan.

Reference: *Idaho Code* §55-2101 through §55-2109.

APPENDIX E
NATURAL RESOURCES REPORT AND MAP
REQUIREMENTS FOR BONUS DENSITIES WITH CONSERVATION DESIGN SUBDIVISIONS

Map showing:

This map shall cover the conditions on and within 500 feet of the property and must show woodlands and timber; functioning farm and pasture land; adjacent public lands and lands under Conservation Easement; habitat for rare, threatened or endangered plants or animals (if known); important wildlife habitat; historic or cultural features; areas with scenic views; hillsides and other areas visible to the public; disturbed areas; natural features such as streams, ponds, rock outcrops, unusual geologic formations, forested areas, and wetlands; and existing roads. In addition to a paper copy, at least one clear overlay copy of the map shall be provided. If available, an aerial photograph of the site, with boundaries marked, shall also be submitted.

A written report that:

1. Describes the subject site boundaries. Explain in a brief paragraph of the proposed project.
2. Explain the different resources found on site that includes, but is not limited to, timbered areas, cultural resources, wildlife habitat, streams and other surface water areas.
3. Describe how these resources will be impacted by the proposed project.
4. If streams are found on the project site, list the classification of the streams, as well as a completed delineation of Section 10-3-1(G)(3).
5. If the land falls within a timbered area, as determined by Staff, a Wildfire Mitigation Plan in accordance with Appendix A.
6. Explain what mitigation will be done for the impacted areas of the project.
7. The Resource Map should reflect all resources delineated in the report.

SECTION 4. REPEALER, SEVERABILITY, EFFECTIVE DATE

- A. Repeal Of Existing Ordinances.** The provisions of this Ordinance serve to repeal and replace the portions of Kootenai County Subdivision Ordinance Number 344 in conflict herewith.
- B. Severability.** Should any section, clause, or provision of this Ordinance be declared by a court of appropriate jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid. Any remaining provisions shall be read to give effect to the spirit of this Ordinance prior to removal of the provisions declared invalid.
- C. Effective Date.** This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the *Coeur d'Alene Press*.

DATED this 14th day of December, 2006.

ATTEST:
DANIEL J. ENGLISH, CLERK

KOOTENAI COUNTY
BOARD OF COMMISSIONERS

BY: Deputy Clerk

S.J. "Gus" Johnson, Chairman

Elmer R. Currie, Commissioner

Publication Date: _____

Katie Brodie, Commissioner