ORDINANCE NO. 658

AN ORDINANCE REPEALING ORDINANCES NO. 444, 487, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND ADOPTING THAT CERTAIN DOCUMENT KNOWN AS THE REXBURG SUBDIVISION ORDINANCE AUTHORIZED BY TITLE 50, CHAPTER 13 AND TITLE 67, CHAPTER 65 OF THE IDAHO CODE, AS AMENDED OR SUBSEQUENTLY CODIFIED AND ARTICLE 12, SECTION 2 OF THE IDAHO CONSTITUTION. THE PURPOSE OF THIS ORDINANCE IS TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE, AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, IDAHO:

SECTION I. That Ordinances No. 444, 487, and all ordinances and parts of ordinances in conflict herewith be, and the same are hereby, repealed.

SECTION II. That certain document dated June 6, 1984, known as the Rexburg Subdivision Ordinance is hereby adopted as the Subdivision Ordinance of the City of Rexburg, Idaho, authorized by Title 50, Chapter 13 and Title 67, Chapter 65 of the Idaho Code, as amended or subsequently codified and Article 12, Section 2 of the Idaho Constitution. The purpose of this ordinance is to promote the public health, safety, and general welfare.

SECTION III. There has been on file, and there shall hereafter be kept on file, in the office of the City Clerk, three copies of said Rexburg Subdivision Ordinance, duly certified by the Clerk, for use and examination by the public.

SECTION IV. This ordinance shall be in full force and effect from and after its passage, approval and due publication as provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 6th day of June, 1984.

John C. Porter
Mayor

(Seal)

ATTEST:

Lois Bagley
City Clerk

STATE OF IDAHO)
: ss.
County of Madison)

I, ROSE BAGLEY, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the ordinance entitled:

AN ORDINANCE REPEALING ORDINANCES NO. 444, 487, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND ADOPTING THAT CERTAIN DOCUMENT KNOWN AS THE REXBURG SUBDIVISION ORDINANCE AUTHORIZED BY TITLE 50, CHAPTER 13 AND TITLE 67, CHAPTER 65 OF THE IDAHO CODE, AS AMENDED OR SUBSEQUENTLY CODIFIED AND ARTICLE 12, SECTION 2 OF THE IDAHO CONSTITUTION. THE PURPOSE OF THIS ORDINANCE IS TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE, AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

passed by the City Council and approved by the Mayor this 6th day of June, 1984.

Rose Bagley
City Clerk

(SEAL)

Ord. 658
Amended by 708

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REXBURG SUBDIVISION ORDINANCE

AN ORDINANCE FOR REXBURG, IDAHO, ESTABLISHING REQUIREMENTS FOR SUBDIVIDING OF LAND WITHIN THE CITY AND WITHIN THE AREA OF CITY IMPACT; DEFINING TERMS; ESTABLISHING PROCEDURES FOR PROCESSING PLATS; ADOPTING GENERAL DESIGN STANDARDS; ESTABLISHING STREET AND UTILITY REQUIREMENTS FOR NRE SUBDIVISIONS; REGULATING SPECIAL DEVELOPMENTS; ESTABLISHING A MEANS FOR WAIVERS AND AMENDMENTS TO REQUIREMENTS OF THE ORDINANCE; PRESCRIBING FEES, PERMITS, INSPECTIONS, VIOLATIONS AND REPEALING ORDINANCE 444, 487, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; THE PURPOSE IS THE PROMOTION OF HEALTH, SAFETY, AND GENERAL WELFARE OF THE RESIDENTS OF THE CITY.

BE IT ORDAINED by the City Council of the City of Rexburg, Idaho:

CHAPTER 1

TITLE, PURPOSE, JURISDICTION AND DEFINITIONS

SECTION 1.1 TITLE

This ordinance shall be cited as the Rexburg Subdivision Ordinance.

SECTION 1.2 AUTHORITY AND PURPOSE

These regulations are authorized by Title 50, Chapter 13 and Title 67, Chapter 65 of the Idaho Code, as amended or subsequently codified and Article 12, Section 2 of the Idaho Constitution. The purposes of these regulations are to promote the public health, safety, general welfare, and to provide for but not be limited to the following:

1. Harmonious development of the area.
2. Coordination of streets and roads within the subdivision with other existing or planned streets and roads.
3. Adequate open space for travel, light, air and recreation.
4. Conservation of or provisions for adequate transportation, water drainage and sanitary facilities.
5. Avoidance of population congestion as would involve danger or injury to health, safety, or general welfare by reason of:
   a. Lack of water supply, drainage, transportation, or other public services; or
   b. Unnecessary imposition of an excessive expenditure of public funds for the supply of such services.

6. Requirements as to the extent and manner in which:

   a. Roads shall be created and improved; and

   b. Water and sewer and other utility mains, piping connections, or other facilities shall be installed as conditions precedent to the approval of a plat.

7. Manner and form of making and filing of any plat.

8. Administration of these regulations by defining the powers and duties of approval authorities including procedures for the equitable review and approval of all plats of subdivisions covered by these provisions.

SECTION 1.3 JURISDICTION

These regulations shall apply to the subdividing of all land within the city and shall include the following:

1. The subdivision of land into three (3) or more parcels for transfer of ownership. All of such lots or parcels created pursuant to this ordinance shall front upon a publicly maintained street unless specifically approved by the Council after recommendation of the Commission.

2. The dedication of any street or alley through or along any tract of land except where such dedication is initiated at the request of a public body.

3. Condominium Projects:

   a. Condominium projects as permitted by Idaho. Additionally, the Council may regulate and attach conditions to the design concepts and location of buildings, the creation, shape and size of condominium units, the provisions and maintenance of open space, and off-street parking. Unless excepted pursuant to the provisions of this ordinance, the Commission and Council shall require the installation of public improvements and utilities for condominium projects as required under the provisions of this ordinance.

   b. For the purpose of administering these subdivision regulations the City may consider a condominium development as a single building, requiring one (1) front yard, two (2) side yards, a rear yard, and other regulations pertinent to a given lot and may grant such exceptions as are necessary to the subdivision regulations to permit such development.

4. The resubdivision of a parcel of land into more than one (1) parcel except as provided in the exceptions listed below.

5. Exceptions:

   a. A readjustment of lot lines which does not reduce the area, a frontage, width, depth, or building setback lines below the minimums required in the Zoning Regulation.

   b. A subdivision of land into parcels that are larger than 40 acres or are lots in a section of land all as shown on the official U.S. Government General Land Office Township Survey Maps including resubdivisions thereof, all of which shall be designated exclusively for agricultural purposes, and which does not involve any new street dedication or the creation of private easement accesses to lots or parcels which could otherwise be provided access to a publicly dedicated street. (See definition of exclusive agriculture).

   c. An allocation of land in the settlement of an estate or a court decree for the distribution of property thereunder with the stipulation that the land may not be divided into more than four (4) parcels with a minimum size per parcel to be five (5) acres.

   d. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code and when the dedication of a right of way for public purposes is initiated by a public body.

   e. The exchange of land for the purpose of straightening property boundaries or adding land to existing parcels by trade or sale which does not result in a change of the present land use or in any way result in land parcels which do not meet existing zoning and other regulations.

SECTION 1.4 DEFINITIONS

For the purpose of this ordinance certain words, terms and phrases are defined as follows:

1. **Agriculture, Exclusive** For purposes of interpreting the Idaho Code related to this ordinance on lands designated as exclusively agriculture in use, the following conditions apply:

   All such lots shall be for agricultural purposes as the primary use of the land parcel. To determine primary use, the use of land parcel shall be clearly for tilling of soil, horticulture, floriculture, forestry, viticulture, raising crops, raising livestock, farming, dairying and animal husbandry, including uses customarily accessory and incidental thereto, but excluding slaughter houses and commercial feed lots. Land shall not be defined as exclusively agricultural in use when determined to be a land development program where subdivision of land is evident for sub-urban residential development life style purposes.

2. **Block** — The space along one side of a street between the two nearest intersecting streets, or between an intersecting street and a right-of-way, waterway or other similar barrier, whichever is lesser.

3. **Board** — The Madison Board of County Commissioners, hereinafter referred to as the Board.

4. **Council** — The Rexburg City Council, hereinafter referred to as the Council.

5. **City Engineer** — An Idaho Registered Professional Engineer or Consulting Engineering firm designated by the City to represent the City's engineering interests.

6. **City Impact Area** — That unincorporated area within one mile of Rexburg City Limits officially adopted as the "Area of City Impact."

7. **Commission** — The Rexburg City Planning and Zoning Commission, hereinafter referred to as Commission.

8. **Comprehensive Plan** — A comprehensive plan, or parts thereof, projecting future growth and development and for the general location and coordination of streets and highways, schools and recreation areas, public building sites, and other facilities, which shall have been duly adopted. This plan shall comply with the Idaho Code as adopted or amended.

9. **Condominium** — An estate consisting of (1) an undivided interest in common in real property, together with (2) a seperate interest in real property, or any combination thereof.

10. **Conditional Approval** — An affirmative action by the Commission indicating that approval is given subject to certain specified stipulations.

11. **County Engineer** — An Idaho Registered Professional Engineer or Consulting Engineering firm designated by the Board to represent the County's engineering interests.

12. **Dedication** — The setting apart of land or interest in land for use by the public. Land becomes dedicated when accepted as a public dedication either by ordinance, resolution, or entry in the official minutes of the City or by the recording of a plat showing such dedication.

13. **Development Master Plan (DMP)** — A preliminary master plan for the development of a large, unusual or complicated land area, the platting of which is expected in progressive stages. A DMP may be designed by a subdivider, planner, or engineer and shall be subject to approval of the Commission, except that a DMP does not fulfill the requirements of the preliminary platting process of this ordinance.

14. **Easement** — A grant by the owner of the use of a parcel of land by the public, corporation, or persons for specified use and purposes and so designated on a plat.

15. **Engineer** — Any person who is registered and certified in the State of Idaho to engage in the practice of professional engineering.

16. **Engineering Plans** — Plans, profiles, cross-sections, and other required details for the construction of improvements, prepared by a registered professional engineer in accordance with the approved preliminary plat and in compliance with existing standards of design and construction.

17. **Exception, Land** — Any parcel of land which is within the boundaries of the subdivision which is not a part of the subdivision.

18. **Final Approval** — Unconditional approval of the final plat as evidenced by appropriate certifications on the plat; such approval constitutes authorization to record a plat.

19. **Flood Plain** — The relatively flat or low land adjoining the channel of a river, stream, water course, lake or other body of standing water, which has been or may be covered by water of a flood of one hundred year frequency. The flood plain includes the channel, floodway and floodway fringe.
    a. "Flood of one hundred year frequency" shall mean a flood magnitude which has a one percent (1%) chance of being equalled or exceeded in any given year.

    b. "Flood" shall mean the temporary inundation of land by overflow from a river, stream, lake or other body of standing water.

    c. "Channel" shall mean a natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

    d. "Floodway" shall mean the channel of a watercourse and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse.

    e. "Floodway fringe" shall mean that part of the flood plain which is beyond the floodway encroachment lines limiting a designated floodway. Such areas will include those portions of the flood plain which will be inundated but which may be developed for use under land use regulations without material effect upon the flood water carrying capacity of the floodway and the flood water levels. Such areas are characterized by shallow flood depths and low velocities of water flow.

20. **Health Department** — The Idaho State Health or District Health Agencies.

21. **Hillside Subdivision** — Any subdivision or that portion of a subdivision located in terrain having an average slope exceeding ten percent (10%).

22. **Irrigation Facilities** — Includes canals, laterals, ditches, conduits, gates, wells, pumps, and allied equipment necessary for the supply, delivery and drainage of irrigation water.

23. **Lot** — A piece or parcel of land separated from other pieces or parcels as shown on a recorded subdivision plat or by metes and bounds description for purposes of sale, lease, or separate use.

    a. "Corner Lot" — A lot abutting on two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees.

    b. "Interior Lot" — A lot having but one (1) frontage abutting on a street.

    c. "Double Frontage Lot" — A lot abutting two (2) parallel or approximately parallel streets.

24. **Lot Width** — The horizontal distance between side lot lines measured at right angles to the depth at a point midway between the front and rear lot line.

25. **Mobile Home** — A structure transportable in one (1) or more sections which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length and which is built on a permanent chasis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning and electrical systems.

26. **Mobile Home Subdivision** — A subdivision designed and intended for residential use where residence is in mobile homes exclusively.

27. **Neighborhood Plan** — A plan to guide the platting of remaining vacant parcels in a new or partially built up neighborhood so as to make reasonable use of all land, correlate street patterns, and achieve the best possible land use relationships.

28. **Open Space Land** — Any developed or predominately undeveloped land which may be set aside for the following:

    a. Park and recreation purposes;

    b. Conservation of land and other natural resources;

    c. Historic or scenic purposes.

29. **Owner** — The person or persons, corporation, or legal entity holding title by deed to land or holding title as vendees under land contract, or holding any other ownership interest.

30. **Pedestrian Way** — A public right-of-way dedicated as a walkway entirely through a block from street to street and/or providing access to a school, park, recreation area, or shopping center.

31. **Planned Unit Development (PUD)** — Residential, commercial and/or industrial use, or combination thereof, planned for a tract of land to be developed as a unit under single ownership or control. Said PUD is developed for the purpose of selling, leasing, or renting lots or estates, whether fronting on private or dedicated streets and may include two or more principal buildings as governed by the zoning ordinance. The requirements of this ordinance may be modified by the Council upon recommendation by the Commission to achieve the best possible planned development for the specific site under consideration.

32. **Plat** — A map of a subdivision.

    a. "Preliminary Plat" — A preliminary map, including supporting data, indicating a proposed subdivision development, prepared in accordance with this ordinance and the Idaho Code.

    b. "Final Plat" — A map of all or part of a subdivision providing substantial conformance to an approved preliminary plat, prepared by an engineer or a surveyor in accordance with this ordinance and the Idaho Code.

    c. "Recorded Plat" — A final plat bearing all of the certificates of approval required in this ordinance and duly recorded in the Madison County Recorder's Office.

33. **Reserve Strip** — A strip of land between a dedicated street or partial street and adjacent property; in either case, reserved or held in public ownership for future street extension or widening.

34. **Right-of-way** — A parcel of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, utilities or other service functions.

35. **Standard Drawings and Specifications** — Standard Drawings and Specifications are defined as **The Idaho Standards for Public Works Construction (ISPWC).**

36. **Streets** — Any street, avenue, boulevard, road, lane, parkway, place, viaduct, easement for access, or other way which is an existing state, county, or municipal roadway; or a street or way shown in a plat heretofore approved pursuant to law or approved by official action; or a street or way in a plat duly filed and recorded within the right-of-way boundaries whether improved or unimproved and may be comprised of pavement, shoulder, curbs, gutters, sidewalks, parking areas, and lawns.

    a. "Arterial Route" — A general term including expressways, major and minor arterial streets; and interstate state or county highways having area wide or regional continuity.

    b. "Collector Street" — A street that provides for traffic movement within neighborhoods of the City and between major streets and local streets and for direct access and abutting property.

    c. "Local Street" — A street that provides for direct access to residential, commercial, industrial, or other abutting land for local traffic movements and which connects to collector and/or arterial streets.

        1. "Frontage Street" — A minor street parallel and adjacent to an arterial route and intercepts local streets and controls access to an arterial route.

        2. "Cul-de-sac Street" — A short local street having one end permanently terminated in a vehicular turnaround.

        3. "Loop Street" — A minor street with both terminal points on the same street or origin.

    d. "Alley" — A public service way used to provide secondary vehicular access to properties otherwise abutting upon a street.

37. **Subdivider** — A subdivider shall be deemed to be the individual, firm, corporation, partnership, association, syndication, trust, or other legal entity having sufficient proprietary rights in the property to represent the owner, that submits the required subdivision application and initiates proceedings for the subdivision of land in accordance with this ordinance.

38. **Subdivision** — The division of any lot, tract, or parcel of land into three (3) or more parts as it existed at the effective date of this ordinance, for the purposes of transfer of ownership or development and the dedication of a public street and the addition to, or creation of a cemetery.

39. **Subdivision Committee** — A committee of the Commission which may be established to review preliminary subdivision plats.

40. **Surveyor** — Any person who is registered and certified in the State of Idaho to engage in the practice of land surveying.

41. **Usable Lot Area** — That portion of a lot usable for or adaptable to the normal uses made of the property, excluding any areas which may be covered by water, excessively steep, or included in certain types of easements.

42. **Utilities** — Installations or facilities, underground or overhead, furnished for use by the public, including but not limited to electricity, gas, steam, communications, water, drainage, irrigation, sewage disposal, or flood control, whether owned and operated by any person, firm, corporation, municipal department, or board duly authorized by state or municipal regulations. Utility or utilities as used herein may also refer to such persons, firms, corporations, departments, or boards, as applicable herein.

43. **Vicinity Map** — A small scale map showing the location of a tract of land in relation to a larger area.

CHAPTER 2

PROCEDURE

SECTION 2.1 PREAPPLICATION

Prior to the filing of an application for approval of a preliminary plat the subdivider shall submit to the City Planning and Zoning Office the plans and data as required hereinafter for a preliminary plat; provided, however, that such plans may be generalized in content and that such submission shall not require the official filing of a subdivision application and fee.

SECTION 2.2 PREAPPLICATION REVIEW

The City Planning and Zoning Office shall review said plans and data as submitted and within five (5) working days advise the subdivider in writing as to the general conformance or nonconformance with this ordinance, the City's Zoning Ordinance and/or ordinances governing the City's Area of City Impact, if the proposed subdivision is contained in the area of city impact. Such review may include official and unofficial comments on policies and guidelines followed by the Commission in the implementation of various development ordinances such as the Comprehensive Plan, Zoning Ordinances and similar plans or programs.

SECTION 2.3 PRELIMINARY PLAT

1. **Application** — Upon completion of the preapplication process, if the subdivider elects to proceed with the platting process he shall file with the City Planning and Zoning Office at least five (5) days prior to the Commission Meeting copies of the completed subdivision application form as prescribed by the Commission and six (6) copies of the preliminary plat with data as required in this section.

   a. **Form of Presentation** — The information hereinafter required as part of the Preliminary Plat submitted shall be shown graphically or by note on plans, or by letter, and may comprise several sheets showing various elements or required data. All mapped data for the same plat shall be drawn at the same standard engineering scale, having no more than one hundred (100) feet to an inch. Whenever practical, scales shall be adjusted to produce an overall drawing measuring 24"x36".

   b. **Identification and Descriptive Data**

      1. Proposed name of subdivision and its location by section, township, and range; reference by dimension and bearing to a section corner or quarter section corner.

      2. Name, address, and phone number of subdivider.

      3. Name, address and phone number of engineer or land surveyor.

      4. Scale, north point, and date of preparation including dates of any subsequent revisions.

      5. Vicinity map drawn to a scale of 1" equal 800', clearly showing proposed subdivision configuration in relationship to adjacent subdivisions, main arterial routes, collector streets, etc.

   c. **Existing Conditions Data**

      1. Topography by contours or other method approved by the City and shown on the same map as the proposed subdivision layout. Contour intervals shall be such as to adequately reflect the character and drainage of the land.

      2. Location of water wells, streams, canals, irrigation laterals, private ditches, washes, lakes, or other water features; direction of flow; location and extent of known areas subject to inundation.

      3. Location, widths, and names of all platted streets, railroads, utility rights-of-way of public record, public areas, permanent structures to remain including water wells, and municipal corporation lines within or adjacent to the tract.

      4. Name, book, and page numbers of any recorded adjacent subdivision having common boundary with the tract.

      5. By note, the existing zoning classification of tract.

      6. By note, the approximate acreage of the tract.

      7. Boundaries of the tract to be subdivided shall show approximate dimensions.

   d. **Proposed Conditions Data**

      1. Street layout, including location, width and proposed names of public streets, alleys, pedestrian ways, and easements; connections to adjoining platted tract.

      2. Typical lot dimensions to scale; dimensions of all corner lots and lots of curvilinear sections of streets; each lot numbers individually; total number of lots.

      3. Location, width, and use of easements.

4. Designation of all land to be dedicated or reserved for public use with use indicated.

5. If plat includes land for which multi-family, commercial, or industrial use is proposed, such areas shall be clearly designated together with existing zoning classification and status of zoning change if any.

6. If the proposed subdivision is part of a larger area intended for development, a Development Master Plan of the entire area. (See definitions.)

7. Appropriate information that sufficiently details the proposed development within any special development area, such as hillside, planned unit development, flood plain, cemetery, mobile home, park, large scale development, hazardous and unique areas of development.

e. **Proposed Utility Methods**

1. Sewage Disposal: It shall be the responsibility of the subdivider to furnish the City such evidence as may be required relative to the design and operation of the sanitary sewage facilities proposed.

2. Water Supply: It shall be the responsibility of the subdivider to furnish the City such evidence as may be required relative to the design, operation, volume and quality of water supply and facilities proposed.

3. Storm Water Disposal: It shall be the responsibility of the subdivider to furnish the City such evidence as may be required relative to the design and operation of any storm water system proposed.

4. Information required in items 1, 2 and 3 above shall consider and include Health Department and Soil Conservation Service data and requirements which the subdivider has accumulated for submission with the preliminary plat. Utility Plans shall be made in accordance with Standard Plans and Specifications (ISPWC).

2. **Certification** — Upon receipt of the preliminary plat and all required data as provided herein, the City shall certify the application as complete and shall affix the date of application acceptance thereon.

3. **Agency Review** — The City shall transmit one (1) copy of the application to its departments and such other agencies that have jurisdiction or an interest in the proposed subdivision for their review and recommendation.

If no written reply is received from any of the various departments or interested agencies within ten (10) days from the date of notification, approval of the preliminary plat by such department or agency will be considered to be granted.

Some of the departments and agencies which may receive copies of the preliminary plat are as follows:

a. City Planning and Zoning Commission

b. Fire Department

c. Water Department

d. City Engineer

e. Parks and Recreation Department

f. Health Department

g. State Highway Department if the subdivision abuts a State Highway

h. Utility Companies

i. Soil Conservation Service

j. Irrigation District

k. Other departments or agencies as necessary

4. **Commission Action** — The preliminary plat shall be placed on the Commission agenda for consideration at the next regular meeting. The Commission shall approve, approve conditionally or disapprove the preliminary plat within thirty (30) days after the date of the regular meeting at which the preliminary plat is first considered. The reasons for such action shall be stated in writing, a copy of which shall be attached to one (1) copy of the preliminary plat and returned to the subdivider.

The Commission shall review the application and comments from the review agencies for finding of fact as to conformance to the City's comprehensive plan, zoning ordinance, subdivision ordinance, ordinances governing the negotiated area of city impact (if applicable) and the City's design standards. After a findings of fact, the Commission shall determine if further action, such as an amendment to the comprehensive plan, or a zoning change will be necessary for the planning and zoning commission to complete its review and make its recommendations to the Council.

If no amendments to the Comprehensive Plan or Zoning Ordinance are necessary to make a recommendation to the Council, the Commission shall recommend to the City to approve, conditionally approve or disapprove the application. If the Commission determines that an amendment must be made to the Comprehensive Plan and/or the Zoning Ordinance to approve the application, the Commission shall follow the procedures detailed in 67-6509 IDAHO CODE.

Upon approval or disapproval by the Commission, the preliminary plat together with a complete copy of the Commission's findings and report of action shall be transmitted to the Council. The reason for action taken shall specify:

a. the ordinance and standards used in evaluating the application;
b. the reasons for approval or denial; and
c. the actions, if any, that the application could take to gain approval of the proposal.

5. **Council Action** — The Council shall act upon the report of the Commission within ten (10) days, or at its next regular meeting following receipt of the report. The Council may hear testimony of representatives of the Commission, and witnesses including interested citizens affected by the proposed subdivision.

Upon conclusion of the meeting at which time the preliminary plat is considered, the Council shall base its findings upon the report and testimony presented before it and, within seven (7) days declare its findings. It may sustain, modify, or reject the recommendations of the Commission, and make such findings as are consistent with the provisions of this ordinance and the Idaho Code. The reason for action taken shall specify:

a. the ordinance and standards used in evaluating the application;
b. the reasons for approval or denial; and
c. the actions, if any, that the applicant could take to gain approval of the proposal.

The time limits for acting on the preliminary plat as herein specified may be extended by mutual consent of the subdivider and the Commission and/or the Council.

SECTION 2.4 FINAL PLAT

After approval or conditional approval of the preliminary plat, the subdivider may cause the subdivision, or part thereof to be surveyed and a final plat prepared in accordance with the preliminary plat as approved.

1. **Method and Medium of Presentation:**

a. All plats to be offered for recording shall be on transparent tracing(s) that show all information that was approved on the Preliminary Plat.

b. Copies of the record plat shall be reproduced in the form of blueline or blackline prints on a white background.

c. The plat shall be drawn to an accurate scale having not more than one hundred (100) feet to an inch unless otherwise approved as to scale. Whenever practical, overall drawings shall measure 24"x36".

2. **Identification Data Required:**

a. A title which includes the name of the subdivision and its location by number of section, township, range and county.

b. Name, address, and official seal of the registered professional engineer or registered land surveyor preparing the plat.

c. Scale, north arrow, and date of the plat preparation.

3. **Survey Data Required:**

a. Boundaries of the tract to be subdivided fully balanced and closed, showing all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.

b. Any excepted parcel(s) within the plat boundaries shall show all bearings and distances, determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.

c. Location and description of cardinal points to which all dimensions, angles, bearings, and similar data on the plat shall be referenced.

4. **Descriptive Data Required:**

a. Name, right-of-way lines, courses, lengths, width of all public streets, alleys, pedestrian ways, and utility easements; radii, points of tangency, and central angles of all curvilinear streets and alleys, and radii of all street line intersections.

b. All drainageways to be dedicated to the public shall be shown on the plat.

c. All easements for rights-of-way provided for public services or utilities and any limitations of the easements.

d. All lots and block shall be numbered throughout the plat in accordance with the Idaho Code. "Exception," "tracts,", and "private parks" shall be so designated, lettered, or named and clearly dimensioned.

e. Location, dimensions, bearings, radii, arcs, and central angles of all sites to be dedicated to the public will be clearly indicated and intended use specified.

5. **Dedication and Acknowledgement:**

a. **Dedication** — A statement of dedication of all streets, alleys, drainways, pedestrian ways, and other easements for public use by the person holding title of record and by persons holding title as vendees under land contract. If lands dedicated are mortgaged, the mortgagee shall also sign the plat.

b. **Acknowlegement of Dedication** — Execution of dedication shall be acknowledged and certified by a notary public.

6. **Required Certifications:**

a. Certification by the registered professional engineer or registered land surveyor stating on the plat that the plat is correct and accurate, and that the monuments described in it have been located and described.

b. Certification of plat approval by the City Engineer.

c. Certification of plat approval by the County Engineer.

d. Certification of plat approval by the City Planning and Zoning Commission.

e. Certification of plat approval by the City Council.

f. Certification of recordation by the County Recorder.

7. **Commission Action** — The final plat, prepared in accordance with the Idaho Code and the provisions set forth herein, shall be submitted to the Commission. The Commission shall check the Final Plat for conformity to the Preliminary Plat. In the event the Final Plat does not substantially conform with the Preliminary Plat, the subdivider shall be required to resubmit the Final Plat.

Final plat submission shall include prints thereof as required, six (6) sets of prints of the plans and specifications for all proposed improvements as required by this ordinance, and a current title report or other evidence acceptable to the City showing proof of ownership of the tract of land being platted.

The final plat, when submitted to the City, shall bear all required certificates, acknowledgements, and signatures.

8. **Time Limitations** — In the event that the development of the preliminary plat is made in successive continuous segents in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of twenty-four (24) months may be considered for final plat approval. In the event a longer period elapses, the preliminary plat must be reviewed by the Commission.

The final plat shall be filed with the County Recorder within six (6) months after approval by the Council, otherwise such approval shall become null and void unless an extension of time is applied for and granted.

9. **Agency Review** — The City shall transmit copies of the final plat for review by departments and agencies, or others as may be deemed necessary to ensure compliance with the approved preliminary plat.

If no written replies are received from any of the various departments or interested agencies within ten (10) days from the date of notification, approval of the final plat by such department or agency will be considered granted.

10. **Council Action** — Upon receipt of the final plat, and all other data as required herein, the Council shall thereafter place the final plat on their agenda for consideration at a regular meeting held not less than fifteen (15) days after the date of submittal of the completed submission.

The Council, following receipt of the final plat shall consider said plat and any changes from the preliminary plat approved by the Commission. If said plat conforms to the requirements of this ordinance and the Idaho Code, the Council shall approve said plat.

At the time of approval and recording of the final plat, the Council shall accept the dedications shown thereon and shall, as a condition precedent to the approval of any final plat, require the subdivider either to improve or agree to improve the streets and all other public improvements by furnishing a surety agreement, in accordance with standards approved for the preliminary plat.

CHAPTER 3

DESIGN STANDARDS

SECTION 3.1 GENERAL

Subdivisions shall conform to the standards of the Comprehensive Plan, the zoning ordinance, the ISPWC, and other ordinances and regulations of the City.

Land which the Commission determines to be unsuitable for subdivision because of periodic flooding, poor drainage, excessively steep slopes or other features likely to be harmful to the safety and general health and welfare of the future residents, shall not be subdivided unless adequate methods are utilized to overcome these conditions.

SECTION 3.2 STREETS

1. **Street Design Requirements**

   The arrangement, character, extent, width, grade and location of all streets shall conform to the intent of the adopted comprehensive plan and shall be constructed in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their relation to the proposed uses of the land to be served by such streets. Local residential streets shall be so designed to discourage their use by through traffic.

2. **Frontage Streets**

   Where a subdivision abuts or contains an existing or proposed arterial street, railroad, or limited access highway, the City may require frontage streets, or such other treatment for the appropriate use of the tract.

3. **Half-Street Dedication**

   Half-street dedications shall be discouraged; provided, however, the City may accept a partial street dedication when such street forms the boundary of the proposed subdivision and is deemed to be necessary for the orderly development of the neighborhood, and provided the City finds it will be appropriate to require the dedication of the remainder of the right-of-way when the adjoining property is developed. When a partial street exists adjoining a proposed subdivision the remainder of the right-of-way shall be dedicated.

4. **Rights-of-way Width**

   There shall be provided rights-of-way of such widths as provided for in the adopted comprehensive plan; provided however, that the width of said rights-of-way shall in no case be less than the following:

STREET CLASSIFICATION	MINIMUM RIGHTS-OF-WAY WIDTH
Regional and Rural Roads and Highways	
Principal Arterials	120'-210'
Minor Arterials	80'
Major Collector	80'
Minor Collector	60'
Local Street	50'
Urbanizing Area Streets	
Principal Arterial	80'
Minor Arterial	60'
Collector Street	60'
Local Street	50'

5. **Cul-de-sac Streets**

   Cul-de-sac streets shall terminate in a circular turnaround with a right-of-way radius of at least seventy-five (75) feet. The City may approve an equally convenient form of turning space where extreme conditions justify. The maximum length shall be six hundred (600) feet from the intersection of the street centerlines to the center of the turnaround.

   ammended ORD. #108 5-16-90

6. **Dead-end Streets**

   Dead-end streets will be approved except in locations designated by the City as necessary to future extensions in development of adjacent lands. In any case, a dead-end street serving more than four (4) lots, shall provide by easement a temporary turning circle with a seventy-five (75) foot radius or other acceptable design to accomplish adequate access.

7. **Loop Street**

   Loop streets shall be limited to a maximum length of twelve hundred (1200) feet measured along the centerline of a street from centerline intersection to centerline intersection.

8. **Street Intersections and Alignments**

   Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy (70) degrees. Street intersecting an arterial street shall do so at not less than eight-five (85) degrees.

Where any street deflects at an angle of ten (10) degrees or more, a connecting curve shall be required having a minimum center line radius of three hundred (300) feet for arterial and collector streets and one hundred twenty-five (125) feet for local streets.

Streets with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.

A tangent at least one hundred fifty (150) to two hundred (200) feet long shall be provided between reverse curves on arterial and collector streets.

Street intersections with more than four (4) legs and Y-type intersections where legs meet at acute angles shall be avoided.

9. **Street Grades**

Street grades shall not exceed 6.5% percent nor less than one quarter (0.25) of one percent on local and collector streets. The grades for all other streets shall be as approved based on individual conditions and safe engineering practices.

10. **Street Names**

The naming of streets shall conform to the following:

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

b. All new streets shall generally be named as follows: Streets having a predominantly north-south direction shall be named "Avenue" or "Road"; streets having a predominantly east-west direction shall be named "Street" or "Highway"; meandering streets shall be named "Driveway", "Lane", "Path" or "Trail", and cul-de-sacs shall be named "Circle", "Court", "Way, "Place".

SECTION 3.3. BLOCK REQUIREMENTS

1. **Block Lengths and Design**

Block lengths shall not exceed twelve hundred (1200) feet as measured along the street centerline from centerline intersection to centerline intersection.

Block design shall provide for two (2) tiers of lots except under special conditions where this is not feasible or practical.

2. **Pedestrian Ways**

Pedestrian ways with right-of-way widths of eight (8) feet or greater may be required where essential for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

SECTION 3.4 LOT REQUIREMENTS

1. **Lot Design**

The lot size, width, depth, shape and orientation and minimum setback lines shall comply with the minimum requirements of the zoning ordinance.

Side lot lines shall be substantially at right angles or radial to street lines, except where other treatment may be justified.

2. **Double Frontage Lots**

Double frontage lots shall not be allowed except when specifically allowed by the Council.

SECTION 3.5 PUBLIC SITES, OPEN SPACE AND NATURAL FEATURES

Where is is determined that a proposed park, playground, school or other public use as shown on a future acquisition map, as authorized in **Idaho Code,** is located in whole or in part within a proposed subdivision the Commission shall notify the appropriate public agency concerning the land proposed to be acquired. Within thirty (30) days of the date of notice, the public agency may request the governing body to suspend consideration on the proposed subdivision for sixty (60) days. If an agreement is not reached within sixty (60) days, the Commission shall resume consideration of the subdivision.

Subdivisions of more than one hundred units (100) shall be required to provide at least ten (10) percent of the land for public use at fair market rates at the time of development. Existing natural features which add value to residential development and enhance the attractiveness of the community such as streets, watercourses, historic spots, and similar irreplaceable assets shall be preserved, insofar as possible, in the design of the subdivision.

CHAPTER 4

STREET AND UTILITY IMPROVEMENT REQUIREMENTS

SECTION 4.1 GENERAL

1. **Responsibility of Subdivider**

All required improvements such as streets, alleys, drainage easements and other facilities which are required as a condition to plat approval shall be the responsibility of the subdivider and shall meet City specifications and standards of construction (ISPWC).

Plans for the improvements herein required shall be prepared by a registered engineer.

2. **Construction Drawings**

Prior to the time of recording of the final plat, the subdivider shall file with the City construction drawings for all improvements required in that portion of the subdivision contained in the final plat.

3. **Bonding**

Prior to recording the final plat, the subdivider shall file with the City Clerk a surety bond, or other acceptable guarantee, to ensure actual construction of such improvements as submitted and approved. The improvements when covered by a surety bond, shall be constructed within two (2) years from the date of recording of the final plat; provided, however, the City may extend the period one (1) year upon showing of just cause by the subdivider. Such surety bond or other guarantee shall be in the amount of one hundred ten percent (110%) of the estimated cost of the improvements as determined by the City.

4. **Record Plans and Specifications**

Prior to acceptance by the City of any improvements installed by the subdivider, two (2) sets of prints of the approved "record" plans and specifications shall be certified by the subdivider's engineer and filed with the City.

Within ten (10) days after completion of improvements and submission of "record" plans in accordance with City specifications, the City shall certify completion and acceptance of construction and shall transmit a copy of said certification to the subdivider. If a surety agreement has been executed by the subdivider, the same shall be forwarded to the City Clerk. The City Clerk shall thereafter release said surety or guarantee upon application by the subdivider.

SECTION 4.2 REQUIRED IMPROVEMENTS

1. **Curb, Gutter, and Street Improvements**

All streets shall have curbs and gutters and asphalt which complies with the adopted design standards and specifications of the City (ISPWC).

2. **Sidewalks**

Concrete sidewalks shall be provided on both sides of dedicated streets in compliance with the adopted Design Standards and Specifications of the City (ISPWC).

3. **Storm Water Disposal**

Proper and adequate provision shall be made for disposal of storm waters. The type, extent, location, and capacity of facilities shall be approved for individual subdivisions by the City.

4. **Sewer Systems**

Proper and adequate provision shall be made for sewage treatment. The type, extent, location, and capacity of facilities shall be approved for individual subdivisions by the City. All systems shall comply with the adopted Design Standards and Specifications of the City (ISPWC).

5. **Monuments** – Survey

Monuments shall be installed in accordance with current standards at all corners, angle points, and points of curve and all street intersections.

6. **Fire Hydrants**

The location of fire hydrants required to serve the subdivision shall be approved by the City.

7. **Street Names**

Street names and traffic control signs shall be installed by the City in appropriate locations at each street intersection in accordance with local standards. A fee shall be charged to the subdivider to reimburse the City for its costs of such signing.

8. **Street Lights**

Street lights shall be installed by the subdivider at intersections throughout the subdivision, unless waived after recommendation of the Commission and approval of the Council. The subdivider shall conform to the requirements of the City and the public or private utility servicing the area.

9. **Postal Delivery System**

Postal delivery system shall be planned within the existing Postal Service Guidelines for extension of delivery.

CHAPTER 5

SPECIAL DEVELOPMENTS

SECTION 5.1 PURPOSE

The purpose of this chapter is to identify various types of special developments that normally pose special concerns to the Commission and the Council when reviewing and acting upon subdivision requests. Therefore, this chapter outlines requirements and design standards that shall be taken into consideration when acting on special developments. The provisions of this chapter are in addition to other applicable requirements of this ordinance and amends thereof and provisions of the Idaho Code. Required information shall be submitted to the City with the preliminary plat.

SECTION 5.2 CONDOMINIUM AND PLANNED UNIT DEVELOPMENT

1. **Site Development Plan**

   The subdivider shall provide the Commission with a site plan, elevations, perspective drawings and such other illustrated information at adequate scale to show the proposed development that will include at least the following:

   a. Architectural styles and building design concept;

   b. Architectural materials and color;

   c. Type of landscaping;

   d. Screening, if proposed;

   e. Type of solid waste facilities;

   f. Parking concept; and

   g. Open space areas.

2. **Private Streets**

   Private street construction standards shall be based upon recommendations from the City. Adequate construction standards may vary depending on the size of the development and the demands placed on such improvements.

3. **Home Owners' Association**

   Home Owners' Association by-laws and other similar deed restrictions, which provide for the control and maintenance of all common areas, recreation facilities or open space shall meet with the approval of the Commission. Any and all power as specified in such agreements may be required to also be assigned to the jurisdictional agency to insure continued and adequate maintenance of all such common areas, recreational facilities and open spaces, ability to assess property for delinquencies, and enforcement of motor vehicle speed to the interest of the owners involved and of the general public.

4. **Storage Areas**

   Storage areas shall be provided for the anticipated needs of boats, campers, and trailers. For typical residential development, one adequate space shall be provided for every three (3) living units. This may be reduced by the Commission if there is a showing that the needs of a particular development are less.

5. **Parking Space**

   One additional parking space beyond that which is required by the zoning ordinance may be required for every three (3) dwelling units to accommodate visitor parking.

6. **Maintenance Building**

   A maintenance building shall be provided; size and location to be determined by the type and service needed for the necessary repair and maintenance of all common areas and facilities.

7. **Open Space**

   The location of open space shall be appropriate to the development and shall be of such shape and area to be useable and convenient to the residents of the development.

8. **Control During Development**

   Single ownership or control during development shall be required and a time limit may be imposed to guarantee the development is built and constructed as planned.

SECTION 5.3 SUBDIVISION WITHIN A FLOOD PLAIN

1. **Flood Areas**

   For any proposed subdivision that is located within a flood plain, the subdivider shall provide the Commission with a development plan of adequate scale and supporting documentation that will show and explain at least the following:

a. Location of all planned improvements;

b. The location of Flood Ways and the Flood Way Fringe in accordance with sound engineering practices;

c. The location of the present water channel;

d. Any planned rerouting of waterways;

e. All major drainage ways;

f. Areas of frequent flooding;

g. Means of flood-proofing buildings; and

h. Means of insuring loans for improvements within the flood plain.

To give additional guidance in approving any proposed subdivision within a flood plain, the Commission shall review proposed developments considering that new construction and substantial improvements of residential structures within the flood shall have the lowest floor (including basement) elevated to or above the level of the one hundred (100) year flood; and, for new construction or substantial improvements of non-residential structures, the lowest floor (including basement) shall be elevated to or above the level of one hundred (100) year flood, or together with attendant utility and sanitary facilities, shall be flood-proofed up to the level of the one hundred (100) year flood.

2. **Justification for Development**

Upon determination that buildings are planned within the flood plain or that alternations of any kind are anticipated within the flood plain area that will alter the flow of water, the subdivider shall demonstrate conclusively that such development will not present a hazard to life or limb, hazard to property, adverse affects on the safety, use or stability of a public way or drainage channel and not have an adverse impact on the natural environment.

3. **Appropriateness of Subdivision**

In determining the appropriateness of subdivision for land located within a flood plain, the Commission and Council shall consider the objectives of this ordinance, and at least the following:

a. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses;

b. The danger that intended uses may be swept on the other or downstream to the injury of others;

c. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

e. The importance of the services provided by the proposed facility to the community;

f. The requirements of the subdivision for a water front location;

g. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;

h. The compatibility of the proposed uses with existing development and development anticipated in the forseeable future;

i. The relationship of the proposed subdivision to the comprehensive plan and any flood plan management program for the area;

j. The safety of access to the property for emergency vehicles in times of flood;

k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site; and

l. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

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

4. **Flood-proofing Plans**

Flood-proofing plans must be individually approved by the Council upon recommendation from the Commission before such uses are constructed. Flood-proofing may be included but not be limited to the following:

a. Anchorage to resist flotation and lateral movement;

b. Installation of watertight doors, bulkheads and shutters, or similar methods of closure;

c. Reinforcement of walls to resist water pressure;

d. Use of paints, membranes, or mortars to reduce seepage of water through walls;

e. Addition of mass or weight to structures to resist flotation;

f. Installation of pumps to lower water levels in structures;

g. Construction of water supply and waste treatment systems so, as to prevent the entrance of flood water;

h. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;

i. Building design and construction to resist rupture or collapse caused by water pressure or floating debris;

j. Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and storm waters into buildings or structures;

k. Location and installation of all electrical equipment, circuits and electrical appliances so that they are protected for inundation by the regulatory flood; and

l. Location of storage facilities for chemicals, explosives, boyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare at elevations above the height associated with the regulatory protection elevation; or design of such facilities to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into flood waters.

SECTION 5.4 SUBDIVISION FOR A CEMETERY

1. **Function**

The developer shall provide the Commission with written documentation that will sufficiently explain if the proposed cemetery will be used for either human or animal remains and the functions that are anticipated on the property.

2. **Compliance with Idaho Code**

The developer shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural platting requirements and management requirements that are outlined in Title 27, Idaho Code.

SECTION 5.5 AREAS OF CRITICAL CONCERN

1. **General**

The development of any hazardous or unique areas that have previously been designated as areas of critical concern by the Council, as provided by Idaho Code shall demand that special consideration be given by the subdivider to assure that the development is necessary and desirable in the public interest in view of the existing unique conditions. Areas that may be designated by the Council, through due process, as hazardous or unique may be as follows:

a. Unstable soils;

b. Unique animal and wildlife habitat;

c. Unique plant life habitat;

d. Scenic areas;

e. Historical significance areas;

f. Flood Plains;

g. Hillside subdivisions; and

h. Other areas of critical concern.

2. **Plan Submission**

The subdivider shall prepare and submit an Environmental Impact Statement for those areas as above noted and designated along with the preliminary plat application.

3. **Content of Environmental Impact Statement**

The content of the Environmental Impact Statement shall usually be prepared by a team of professionals that will provide answers to the following questions:

a. What environmental impacts will probably occur (i.e. wildlife, plant life, social, economic, physical, etc.) as a result of the proposed development?

b. What corrective action or alternative plans could be developed so as not to significantly cause detrimental environmental impact?

c. What adverse effects of the proposed development cannot be avoided?

CHAPTER 6

VACATIONS AND DEDICATIONS

SECTION 6.1 APPLICATION PROCEDURE

1. **Application**

   Any property owner desiring to have an existing subdivision, public right-of-way or easement vacated, or desiring to dedicate a street right-of-way, or easement shall complete and file an application with the City and also file such other applications as are otherwise required by law.

   Upon receipt of the completed application and other information as may be required, the City shall affix the date of application acceptance thereon. Said application shall then be placed on the agenda for consideration at the next regular meeting of the Commission which is held not less than thirty (30) days from application submittal. Various City departments shall submit comments on the vacating application prior to the Commission's meeting.

SECTION 6.2 ACTION

1. **COMMISSION RECOMMENDATION**

   The Commission shall reveiw the request and any agency response and make a recommendation to the Council for approval, conditional approval or denial.

2. **Council Action**

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

   b. When considering an application for dedication, the Council may approve or deny the application. When a dedication is approved, any required street improvements shall be constructed or a bond furnished assuring construction, prior to acceptance of the dedication. To complete the acceptance of any dedication of land, the owner shall furnish to the Council a deed describing conveying such lands to be recorded with the County Recorder.

CHAPTER 7

WAIVERS AND AMENDMENTS

SECTION 7.1 WAIVERS

Where the Council finds that extraordinary hardships may result from strict compliance with these regulations, it may waive specific regulations so that substantial justice may be done and the public interest secured, provided that such waiver will neither have the effect of nullifying the intent and purpose of the Comprehensive Plan nor these regulations.

The fact that an owner could realize a greater financial return from his property by subdividing said property contrary to these regulations is not a sufficient reason for hardship. Hardship cannot be proved where it can be shown that property was purchased with the knowledge of existing restrictions, nor can hardship be claimed in terms of prospective sales or potential customers.

SECTION 7.2 AMENDMENTS

The Council, after recommendation from the Commission, may from time to time amend, supplement, or repeal the regulations, procedures and provisions of this ordinance in the following manner:

1. The Commission, prior to recommending an amendment supplement or repeal of this ordinance, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposed amendment, supplement or repeal to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The Commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. Following the Commission hearing, if the Commission makes a material change in the ordinance, other than that published for the present hearing, further notice and hearings shall be provided before the Commission forwards its recommendation to the Council. A record of the hearings, findings made, and actions taken shall be maintained.

2. The Council, prior to adoption of an amendment, supplement or repeal of this ordinance, shall hold at least one (1) public hearing using the same notice and haring procedures as the Commission. The Council shall not hold a public hearing, give notice of a proposed hearing, or take action on a proposed amendment until recommendations have been received from the Commission. Following the hearing of the Council, if the Council makes a material change in the ordinance, other than that published for the present hearing, further notice and hearings shall be provided before the Council adopts the amendment, supplement or repeal.

CHAPTER 8

FEES, PERMITS, INSPECTION, VIOLATIONS, PENALTIES, CONFLICT WITH OTHER LAWS AND REPEALER

SECTION 8.1 FEES

Persons filing a subdivision plat within the City of Rexburg, shall first have paid all fees as established by resolution of the City Council. Such fees may be reviewed and changed by resolution of the Council at such times as the Council deems necessary.

A fee may be assessed for any service, including but not limited to the following:

1. Office checking and field engineering.
2. Subdivision plat filing fee.
3. Construction inspection fee.

SECTION 8.2 PERMITS

From the time of the effective date of this ordinance, no building permits shall be issued in violation hereof, nor shall any City officer grant any license or permit for the use of any land or the construction or alternation of any building or structure on a lot which would be in violation of any provision of this ordinance. Any license or permit issued in conflict with such provisions shall be void.

SECTION 8.3 INSPECTION

Appropriate agencies and department shall inspect (or cause to be inspected) the improvements for compliance with approved plans and specifications and applicable codes such as buildings, fire hydrants, water supply, sewage disposal systems, etc., in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall be covered or backfilled until such installations shall have been approved by the City. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued by the City to the responsible person.

SECTION 8.4 VIOLATION

No person shall subdivide any tract or parcel of land located wholly or in part in the City except in compliance with the provisions of this ordinance. No person shall purchase, sell or exchange any parcel of land which is part of a subdivision or a proposed subdivision submitted to the Commission, nor offer for recording in the office of the County Clerk any deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this ordinance.

SECTION 8.5 PENALTIES

Penalties for failure to comply with the provisions of this ordinance shall be as follows:

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

SECTION 8.6 CONFLICT WITH OTHER LAWS AND REPEALER

It is not intended by this ordinance to impair or interfere with other regulations of state or local law, or with private restrictions on the use of land, improvements, and structures. Where this ordinance imposes greater restriction than that imposed by other law or private restrictions, this ordinance shall prevail. All other ordinances or parts of ordinances in conflict herewith are hereby repealed upon the effective date of this ordinance. This ordinance, when adopted, shall repeal Ordinances No. 444 and 487 in their entirety with amendments thereto.

CHAPTER 9

VALIDITY OF THE ORDINANCE

SECTION 9.1 SEVERABILITY

If any provision of this ordinance is to be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions, and to this end the provisions of this ordinance is declared to be severable.

SECTION 9.2 EFFECTIVE DATE

This ordinance shall be in full force and effect on the first day after its passage and approval thereof.

PASSED BY THE CITY COUNCIL OF THE CITY OF REXBURG, IDAHO, THIS 6TH DAY OF JUNE, 1984.

APPROVED:
/s/JOHN C. PORTER
Mayor

ATTEST:
/s/ROSE BAGLEY
City Clerk

(SEAL)

STATE OF IDAHO)
:
County of Madison)

I, ROSE BAGLEY, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the ordinance entitled:

AN ORDINANCE REPEALING ORDINANCES NO. 444, 487, AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND ADOPTING THAT CERTAIN DOCUMENT KNOWN AS THE REXBURG SUBDIVISION ORDINANCE AUTHORIZED BY TITLE 50, CHAPTER 13 AND TITLE 67, CHAPTER 65 OF THE IDAHO CODE, AS AMENDED OR SUBSEQUENTLY CODIFIED AND ARTICLE 12, SECTION 2 OF THE IDAHO CONSTITUTION. THE PURPOSE OF THIS ORDINANCE IS TO PROMOTE THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE, AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

passed by the City Council and approved by the Mayor this 6th day of June, 1984.

/s/ROSE BAGLEY
City Clerk

