

**PART 1:
TITLE 9 (SUBDIVISIONS), CHAPTER 5 (PUD REGULATIONS)**

CHAPTER 5: PLANNED UNIT DEVELOPMENTS¹

SECTION:

- 9-5-1: General
- 9-5-2: Urban Reserve PUDs
- 9-5-3: Rural Reserve PUDs
- 9-5-4: Planned Community PUDs

9-5-1: GENERAL

- A. Types of PUDs: Three (3) types of PUDs are available under this Title:
1. Urban Reserve PUD: A PUD or a part of a PUD located within the Urban Reserve area, which shall be designed to facilitate future urbanization and possible annexation and service by a municipality.
 2. Rural Reserve PUD: A PUD or part of a PUD located outside the Urban Reserve area and containing no more than one hundred (100) lots (or if it is being developed as a condominium or then no more than one hundred (100) dwelling units), which shall be designed to preserve the open, rural character of Teton County and to avoid the creation of urban densities or urban infrastructure outside of the Urban Reserve area.
 3. Planned Community PUD: A PUD or part of a PUD located outside the Urban Reserve area and containing more than one hundred (100) lots or dwelling units, which shall be designed to preserve the open, rural character of Teton County by minimizing the visual impacts of the development and preventing the appearance of large, dispersed, free-standing communities in those areas.
- B: Purpose; The purposes of the PUD regulations and process are:
1. To encourage development that is more consistent with the policies and objectives of the comprehensive plan through the use of innovative designs and the application of sound design principles. If the County adopts a Planned Land Use Map (PLUM) as a part of, the comprehensive plan, or to supplement the comprehensive plan, this purpose shall be interpreted to encourage development that is consistent with that PLUM.

¹ NOTE: The PUD chapter is now Chapter 5, rather than Chapter 7 due to consolidations of former Chapters 4 and 5 and the elimination of Chapter 6. The provisions have been extensively modified to reflect the discussions of the PUD Working Group and to organize provisions around the three new types of PUDs (Urban Reserve, Rural Reserve, and Planned Community). Provisions for Small PUDs have been merged into the Small PUD process in section 9-3-2. The RCI PUD provisions have been deleted, since they were not being used.

2. To preserve contiguous parcels of high quality open space in meaningful amounts and in desirable locations.
 3. To permit clustering and similar design solutions which encourage protection of scenic areas, wildlife habitats and migration routes, skylines, and riparian areas. (amd. 06-05)
 4. To encourage compact rather than scattered developments.
 5. To provide opportunity for development where site constraints or other similar factors make the PUD approach more reasonable and desirable than the standard subdivision design.
 6. In the Urban Reserve area, to encourage development that is better coordinated with planning for the cities of Driggs, Teton, and Victor and designed to facilitate future annexation by those cities,
 7. In the Urban Reserve area, to encourage the production of housing affordable to citizens who work in Teton County in areas close to the cities of Driggs, Teton, and Victor².
 8. In the Rural Reserve area, to encourage development that better protects the rural, open character by minimizing the visual impacts of the development and preventing the appearance of large, dispersed, free-standing communities in those areas
 - 9.. In the Rural Reserve area, to encourage development designs that cause the least possible disruption of farming, ranching, or other established and ongoing land use activities
 10. In the Rural Reserve area, to encourage open space development along the scenic corridors or in the most aesthetically pleasing areas of the land where development is most shielded from the view of the scenic corridors. (Ord. 9 as Amd. through 9-25-2000; amd. 06-05)
- C. Height, Setback, and Lot Size: In the interest of promoting flexibility and achieving goals set out in section 9-5-1-B of this Chapter, a PUD may depart from applicable height, setback, and lot size restrictions when recommended by the Commission and approved by the Board. The building height, architecture, and land coverage within the PUD shall be designed and arranged to enhance the livability and attractiveness of adjacent land uses. The yard and height requirements of the adjacent zone may be required on the periphery of the PUD. Any departures from the height, setback, and lot sizes required in section 8-4-4 of this code must be recorded and must not compromise the health, safety, and general welfare of the County. (Ord. 9 as Amd. through 9-25-2000)
- D. Compliance with Zoning Overlays: All PUD applications applicant must comply with all procedural and substantive requirements of any applicable overlay provisions of this Title, including but not limited to the regulations in section 8-5-2 Overlay areas.. (Ord. 9

² NOTE: Some members of the PUD Working Group did not support the inclusion of affordable housing as a PUD goal or a community benefit for which density bonuses would be granted.

as Amd. through 9-25-2000)³ The ability of PUDs to depart from the height, setback, and lot size regulations of the underlying zoning district does not include the ability to depart from or waive any of the Overlay area regulations.

E. Deeding or Dedication of Open Space:⁴

1. The land designated as open space within a PUD must be committed to open space by one (1) or more recorded instruments. This will require deeding, i.e., the seller may retain the deed with a deed restriction to maintain open space, a formal dedication of conservation easement (or a fee interest) to an appropriate governmental entity, charitable organization, or homeowner's association. Open space may also be platted as one or more large privately held lots with specified building envelopes. The Commission and Board must be satisfied that the preservation of open space is viable and the entity to which the open space is deeded is a sound, independent and legitimate organization whose primary purpose is to protect and maintain open space. (amd. 06-05)
2. The Commission in consultation with the developer and the project engineer shall determine the number, size and locations of building sites above one (1) allowed to be platted as privately owned lots in the open space of the PUD so as to protect the integrity of the open space and protect health, safety and general welfare of the county. (amd. 06-05)

F. Management of Open Space⁵

1. Open Space Management Plan: A management plan for all required or dedicated open space and any recreation facility on the open space shall be provided as part of the development agreement for the PUD. The plan must include a dedicated funding source and sufficient guarantees that the land can be maintained in open space for its intended use (including recreation facilities if applicable) without becoming a nuisance and without financial support or maintenance services from the County.
2. Management of Agriculture Land: Where the designated open space is intended to be used for agricultural purposes after the approval of the PUD, a supply of irrigation water is required, provided a water right existed on this land prior to development, and provided the owner of the water right is willing to sell it for this purpose. If a water right is required for farming and is not available, then the open space shall be designated for some other purpose and the management plan in subsection 1 shall include a dedicated funding source adequate to support it in another designated open space use acceptable to the Commission and the Board.

G. Phased Development: PUD developments can be developed in one or more phases. Phasing of a PUD shall be part of the Final Plan, Development Agreement and Final Plat

³ NOTE: These provisions have been moved from former section 9-7-8 Compliance with Zoning Overlays.

⁴ NOTE: This information has been moved from former section 9-7-2-D Deeding or Dedication of Open Space.

⁵ NOTE: These materials are consolidated from former section 9-7-6-E, F, G, and H.

submittal as recommended by the Commission and approved by the Board. The required fees shall be paid prior to starting development of each phase in accordance with the estimated time line for phasing as recorded on the Final Plat. PUDs that do not meet the time line as stipulated on the Final Plat shall be called in for review by the Commission and may have the permits revoked. Fees paid shall not be refunded. (Ord. 9 as Amd. through 9-25-2000;amd. 06-05)⁶

- H. PUD Application and Review Procedure: The procedure for processing an application under this chapter will follow the general procedures for approval outlined in Chapter 3 of this ordinance. (Ord. 9 as Amd. through 9-25-2000; amd. 01-16-2002;amd. 06-05)⁷
- I. Review by District Court: Any final decision of the Board is subject to judicial review as provided in the Idaho law. (Ord. 9 as Amd. through 9-25-2000)⁸

9-5-2: URBAN RESERVE PUDS

- A. Size: The minimum size of an Urban Reserve PUD is ten (10) contiguous acres. There is no maximum size limit.
- B. Permitted Land Uses: The primary land use in an Urban Reserve PUD is residential. Non-residential commercial uses designed to serve the daily needs of PUD residents shall be permitted provided that the combined maximum size of all buildings or floor areas devoted to commercial uses does not exceed five thousand (5,000) square feet. Commercial uses shall not include a gas station/convenience store, restaurant, or any use designed to serve a market beyond the PUD population.⁹
- C. Maximum Density: If the Urban Reserve PUD dwelling units are served by municipal central water and sewer systems, the maximum density is eighty (80) dwelling units per one hundred (100) acres. Otherwise, the maximum density shall be fifty (50) dwelling units per one hundred (100) acres.¹⁰
- D. Community Benefits: Each Urban Reserve PUD shall provide a minimum of twenty (20) percent of the gross land area in the application as open space. The open space shall not include any areas within a platted development lot, and shall be organized in a single, contiguous parcel, and not in strips along the outer edges of the application unless such strips are required to buffer incompatible land uses or open lands used for significantly different purposes. The open space shall be visible to the public from at least one (1) public road or street, but need not be available for public use. The application shall also provide at least one (1) of the community benefits listed below:

⁶ NOTE: These provisions have been moved from former section 9-7-10 Phased Development.

⁷ NOTE: These provisions have been moved from former section 9-7-11 PUD Application Procedure.

⁸ NOTE: These provisions have been moved from former section 9-7-12 Review by District Court.

⁹ NOTE: For each type of PUD, these provisions reflect modifications of former sections 9-7-4 Primary Land Use and 9-7-5 Incidental Land Use based on discussion of the PUD Working Group.

¹⁰ NOTE: These numbers remain unchanged from the current regulations for the Urban Reserve area (which will include lands currently in the Urban Service area). While there was support for reducing these densities, there was concern that reductions would remove any incentive to avoid standard 2.5 acre lots.

1. At least ten (10) percent of the dwelling units in the application shall be multi-family rental units with a gross floor area of not more than one thousand (1000) square feet, and shall remain rental units (i.e. not be converted to cooperative or condominium ownership) for at least ten (10) years after initial occupancy; or
2. At least ten (10) percent of the dwelling units in the application shall be constructed with accessory dwelling units with a gross floor area of not more than one thousand (1000) square feet; or
3. The required open space shall be improved with at least one (1) community or recreational facility, such as a community center, recreation center, tennis court, or a trail or pathway that connects to a similar trail or pathway on an adjacent lot. The facility need not be made available to the public, except that if a trail or pathway is provided it shall be made available anyone permitted to use the connecting trail or pathway on the adjacent parcel.

9-5-3: RURAL RESERVE PUDS

- A. **Size:** The minimum size of a Rural Reserve PUD is forty (40) contiguous acres. There is no maximum size limit.¹¹
- B. **Permitted Land Uses:** The primary land use in a Rural Reserve PUD is residential. Non-residential commercial uses designed to serve the daily needs of PUD residents shall be permitted provided that the combined maximum size of all buildings or floor areas devoted to commercial uses does not exceed ten (10,000) square feet. Non-commercial institutional uses such as schools, churches, or clubhouses are permitted provided that the combined maximum size of all land area devoted to institutional uses does not exceed two (2) percent of the total land area of the PUD (including open space).¹²
- C. **Maximum Density:** If the Rural Reserve PUD property is located in an area zoned A2.5, the maximum density shall be fifty (50) dwelling units per one hundred (100) acres. If the Rural Reserve property is located in an area zoned A20 the maximum density shall be fifteen (15) dwelling units per one hundred (100) acres. No additional density shall be permitted if the Rural Reserve PUD includes provision of central or community water or sewer systems.¹³
- D. **Community Benefits (Open Space):** Each Rural Reserve PUD shall provide a minimum of fifty (50) percent of the gross land area in the application as open space. The required open space shall be organized into not more than two (2) internally contiguous

¹¹ NOTE: Some members of the PUD Working Group supported maximum size limits for Rural Reserve and Planned Community PUDs to prevent introduction of villages or towns in rural areas.

¹² NOTE: There was significant discussion about non-residential use in Rural Reserve and Planned Community PUDs, with some supporting a ban on all non-residential uses.

¹³ NOTE: There was considerable disagreement within the PUD Working Group regarding appropriate maximum densities in Rural Reserve Areas of the county currently zoned A20, with recommendations ranging from a maximum of 6 du per 100 acres (20% bonus) to 30 du per 100 acres (500% bonus). The recommended maximum reflects a 200% bonus in order to leave a significant incentive to avoid the creation of standard 20 acre lots.

parcels that include lands based on the following priorities (in declining order of importance):¹⁴

1. Shall include land in the HS Hillside Overlay, SC Scenic Overlay, and WH Wildlife Habitat Overlay areas, as defined in section 8-5-2 to the maximum extent feasible. The Commission may consider information from any Technical Committee appointed pursuant to section 9-3-3-C in determining whether this criterion has been met.
 2. Shall be contiguous with dedicated open spaces on adjacent parcels or with lands in the HS Hillside Overlay, SC Scenic Overlay, and WL Wildlife Overlay areas on adjacent parcels to the maximum extent feasible.
 3. Shall be organized to protect adjacent active agricultural areas or to be used for agriculture jointly with adjacent farming areas.
 3. Shall be organized to protect large, intact areas of open lands, rather than being dispersed in strips around the outer edges of the application parcel or gerrymandered with thin strips connecting otherwise non-contiguous areas.
 5. Shall be visible to the public from at least one (1) public road.
 6. Need not be made available for public use
 7. If the designated open space is in one of the following categories, only one-half (1/2) of the open space acreage in that category shall be counted towards the minimum open space required in the PUD.
 - a. The open space is included in a golf course or other recreation facility restricted to use to PUD residents or members or to the public for a fee,
 - b. The open space is included within the boundaries of a lot or tract on which development is permitted,
 - c. The open space is included in the FP Floodplain Overlay area or the WL Wetland Overlay area as defined in section 8-5-2.
- E. Clustered Development.¹⁵ In order to preserve the rural, open character of the area, residential areas in Rural Reserve PUDs shall be clustered to avoid those areas designated for inclusion in required open space to the maximum extent feasible. Clustered development areas:

¹⁴ NOTE: This section includes some material from former section 9-7-7 Contiguous Lands but supplements it with more detail on what types of lands must be included in dedicated open space. Greater guidance on the quality of open space to be dedicated was a high priority for many members of the PUD Working Group.

¹⁵ NOTE: This section includes some material from former section 9-7-9 Clustering but supplements it with more detail on what the design of clusters. Stronger standards for clustering were a high priority for many members of the PUD Working Group, although some members did not support mandatory clustering in rural areas.

1. Shall be designated on lands remaining after the designation of open space areas, and shall not include lands in the HS Hillside Overlay, SC Scenic Overlay, or WL Wildlife Overlay areas unless there are no other feasible development areas.
 2. Shall be located in areas that minimize visibility from the State Highways and Ski Hill Road, and from adjacent development to the maximum extent feasible.
 3. Shall be designated to minimize or mitigate impact on crop production, grazing, and agricultural activities on the application parcel or adjacent parcels (in most cases this will require that clusters not be located along property boundaries adjacent to land in productive agricultural use).
 4. Shall be designated so that building envelopes are located to avoid any lands identified as areas of "High" or "Extreme" wildfire danger on Appendix A, Map 4 of the Teton County Wildland Fire Mitigation Plan (2004).
 5. Shall contain a minimum of five (5) residential lots, unless there will be fewer than five (5) lots in the entire PUD (i.e., it is a Small PUD) or the application demonstrates that one (1) or more clusters of less than five (5) lots is necessary for the protection of the priority open spaces identified in subsection D above.
 6. Shall each contain a maximum of twenty-five (25) residential lots, unless the application demonstrates that the creation of one (1) or more larger clusters is necessary to better protect the priority open spaces identified in subsection D above, in which case the maximum number of residential lots in a cluster shall be thirty-five (35).
- F. Contiguous or Sequential PUDs: If an applicant or a group of applicants with similar or overlapping ownerships present to the County applications for Rural Reserve PUDs that are contiguous with each other, either simultaneously or in sequence, and it appears to the Planning Administrator that the PUD applications are parts of a larger scheme for development that would qualify as a Planned Community PUD if it were presented as a whole, the Planning Administrator may require the applicant to submit an application for a Planned Community PUD or may require that sequential applications be reviewed and approved pursuant to the standards applicable to a Planned Community PUD.

9-5-4: PLANNED COMMUNITY PUDS

- A. Size: The minimum size of a Planned Community PUD is forty (40) contiguous acres. There is no maximum size limit.
- B. Permitted Land Uses: The primary land use in a Planned Community PUD is residential. Non-residential commercial uses designed to serve the daily needs of PUD residents shall be permitted provided that the combined maximum size of all buildings or floor areas devoted to commercial uses does not exceed ten thousand (10,000) square feet per one hundred (100) dwelling units or part thereof. No building containing non-residential uses can exceed ten thousand (10,000) square feet in floor area. Non-commercial institutional uses such as schools, churches, or clubhouses are permitted provided that the combined maximum size of all land area devoted to institutional uses

does not exceed two (2) percent of the total land area of the PUD (including open space).

- C. **Maximum Density:** If the Planned Community PUD property is located in an area zoned A2.5, the maximum density shall be fifty (50) dwelling units per one hundred (100) acres. If the Rural Reserve property is located in an area zoned A20 the maximum density shall be fifteen (15) dwelling units per one hundred (100) acres. No additional density shall be permitted if the Rural Reserve PUD includes provision of central or community water or sewer systems.
- D. **Community Benefits (Open Space):**
 - 1. Because larger developments area are more likely to compromise the open, rural character of the Rural Reserve areas unless the additional dwelling units are balanced by additional open space, each Planned Community PUD shall provide a minimum of seventy (70) percent of the gross land area in the application as open space. Except for the increased percentage required, the required open space shall meet all of the requirements for open space in Rural Reserve PUDs in section 9-7-3-D.
 - 2. In addition, each Planned Community PUD shall provide a public or community water supply system and a public or community sewer system meeting all requirements of the District Seven Health Department and the Department of Environmental Quality, and shall create a taxing district or homeowners association with the responsibility to maintain and replace those water and sewer facilities. The taxing district or homeowners association must be created with the power to compel the payment of dues, assessments, or taxes through liens on individual properties if necessary. The development shall be subject to protective covenants that include the County as a party for purposes of collection or enforcement of its terms. The covenants shall provide that the County may provide needed repairs and maintenance on the water and sewer systems if the homeowners association or taxing district fails to do so, and to collect the costs of such repairs and maintenance from the homeowners association or taxing district through liens on individual properties if necessary.¹⁶
 - 3. In addition, each Planned Community PUD shall provide a system of walking trails and bicycle pathways to connect all development clusters to any recreational facilities, community facilities, and commercial uses included in the PUD.

¹⁶ NOTE: There was significant discussion in the PUD Working Group about whether community water and sewer systems should be encouraged, permitted, or prohibited in the Rural Reserve Areas. This recommendation reflects a compromise in which those systems are permitted but not encourage through density incentives. One objection to the systems is that they encourage the creation of urban densities in rural areas, and that has been addressed through revisions to the PUD density incentives. A second objection has been that some community sewer systems require expensive maintenance several years after they are installed, and that objection has been addressed by requiring a permanent maintenance entity with strong powers to collect funds to pay for the maintenance. Although these powers are commonly available in western states, we will need to confirm that they are available in Idaho on terms acceptable to the Board.

- E. Clustered Development Because larger developments area are more likely to compromise the open, rural character of the Rural Reserve areas unless the additional dwelling units are located and designed to minimize their visibility and impacts on the land, and to accommodate the larger number of dwelling units larger clustered development areas subject to stronger siting constraints.
1. Each Planned Development PUD shall comply with the same requirements for clustered development areas applicable to Rural Reserve PUDs, except that the maximum number of residential lots in each development cluster shall be fifty (50).
 2. In order to minimize the visibility of development clusters, each Planned Community PUD shall be subject to protective covenants requiring that primary structures shall be built or painted with indigenous earth tone materials or colors. The color of all roofs shall be similar to the colors of surrounding vegetation or land features, and may not be of highly reflective materials.

**PART 2:
OTHER SECTIONS OF TITLE 9 (SUBDIVISION REGULATIONS)**

TITLE 9: SUBDIVISION REGULATIONS

CHAPTER 1: GENERAL PROVISIONS

SECTION:

- 9-1-1: Title
- 9-1-2: Authority
- 9-1-3: Purpose
- 9-1-4: Jurisdiction
- 9-1-5: Interpretation
- 9-1-6: Administration
- 9-1-7: Combing of Permits
- 9-1-8: Severability

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

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

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

- A. The harmonious development of the area in accordance with the approved Comprehensive Plan;
- B. The coordination of streets and roads within the subdivision with other existing or planned streets and roads, and the construction of streets and roads necessary to accommodate traffic from the proposed development in accordance with County approved engineering standards and without expense to the public;
- C. Adequate open space for travel, light, air, and recreation, including consistency with the Teton Valley Long Range Trails plan to the maximum extent feasible.
- D. Adequate water supply, drainage and sanitary facilities to serve the proposed development, and the construction of such facilities in accordance with County approved engineering standards and without expense to the public;
- E. Design of development to avoid those Overlay areas defined in Title 8 to the maximum extent feasible, and where avoidance is not feasible, then to require mitigation of all impacts to such areas to the maximum extent feasible;

- F. Design of development in accordance with all regulations applicable to the area, including without limitation the Zoning Regulations, the approved building code, the _____ Fire Code, and the requirements of District 7 Health Department.
- G. The manner and form of making and filing of any plat; and
- H. The administration of these regulations by defining the powers and duties of approval authorities. (Ord. 9 as Amd. through 9-25-2000)

9-1-4: JURISDICTION: These regulations shall apply to the subdividing of all land within the unincorporated territory of Teton County. All subdivisions and PUDs within the areas of city impact defined in Chapter 7 are subject to the area of city impact ordinances as agreed to by the cities and the County.

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

9-1-6: ADMINISTRATION: The Board shall appoint a Planning Administrator to carry out the provisions of this Title 9 and to advise the Commission. The Planning Administrator shall receive and process all subdivision and PUD applications. (Ord. 9 as Amd. 9-25-2000)

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

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

CHAPTER 2: DEFINITIONS¹⁷

SECTION:

9-2-1: Interpretation

¹⁷ NOTE: We have only printed those definitions where we recommend changes. Other definitions would remain unchanged. However, we recommend that the definition list not be repeated in Titles 8 and 9, because that leads to slight differences and inconsistencies over time. Instead, we recommend that the code contain a complete definition list in Title 8, with a single cross-reference to that definition list in Title 9 (or vice versa).

9-2-2: General Definitions

9-2-1: INTERPRETATION – No change

9-2-2: GENERAL DEFINITIONS: --

ADMINISTRATOR: See definition in section 8-2-1.

COMMITTEE:¹⁸

CONCEPT PLAN: The first formal presentation of the three-phase process for subdivision development as required in Sections 9-3-3-A and 9-3-3-B of this Title. (Amd. 01-16-2002)

HILLSIDE: Those areas designated as hillsides on Comprehensive Plan May 5 or any successor map approved by the Board as being a more accurate representation of hillside lands in the Teton County.

OPEN SPACE: Significant tracts of land not under residential, commercial or industrial use. It may be productive uses including agriculture or low-impact recreational amenities such as greenbelts, pathways, ball fields, and golf courses, or it may include sensitive environmental areas such as wetlands, riparian areas, steep hillsides and wildlife corridors. Streets parking areas, structures for habitation and the like shall not be included. Lawns, yards, gardens or similar outdoor features associated with homes, condominiums, apartments or business can only be included if such features are held or managed in common by all project residents. (amd. 06-05)

OVERLAY AREAS: See definition in Title 8.

PLANNED UNIT DEVELOPMENT (PUD): A development of land consisting of separate residential lots of record where conventional setbacks, lot sizes, or density may be varied with adjacent land held in common, usually as open space, and managed by a private entity or a homeowner's association. Three (3) types of PUDs are available under this Title – Urban Reserve PUD, Rural Reserve PUD, and Planned Community PUD – each of which is defined and described in Chapter 5 of this Title

RIDGELINE DEVELOPMENT:¹⁹

RIPARIAN AREA: Areas contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent water bodies (rivers, streams, lakes, or drainage ways). Riparian areas generally have distinctly different vegetative species than adjacent areas or similar species with more robust growth than adjacent areas. Riparian areas are often located between wetland and upland areas.

RURAL RESERVE AREA: All those areas of Teton County outside the defined Urban Reserve Areas.

¹⁸ NOTE: The definition of Committee has been replaced by a definition of Technical Committee, and language describing its procedures have been moved to section 9-3-3-C-2.

¹⁹ NOTE: The definition of ridgeline development has been deleted, since the term was and is not used in Titles 8 or 9. Ridgeline development controls are now contained in the HS and SC Overlay regulations.

SMALL SUBDIVISION OR PUD: A subdivision or PUD created through the subdivision of not more than five (5) lots or parcels.

TECHNICAL COMMITTEE: That Technical Committee appointed to review a subdivision or PUD application pursuant to section 9-3-3-C-2.

URBAN RESERVE AREA: Those areas designated as the Urban Service Area and the Urban Reserve Area on Comprehensive Plan Map No. 4 dated December 14, 2004, but excluding any areas annexed to a municipality or included in a defined Area of City Interest with the approval of the Board since that date.²⁰

CHAPTER 3: PROCEDURE FOR APPROVAL²¹

SECTION:

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

9-3-2: Small Subdivision or PUD

9-3-3: Standard Subdivision or PUD

9-3-1 ONE TIME ONLY SPLIT OF ONE PARCEL OF LAND²² -- No changes

9-3-2: SMALL SUBDIVISION OR PLANNED UNIT DEVELOPMENT²³

- A. Purpose: The purpose of the small subdivision or planned unit development process is to allow landowners desiring to create five (5) or fewer residential lots in an approved zone for subdivision, to use an expedited and simplified application process. Provided the size limit is met, this process shall be used for both Urban Reserve PUDs and Rural Reserve PUDs,
- B. The requirements for a small subdivision are as follows:
 - 1. The proposed project/development shall contain five (5) or fewer lots for residential use and development.

²⁰ NOTE: This provision eliminates the former Urban Service area designation and includes the former Urban Service area lands in a revised definition of the Urban Reserve area. Some members of the PUD Working Group felt that the Urban Reserve area between Driggs and Victor should bracket the highway but should not extend eastward to the BLM lands. That change would require a mapping change by the County.

²¹ NOTE: This section has been reorganized to cover all the procedures for various types of subdivisions and PUDs. Provisions for a One Time Only Split of One Parcel of Land have been inserted from former section 9-8, and provisions for Small Subdivisions and PUDs have been moved from section 9-3.6.

²² NOTE: This section was moved from 9-8 and renumbered.

²³ NOTE: This section was moved from 9-3-6 and renumbered. Only substantive changes are noted.

2. This provision shall not be used in series to create a larger subdivision or PUD. The planning administrator has the discretion to deny a small subdivision application and require the applicant to follow the amended plat procedure outlined in 9-3-5 D, if the intent of this section is not met. The applicant can appeal the planning administrator's decision in writing to the Commission within 28 days of denial. (Amd. 09-22-2003)

C. Simplified Procedures:

1. The landowner seeking approval of a small subdivision or PUD shall comply with all of the requirements for a standard subdivision set forth in section 9-3-3 except as follows:

Step One: The Planning Administrator may waive, reduce, or limit the list of materials required to be submitted at either phase if the Planning Administrator determines that the proposed development will not create any significant impacts on the topics or areas addressed by particular application materials. If the Commission later determines that there may be significant impacts in those areas, the Commission may request any of the material previously waived, reduced, or limited by the Administrator prior to making its decision on the application.

Step Two: The concept master plan and preliminary plan and plat phases shall be combined and presented in a noticed public meeting for review by the Commission. For small subdivisions or PUDs the master plan development agreement final plat and the preliminary master plan and plat may be the same document. The Commission shall approve, approve with conditions, disapprove, or continue application for the combined plat. It is also possible skip Step One and proceed directly to the Master Plan/Development Agreement/Final Plat process, but, an incomplete application may extend the process approval for the small subdivision if step one is passed over. (amd. 06-05)

Step Three: The final plan, development agreement, checklist and the final plat shall be presented to the Commission for review in a noticed public hearing in accordance with state code chapter 65, title 67. The Commission shall, following the public hearing, recommend approval, approval with conditions, or disapproval of the final plat to the board.

2. Upon receipt of the recommendation, the Board shall schedule a public hearing in accordance with state code chapter 65, title 67. The Board's decision shall be to approve, deny, or remand the application back to the Commission for further review. Specific reasons for the decision shall be stated for the record.
3. The final plan, development agreement and final plat review by the Commission and Board shall contain all of the requirements of final plat as outlined in the subdivision ordinance of the county to include a platting, development agreement, bonding, and other requirements of the subdivisions ordinance.
4. Fees shall be paid in accordance with the fee schedule. (Ord. 9 as Amd. through 9-25-2000)

- D. Review By District Court: Any final decision of the Board is subject to judicial review as provided in Idaho law. (Ord. 9 as Amd. 9-25-2000)

9-3-3 LARGE SUBDIVISION OR PLANNED UNIT DEVELOPMENT

Applications for the creation of lots or parcels that do not qualify for processing as a One Time Only Split of a Single Parcel or Land under section 9-3-1 or as a Small Subdivision or Planned Unit Development under section 9-3-2 shall the follow the procedures established in this Section 9-3-3. This process shall be used for Urban Reserve PUDs, Rural Reserve PUDs, and Planned Community PUDs.

- A. General Information – No changes to this section, except that section references to 9-3-2, 9-3-3, and 9-3-4 should be changed to 9-3-3-A, 9-3-3-B, and 9-3-3-C to reflect the reorganization of this material.²⁴
- B. Concept Review Phase
 - 1. Overview – No changes to this section.
 - 2. Purpose of Concept Review – No changes to this section.
 - 3. Consideration for Approval – No changes to this section.
 - 4. Application – No changes to this section, except that the application materials checklist shall require that the application include proposed building envelopes and proposed street locations.
- C. Preliminary Plat Phase
 - 1. Overview – No changes to this section.
 - 2. Application
 - a. Filing and Required Material: The subdivision/PUD application, the Preliminary Plat, the completed Preliminary Plat checklist, all required fees, a landscaping plan, preliminary fire district approval, water right availability, proposed building envelopes, draft public improvement plans, plus any other required materials and non-refundable fees must be filed with the Planning Administrator. If all or part of the proposed development is located in an Overlay area defined in Title 8, any specific studies or documents required by

²⁴ NOTE: In a memo to the County dated February 10, 2008, Clarion listed several items that should be required as part of the submission package on PUD applications. We continue to support those recommendations, but believe those details do not belong in the County zoning and subdivision regulations. Instead they should be part of an administrative list maintained by the Planning Administrator and used to review applications. The County should also consider which of the items listed in the February 28 memo should apply to applications for Small Subdivisions or PUDs.

regulations governing Overlay areas shall be presented with the application. All required Public Agency comment letters as included in the application checklist must be filed before proceeding to public hearing. The application materials shall include:²⁵

1. Information about how the proposed subdivision or large PUD incorporates or is consistent with the Teton Valley Pathways Plan;
2. A landscaping plan showing compliance with the requirements of section 9-4-9, for a subdivision or PUD application with more than twenty (20) lots, this shall include a vegetation/revegetation plan identifying locations where vegetation will be installed in order to replace existing vegetation, stabilize any disturbed slopes, or provide visual buffering from neighboring properties or from State Highways 31, 32, 33 or Ski Hill Road.
3. A map showing all existing public access routes to public land and to the Teton River passing through or adjacent to any portion of the land included in the application; and
4. If a Nutrient-Pathogen Study is required by section 8-5-2.C, that study shall be included in the application materials
5. Natural Resources Analysis:²⁶
 - a. Requirement. If the proposed subdivision or PUD lands contain any lands included in any of the overlay areas defined in Title 8, except the AV Airport Overlay area, the applicant shall have a qualified professional approved by the Planning Administrator prepare a Natural Resources Analysis for the entire application parcel along with the preliminary plat and checklist application.
 1. Existing Conditions Inventory. The Natural Resources Analysis shall describe the following types of existing conditions on the application parcel in the following areas:
 2. Floodplains, wetlands, and riparian areas;
 3. Areas of geological or seismic hazard shown designated on documents prepared by or for any state or federal agency;

²⁵ NOTE: In general, specific application materials should not be listed in the regulation. The detailed descriptions in subsections a.1 through a.10 can be deleted when those requirement are added to the application materials checklist.

²⁶ NOTE: This requirement has been moved from former section 9-6-3, where it applied to large subdivisions and PUDs in Areas of Critical Concern. Areas of Critical Concern have been replaced by the six overlay areas defined in Title 8, so this requirement has not been tied to those overlay areas

4. Areas of the property located within an area of high or extreme wildfire danger, as designated by the fire protection district;
 5. Existing vegetation and stands of mature trees, including wildlife habitat for those species identified on the WL Wildlife Habitat overlay map;
 6. Ridges and rock outcroppings; and
 7. Areas of the property that are located within one (1) mile of any State Highway or Ski Hill Road and are visible from any State Highway or Ski Hill Road.
- c. Existing Conditions Map. Each of the natural resource areas listed in subsection b shall be shown on a map that also shows the proposed location of building envelopes, roads, and driveways in the proposed subdivision or PUD.
- d. Impact and Mitigation. The Natural Resources Analysis shall state for each of the existing conditions listed in subsection b above:
1. Whether all or any portion of any of the building envelopes, roads, or driveways will be located within any of the mapped natural resources areas.
 2. If some portion of a building envelope, road, or driveway will be located within any of the mapped natural resource areas, how the applicant intends to avoid, minimize, and/or mitigate any impact on the natural resource or mitigate any unavoidable impacts.
6. Public Service/Fiscal Analysis: Due to the impact that a large subdivision or PUD may have on public facilities, utilities, services and finances, the applicant for a proposed Subdivision or PUD containing more than twenty (20) lots shall submit a public service/fiscal analysis containing the following information along with the preliminary plat and check list: (amd. 06-05)
- a. Identification of Affected Public Services and Facilities: The analysis shall identify all public services and facilities that would be provided to or available to the subdivision or PUD, including public road construction and maintenance, schools, fire protection, police protection, central water, central sewer, parks and open space, recreation, maintenance, and/or solid waste collection.
 - b. Impact Analysis: An analysis of the impact the subdivision or PUD will have on those public services or facilities

identified in subsection 1, using an average cost methodology. The analysis shall identify whether existing public service and facilities provided to or available to the subdivision or PUD have adequate capacity to meet any increased demands created by the development. Where the service or facility is provided by an entity other than the County, (i.e., the school district, fire protection district, or a public or private utility) the applicant shall submit a letter from that entity confirming whether the facility or service has adequate capacity available to serve the proposed subdivision of PUD, and if not, what changes or improvements would be required to provide that capacity,

- c. Estimate of Tax Revenue: An estimate the tax revenue that will be generated from the proposed subdivision or PUD and the timeframe over which the revenues shall be generated, which shall be consistent with any phasing plan provided with the application.
 - d. Mitigation or Financing: Suggested means of providing or financing needed improvements or expansions to the services and facilities identified in subsection 1 if adequate capacity is not available or the cost of providing the public services and facilities would not be offset by tax revenue received from the development. Where the service or facility is provided by an entity other than the County that will not receive direct tax revenues as a result of the proposed subdivision or PUD, the analysis shall separately address mitigation or financing of needed improvements or expansions to the services and facilities they provide.
7. Traffic Impact Analysis: Due to the impact that a large subdivision or PUD may have on traffic levels, congestion levels, and levels of service on roads, the applicant for a proposed subdivision or PUD containing more than twenty-five (25) lots shall submit a traffic impact analysis. A TIA may also be required if the Planning Administrator, the Commission, or the Board think that the condition of one or more of the roads that would provide access between the proposed development and the nearest State Highway is so poor that traffic from twenty-five lots or less could create public safety risks or interfere with the efficient flow of traffic. Each required traffic impact analysis shall meet the following standards:
- a. The analysis shall be based on traffic generation estimates of the Institute of Transportation Engineers' Trip Generation Manual or any successor publication.
 - b. The analysis shall identify the current capacity of Highway 31, 32, 33 and Ski Hill Road (whichever has the most direct access from the proposed development), expressed

as a percentage of available peak hour design capacity on that road, and the additional peak hour design capacity of those roads that would be used by the proposed development. These calculations should be based on the existing levels of service on the road, as determined by the County road staff. The traffic impact analysis should clearly identify any change in level of service (for example, from LOS A to LOS B) as a result of the proposed development and what steps the applicant will take to mitigate those impacts.

- c. The analysis shall identify the condition of all paved and unpaved County roads that will be used by traffic to and from the development before it reaches Highways 31, 32, 33 or Ski Hill Road, whether the anticipated level of traffic from the proposed development could cause traffic to exceed the safe design capacity of that road, whether any of those roads will require upgrades to remain within their safe design capacity, and how the costs of those upgrades will be paid or mitigated without cost to the County.
 - d. The analysis and must take into account traffic from future development for which building permits have already been issued that will access any of the same roads connecting the proposed development to any State Highway or Ski Hill Road. All data used in the TIA shall be consistent with any recent traffic counts on any of the access, county, or state roads involved, and any marketing materials prepared for the proposed development.
8. For a subdivision or PUD application with more than twenty (20) lots, a report by a qualified engineer certifying that the proposed sewage disposal system is adequate for the proposed development and will comply with all requirements of state law, District 7 Health, and the Department of Environmental Quality.
9. For a Planned Community PUD, an analysis of potential additional school children resident in the proposed development. The analysis should indicate the potential yield of school children based on the experience with part-time and full-time resident demographics from other, similar developments in the county. The schools analysis should identify which schools the potential new students would attend, document current capacity for additional students in each of those schools, based on information from the school district. If the existing schools do not have adequate capacity to accommodate the anticipated additional students from the proposed development, the report should identify steps that the applicant shall to mitigate impacts or provide additional school capacity.

10. In order to minimize the visibility of development clusters, each Planned Community PUD application shall include an accurate scaled drawing of each development cluster showing the number of homes proposed for the cluster, each with a height of thirty (30) feet, against the existing backdrop (hillside, valley floor, or existing development) behind the cluster, all as seen from the nearest point on a State Highway or on Ski Hill Road.²⁷
 - b. Review by Administrator – No changes to this section.
 - c. Schedule of Filing Dates/Deadlines – No changes to this section.
 - d. Public Notice – No changes to this section.
 - e. Failure to Notify – No changes to this section.
 - f. Intergovernmental Coordination – No changes to this section.
 - g. Final Master Plan / Development Agreement / Final Plat requirements – No changes to this section.

2. Technical Committee.²⁸ For each application for a Planned Community PUD, and upon the request and recommendation of the Commission for any other large subdivision or PUD, the Board may appoint a Technical Committee to assist with the technical evaluation a preliminary master plan and plat and/or any supporting studies or related information. If appointed by the Board, the Technical Committee shall review those portions of the application referred to it by the Commission and shall make recommendations to the Commission on any issue referred to the Technical Committee, which may include issues related to a required NP Study, issues related to a required natural resources inventory, or issues related to any of the criteria for approval set forth in section 9-3-3-D-3. The membership of the Technical Committee may include, but is not limited to, persons that are engaged in either private or public work with specific knowledge in the following areas:
 - a. Road design, construction or maintenance;
 - b. Traffic generation and traffic studies;
 - c. Subsurface resource analysis;
 - d. Sewer and water facility design and construction, maintenance, and/or reliability;
 - e. Health requirements for water and sewer facilities;

²⁷ NOTE: These details can be moved to application materials checklists when they are revised.

²⁸ NOTE; This material has been moved from the definitions sections of Titles 8 and 9 (where it was included in the definition of “Committee”) and expanded to cover concerns that arose during discussions of the PUD Working Group.

- f. Flood protection;
 - g. Wildlife habitat, including wetland and riparian areas and habitat values;
 - f. Geologic or seismic hazards;
 - f. Recreational facilities and open space planning;
 - g. School facilities, costs, capacity, and student generation rates;
 - h. Law enforcement;
 - i. Fire protection;
 - j. Scenic view, ridgeline protection and/or view mapping or visualization;
and
 - k. Public finances and/or capital facilities planning.
3. Preliminary Plat Hearing/s -- No changes to this section
4. Action/Decision: The Planning Commission shall act on the information presented at the Preliminary Plat hearing(s). The decision shall be to continue the Preliminary Plat hearings, to recommend approval, to recommend approval with conditions, or to deny the application. Specific reasons for the recommendation shall be stated in writing for the record. (amd. 06-05) Because phase 3 of the subdivision/PUD review process is not intended to raise new or additional topics or concerns, it is very important that the action of the Commission during this phase 2 be based on a full understanding of all anticipated impacts of the proposed development on Teton County. The Commission shall only recommend approval if it finds that all of the following criteria have been met (or if it finds that some of the criteria have not been met, may recommend approval with conditions that would ensure that the proposed development meets the criteria):
- a. The application is consistent with the comprehensive plan.
 - b. The application complies with all applicable regulations in Title 7 (Areas of City Interest), Title 8 (Zoning), and this Title 9, including but not limited to the regulations applicable to any of the Overlay areas under section 8-5-2.
 - c. If the application is for a PUD, it complies with any additional regulations applicable to PUDs under Chapter 5 of this Title 9, including without limitation regulations controlling the types and locations of open space to be included in the development and the required design and size of development clusters, If the application is for a Planned Community PUD, the application adequately mitigates any impacts identified in those additional studies required by section 9-3-4.

- d. The application Includes bicycle pathways as required by section 9-4-2-D-4 to the maximum extent feasible.
- e. The application is consistent with the results of any Nutrient-Pathogen Study required for the property and includes any conditions or changes required to avoid any potential degradation of surface or groundwater identified in that study.
- f. The application is consistent with the recommendations of any report on the adequacy of the proposed sewage system for the development and includes any recommended mitigation measures identified in that report.
- g. The application is consistent with any Traffic Impact Analysis required for the property and will not result in a decrease in the level of service (for example, from level of service B to C) on any State Highway or Ski Hill Road and includes any mitigation measures recommended in the Traffic Impact Analysis.
- h. If the application is for land that is not adjacent to a State Highway or Ski Hill Road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one State Highway or Ski Hill Road, and the County Transportation Department has determined that the proposed connecting roads will be adequate for anticipated traffic and will be constructed to County standards.
- i. If a Natural Resources Analysis is required pursuant to section 9-3-3-B-1, the proposed development will avoid all mapped natural resource areas, or will adequately minimize or mitigate any unavoidable impacts to the mapped natural resource areas.
- j. The required Public Service/Fiscal Analysis shows that all public services provided to the proposed subdivision or PUD have adequate capacity to service it, or if they do not, the applicant has committed to mitigation or financing to ensure that those services and facilities will be provided within a two (2) years after the first unit in the development is occupied and that any shortfall of tax revenues below the costs of providing the services or facilities will be covered without cost to the County.
- k. The application is consistent with any capital improvements plan adopted by the County.
- l. The application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school aged children anticipated by the development, and includes any recommended mitigation measures identified in that study.
- m. An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners association) rather than taxes, the county should

have the power to enforce payments of those dues in the event the organization fails to do so.

- n. If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in this section 9-3-3-C-4, the application should meet as many of the criteria as possible.

D. Final Plat Phase

1. Overview: -- No changes to this section.
2. Final Plat Submittal – No change to this section, except to clarify that the Final Plat must show the approved building envelopes and road locations, which shall be binding on the applicant and subsequent owners of the property or the lots created.
3. Fees – No changes to this section
4. Hearing/s: The Board shall schedule a public hearing in accordance with the public hearing process outlined above in 9-3-3-C-2-d. The Board's decision shall be to approve, approve with conditions, deny, or remand the application back to the Commission for further review. Specific reasoning for the decision shall be included in the record based on the information provided from the Commission on the plat(s), Development Agreement, and/or other studies and findings. Any new information presented to the Board that is not contained in the written documentation and reasoning from the Preliminary Plat Phase hearings (Section 9-3-3-C) of this Title shall automatically require a remand of the application to the Commission for further review. If the Board finds that the written documentation and reasoning from the Preliminary Plat Phase do not support the Commission's finding that the application complies with those criteria in section in 9-3-3-C-4, the Board shall make specific findings as to the way(s) in which the application does not satisfy those criteria, and may deny the application for failure to comply with this Title or may remand the application back to the Commission in light of the Board's specific finding with regard to the criteria in section 9-3-3-C-4. The Board at its discretion may continue the hearing or require a new hearing during the time it takes for the Commission to review and report on the new information. (amd. 06-05)
4. Findings: In conjunction with the decision for approval, approval with conditions, or rejection of an application for a subdivision or PUD, both the Commission and the Board shall make, where necessary, written findings with respect to the items required with the submission of the application and the criteria below. Written findings are not necessary where the public documents or records of the public meeting already provide a written record:
 - a. Each exception to otherwise applicable restrictions shall be identified and the reasons supporting the exceptions stated.

- b. The subdivision or PUD is consistent with the public health, safety and welfare of the County and with all applicable provisions of this Title and Title 8 of the Teton County code.
- c. The information required in the application has been verified and is correct.
- d. The PUD contains the minimum of open space required by this title or amount of open space agreed to in the plans and plat. (amd. 06-05)

E: Filing and Recording – No changes to this section:

CHAPTER 4: DEVELOPMENT STANDARDS²⁹

SECTION:

9-4-1: Design Standards

9-4-2: Improvement Standards

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

- A. Dedication: Within a proposed subdivision or PUD, all streets and roads shall be dedicated to the public if required by the Board, (Ord. 9 as Amd. through 9-25-2000). The Board shall not be obligated to accept dedication of any street or road that is not open to the public or for which it determines that the costs of maintenance are higher than its benefit to the public. If the Board decides not to accept dedication of a public street or road, the applicant shall be required to establish a mechanism by which the road shall be maintained and repaired over time without cost to the County.
- B. Specifications: Street right-of-way widths, grades, design, and alignment shall conform to the “Highways and Street Guidelines for Design and Construction” manual for Teton County, Idaho, as amended. (Ord. 9 as Amd. through 9-25-2000; amd. 06-05) Where a proposed road or street is located within the HS Hillside Overlay area defined in Title 8, the Planning Administrator, after consultation with the County Engineer, may require that the street or road right-of-way widths, grades, design, and alignment conform to alternative standards for hillside roads published by any local government or state or national organization with expertise in the design of roads in hillside areas.

²⁹ NOTE: This section combines the provisions of former Chapter 4 Design Standards, Chapter 5 Improvement Standards, and section 9-6-6 Mobile Home Subdivisions. This simplifies the structure of Title 9 and allows us to eliminate former Chapter 6 Special Development Subdivisions.

C: Street and Road Locations:

1. Collector and/or Arterial Street: Where a subdivision or PUD abuts or contains a collector and/or arterial street, it may be required that there be frontage roads approximately parallel to and on each side of such arterial or collector streets or, such other treatment as is necessary for adequate protection of residential properties and to separate through traffic from local traffic.
 2. Arrangement: Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients. (Ord. 9 as Amd. through 9-25-2000). Proper relation of streets shall include the following:
 - a. Location along terrain contour lines (rather than directly up or down slopes greater than eight (8) percent) to the maximum extent feasible.
 - b. Location so as to minimize visibility from the State Highways and Ski Hill Road to the maximum extent feasible.
 - c. Location to avoid dividing intact meadows, undisturbed hillsides, or contiguous stands of trees to the maximum extent feasible. Wherever possible, roads should pass around rather than directly over or through these landscape features. Where a route through those features cannot be avoided, the route should be designed to pass near or around the edge of the feature, rather than across the middle of it.
 - d. Compliance with all standards related to roads and streets set forth in the Overlay areas defined in section 8.5.2. Where requirements related to the Overlay area conflict with the location required by subsections 1, 2, or 3 above, the Overlay area requirements shall govern.
- D. Easements: Unobstructed utility easements shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the Planning Administrator. Total easement width shall not be less than twelve (12) feet. Unobstructed irrigation and drainage way easements shall be provided as required by the Board. (Ord. 9 as Amd. through 9-25-2000)
- E. Blocks: Every block shall be so designed as to provide two (2) tiers of lots. Where lots back onto an arterial street or natural feature of a subdivision boundary blocks shall not exceed a maximum length of one thousand five hundred (1,500) feet. (Ord. 9 as Amd. through 9-25-2000)
- F. Lots: The lot width, depth, and total area shall not be less than the requirements of any applicable ordinance. Flag lots will be permitted only by the discretion of the Commission and the Board based on consistency with the comprehensive plan and with the intent statements in Titles 8 and 9. (Ord. 9 as Amd. through 9-25-2000;amd. 06-05)
- G, Planting Strips and Reserve Strips: Planting strips may be required to be placed between residential areas and features such as highways, railroads, commercial or industrial uses to screen the view from neighboring properties. (amd. 06-05)

H. Landscaping: Existing natural features that enhance the attractiveness of the community such as trees, watercourses, and historic areas shall be preserved through the design of the subdivision or PUD. The Commission may request reasonable berming and plant landscaping, and other improvements to protect view corridors and vistas that protect the rural character of the county. (Ord. 9 as Amd. through 9-25-2000; amd. 06-05)

I. Protective Covenants

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

J. Access

1. Required: Each lot shall have legal and physical access provided and must abut and/or have access to a public or private street or road. Emergency secondary access roads shall not be used to provide the primary means of access to a lot.
2. Multiple Accesses: The Commission may require multiple accesses into a subdivision or PUD when any of the following are present:
 - a. Where the primary access road is over two thousand five hundred (2,500) feet long;
 - b. Where a primary access road is over one thousand five hundred (1,500) feet long and it serves at least twenty (20) residential lots/dwelling units/spaces;
 - c. Where safe and convenient access and emergency vehicle circulation dictates.

3. High or Extreme Wildfire Hazard Areas³⁰: The Commission shall require multiple accesses into a subdivision or PUD when any portion of the subdivision or PUD is located in an area of high or extreme wildfire hazard by the fire protection district and:
 - a. The primary access is over one thousand five hundred (1,500) feet long; or
 - b. The primary access road is over one thousand (1,000) feet long and it serves twenty (20) residential lots/dwelling units/spaces.
4. Second or Additional Access: When more than one access is required into a subdivision and the sole intent of the second or additional access is for emergency, right of way and travel surface width may be reduced below County road standards for primary roads. Any secondary access road that does not meet County standards for primary roads can never serve as a primary access road for existing or proposed development unless upgraded to County road standards for primary roads. Secondary emergency access standards shall meet the following standards unless varied on a case-by-case basis by the Commission after a determination that the lower standard would not create additional risks to public health or safety: (Ord. 9 as Amd. through 9-25-2000)
 - a. At least a twenty (20) foot gravel improved travel surface;
 - b. At least a forty (40) foot right-of-way;
 - c. No more than eight percent (8%) grade.

K. Outdoor Lighting:

1. Lighting: These provisions shall apply to all outdoor lighting for buildings, structures, recreational areas, parking lots, landscape lights, sign lighting and other outdoor lighting within subdivisions. It is intended to establish procedures and standards that ensure minimal light pollution and reduce glare to aid in the control of lighting which affects astronomical observation and light trespass to neighboring properties. Street lighting is not required and is discouraged in areas that are naturally dark. Lighting that does not meet the provisions of Section 9-4-12-B for special purpose facilities, including, but not limited to, arenas, amphitheaters or field recreation facilities may be approved by the Planning and Zoning Commission. This outdoor lighting ordinance shall not apply to any lights existing prior to December 31, 2004.
2. Standards: Exterior lighting brighter than a sixty (60) watt incandescent light shall be shielded so that no light is projected above the horizontal, and the light source shall be diffused or shielded so that it cannot be seen from public areas or roadways or any other property.
 - a. Motion sensor lights are encouraged.

³⁰ NOTE: The current language uses "high hazard" areas, which is not a defined term in the code. This provision is generally used for high fire danger areas, so we have limited it to that context.

- b. Floodlights shall not shine directly onto roadways or other lots or properties.
 - c. Lights on private property shall be set back from the property line at least three (3) times the height of the lamp above grade. (Amended 01-24-05)
- L. Clustering Development: In order to preserve the rural character and open character of the Rural Reserve Area of the County, all subdivisions and PUDs approved on or after _____ shall cluster development as follows:
 - 1. New subdivisions and replats of existing subdivisions shall arrange lots so that each lot meets the minimum lot size of the zone district where it is located, but shall designate building envelopes so that residential home sites are clustered in groups of between two (2) and five (5) homes to the maximum extent feasible.
 - 2. New PUDs and replats of existing PUDs shall cluster development to comply with sections 9-5-3-E or 9-5-4-E, as applicable.

9-4-2: IMPROVEMENT STANDARDS

- A. Responsibility for Plans: It shall be the responsibility of the developer of every proposed subdivision or PUD to have prepared by a registered engineer, a complete stamped and certified set of final construction plans, including profiles, cross sections, specifications and other supporting data for all required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans, which have been approved with the preliminary plat and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with the state and County standards or specifications. (Ord. 9 as Amd through 9-25-2000; Amd. 09-09-2002; amd. 06-05)
- B. Required Public Improvements. Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:
 - 1. Monuments: Monuments shall be set in accordance with section 50-1303, Idaho Code.
 - 2. County Roads and Subdivision/PUD Streets: Costs for upgrading new or existing County roads, and subdivision/PUD streets that are required to serve traffic generated by the proposed development, including any roads needed to connect the proposed development with the nearest County road and one of the state highways, shall be borne by the applicant and are required to meet minimum public safety standards in accordance with the Highway and Street Guidelines for Design and Construction Manual, as amended. Any required dedication of land for road improvements required to connect the proposed development to the state highway shall be roughly proportional to the contribution of traffic from the proposed development to overall traffic on the connecting road Traffic impact studies to determine service levels for public roads and streets within the proposed development, or on any road needed to connect the proposed

development with the nearest County road and one of the State Highways shall be required for all Large Subdivisions and PUDs and shall be paid for by the applicant. (Amd. 09-09-2002; amd. 06-05)

3. **Curbs and Gutters:** Curbs and gutters may be required by the Commission or the Board if they determine that they would improve storm water transmission, reduce street maintenance costs, or reduce soil erosion adjacent to the road, and if required shall be constructed in accordance with the standards and specifications adopted by the Board.
4. **Bicycle Pathways:** A bicycle pathway may be required within large subdivisions or PUDs as part of the public right-of-way or as a separate easement. In addition, if the Teton Valley Pathways Plan shows a bicycle pathway through or adjacent to the proposed development, the development application shall show the location of that bicycle pathway, but any required dedication of land for the construction of pathways connecting the proposed development with bicycle pathways outside the proposed development shall be roughly proportional to the contribution of bicycle traffic from the proposed development to overall bicycle traffic on the connecting trails.
5. **Installation of Public Utilities:** Underground utilities shall be required for all subdivisions and PUDs in accordance with code requirements. (amd. 06-05)
6. **Drainage:** Each subdivision and PUD shall provide a storm water drainage system, together with a certification from a civil engineer licensed to practice in Idaho that the proposed storm water drainage is adequate to retain or detain anticipated peak storm water on site and/or convey it off-site in compliance with state law requirements regarding the protection of downstream property owners, and in a manner to prevent soil erosion both on- and off-site. The applicant shall create a homeowners association or other organization with the power and responsibility to maintain the storm water drainage system over time, and with a reliable source of dues, assessments, or other revenues to support that maintenance.
7. **Water Supply and Sewer Systems:** The applicant shall provide water supply and sewer system adequate to meet the needs of the proposed development while avoiding damage to the environment. As required by Idaho Code Title 50, Chapter 13, Section 1326, central water systems and sewage waste systems shall be required upon the recommendation and approval District Seven Health Department and, upon the recommendation and approval of the Department of Environmental Quality when that is required by state code. Individual wells require the approval of the State Department of Water Resources. Individual septic systems require the approval of the District Seven Health Department. When required by state code, both individual wells and septic system may require approval of the Department of Environmental Quality. (Amd. 09-09-2002; amd. 06-05)
8. **Maintenance and Operations of Public Water Supply and Sewer Systems:** The developer shall provide for perpetual method of maintenance and operation of the public water supply and/or sewer systems (serving 2 or more separate premises or households) to ensure the continued usefulness of the system, and

shall create a homeowners association or other organization with a reliable source of dues, assessments, or other revenues to support that maintenance and operation.

9. Fire Protection: Adequate fire protection shall be in accordance with The Teton County Fire Protection District as per The International Fire Code, as amended and the Teton County Fire Protection District "Resolution for Subdivisions", as amended. (amd. 06-05)
10. Street Lighting: Streetlights may be required to be installed at intersections throughout the subdivision if the Commission or Board determines it is necessary for traffic safety. The applicant shall conform to the requirements of the County in accordance with this Title in Chapter 4, Section 9-4-12 and the public utility providing such lighting. (amd. 06-05)
11. Public Land Access: Existing public access points and routes to public lands and the Teton River shall remain open and be maintained with the same or upgraded standards as may be required at the Commission and Board's request. Subdivisions that border public lands may be required to provide a public access to the public land or the Teton River to the extent allowed by law..
12. Addresses and Subdivision Name: All subdivisions and PUDs shall have an entrance sign stating the name of the subdivision or PUD, as approved by the Commission based on the current sign ordinance regulations in accordance with Chapter 9 of Title 8. All roads within the subdivision or PUD shall have street signs, and each home shall be addressed with numbers posted in a visible location. (Ord. 9 as Amd. through 9-25-2000; amd. 06-05)

C: Guarantee of Completion – No changes to this section.

D. Sharing Development Costs – No changes to this section.

9-4-3: MOBILE HOME SUBDIVISION OR PUD:³¹

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

³¹ These provisions have been moved from former section 9-6-6 and reworded for clarity.

FORMER CHAPTER 6: SPECIAL DEVELOPMENT SUBDIVISIONS – Has been deleted

The provisions of former Chapter 9-6 have been included in other parts of Titles 8 and 9, and the Chapter has been deleted. The content of former section 9-6-1 Purpose is now covered by the introduction to section 8-5-2 Overlay areas. The content of former section 9-6-2 Large Subdivisions and PUDs is now integrated into section 9-3-3-C Large Subdivisions. The content of former section 9-6-3 Subdivisions in Areas of Critical Concern has been moved to the general requirements for Large Subdivisions and to the WL Wetlands Overlay area regulations in section 8-5-2. The provisions of former section 9-6-4 Hillside Subdivisions, have been merged into section 8.5.2. as part of the HS Hillside Overlay area regulations. The provisions of former section 9-6-5 Subdivisions Within a Flood Plain have been moved to the FP Floodplain Overlay area in section 8-5-2. The provisions of former section 9-6-3 Mobile Home Subdivisions and PUDs have been moved to section 9-4-3 as a form of development standard.

CHAPTER 6: RESERVED FOR TRANSFER OF DEVELOPMENT RIGHTS -- This section will be addressed with basic TDR provisions in Phase 2 of this project.

CHAPTER 7: VACATIONS AND DEDICATIONS – No change

CHAPTER 8: VARIANCES – No change

CHAPTER 9: ENFORCEMENT AND PENALTIES -- No change

CHAPTER 10: AMENDMENTS – No change

**PART 3:
SECTIONS OF TITLE 8 (ZONING) RELATED TO PUDS and SUBDIVISIONS**

TITLE 8: ZONING REGULATIONS

CHAPTER 1: PURPOSE AND SCOPE – No change

CHAPTER 2: DEFINITIONS³²

ADMINISTRATOR: The Planning Administrator appointed by the Board having knowledge in the principles and practices of planning, zoning, and subdivision administration.

DEVELOPMENT: Any activity to construct infrastructure, structures, buildings on land, or to divide the land into lots and parcels in anticipation of such activities, and specifically including a subdivision or PUD or building permit application.

MAXIMUM EXTENT FEASIBLE: All possible efforts to comply with the regulation or minimize potential harm or adverse impacts have been undertaken before alternatives are considered. Economic considerations may be taken into account but shall not be the overriding factor in determining "maximum extent feasible."

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

1. AV Airport Vicinity Overlay: Those areas under the horizontal and conical surfaces shown on the Airport Surfaces map maintained by the City of Driggs.
2. FP Flood Plain Overlay: Those areas shown on Comprehensive Plan Map No. 8.
3. HS Hillside Overlay: Those areas designated as hillsides on Comprehensive Plan Map No. 5.
4. SC Scenic Corridor Overlay: Includes:
 - a. All lands lying within three hundred thirty (330) feet of both sides of Idaho State highways 31, 32, 33 and Ski Hill Road from Driggs city limits to the Wyoming state line; and

³² NOTE: We have only printed those definitions where we recommend changes. Other definitions would remain unchanged. However, we recommend that the definition list not be repeated in Titles 8 and 9, because that leads to slight differences and inconsistencies over time. Instead, we recommend that the code contain a complete definition list in Title 8, with a single cross-reference to that definition list in Title 9 (or vice versa).

- b. All lands located within 30 vertical feet below any ridgeline is located within one mile of the centerline of Idaho State highways 31, 32, 33 and Ski Hill Road from Driggs city limits to the Wyoming state line;³³
- 5. **WH Wildlife Habitat Overlay:** Those areas designated as wildlife habitat on the Teton Basin Wildlife Overlay map prepared by the Teton Valley Regional Land Trust, as amended to January 14, 2008;
- 6. **WL Wetland Overlay:** Includes all those lands defined and regulated as wetlands through the federal clean water act as administered by the U.S. Army Corps of Engineers. Because existing maps do not accurately identify all such areas, the WL Wetlands Overlay will be applied to the following lands and to any other lands notified to the County by the U.S. Army Corps. of Engineers.
 - a. Those area shown on the U.S. Fish and Wildlife Service Designated Wetland Overlay Area³⁴; which may be amended from time to time by the Board by resolution as more accurate information becomes available; and
 - b. Those areas lying within four hundred (400) feet of the mean high water mark of the following waterways:³⁵

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

CHAPTER 3: ZONES, DISTRICTS, AND BOUNDARIES – No change

CHAPTER 4: BASE ZONING REGULATIONS – No change

³³ This expansion of the definition of the SC overlay district is intended to allow for basic control over highly visible ridgeline, but will need to be refined after the county defines specific views that it wants to have protected from specific points of view.

³⁴ NOTE: At the time the Comprehensive Plan was adopted, it appears that wetlands were those areas delineated on Comprehensive Plan Map 5. However, the Nutrient Pathogen Study ordinance referred to a different wetlands map prepared by the U.S. Fish and Wildlife Service. Since this map is the latest wetland map referred to in the Code, we have used it as the reference map for all wetlands regulations.

³⁵ NOTE: These waterways and the 400-foot depth are taken from former section 8-5-2-C.

CHAPTER 5: OVERLAY AREAS

SECTION:

8-5-1: Overlay Area Descriptions

8-5-2: Overlay Regulations

8-5-1: **OVERLAY AREA DESCRIPTIONS:** An “overlay area” is defined by the adopted overlay maps (adopted and incorporated herein by reference) that overlay one or more zoning districts which require special regulations and restrictions because of topography and geographical location and health, safety, and general welfare issues. Overlay areas are not zoning districts. The purpose for each of the overlay areas are described below:

- A. AV Airport Vicinity Overlay: The purpose of this overlay area is to ensure that the uses established in the vicinity of the Driggs-Reed memorial Airport will protect adjacent zoning districts from excessive impact of airport related activities, and will protect the airport related activities from encroachment of incompatible uses on airport operations.
- B. FP Floodplain Overlay: The purpose of this overlay is to ensure that development does not occur where it might result in loss of human life or significant property damage due to flooding, and that any permitted development in those areas is located, designed, and constructed to minimize risks to human life and property.
- C. HS Hillside Overlay: The purpose of this overlay area is to provide a process to ensure that hillsides which have special characteristics and concerns related to standard development patterns and densities can be protected and enhanced when development occurs.
- D. SC Scenic Corridor Overlay: The purpose of this overlay area is to provide a design review procedure to ensure that key roads in Teton County are sufficiently protected from unsightly and incompatible land uses, including development on hillsides within one (1) mile of the key roads that extends above the ridgelines of those hills as viewed from those key roads,.
- E. WH Wildlife Habitat Overlay: The purpose of this overlay area is to ensure that when development occurs in or near identified habitat areas, migration corridors, or breeding areas for those species of wildlife identified on the wildlife overlay map, that such development is located, designed, and constructed to minimize risks of damage to the habitat that would adversely affect its value to wildlife or its use by the identified wildlife species.
- F. WL Wetlands Overlay: The purpose of this overlay area is to ensure that any development that takes place in the dominant wetland areas of Teton County occurs in low-density patterns. It is also the intent of this overlay area to make

maximum use of cluster designs in residential developments in order to leave critical open space areas intact and protect the important wetland environment. To further ensure that critical waterway frontages and corridors in Teton County are sufficiently protected from encroachment of land uses that would negate the viability of the waterway.

(Ord. 93-1, eff. 7-28-1993, as amd. through 1-24-2000)

8-5-2: **OVERLAY REGULATIONS:** The following regulations apply within the boundaries of each respective overlay districts.

A. AV Airport Vicinity Overlay Regulations:

All proposed development within the AV Airport Vicinity Overlay district shall be required to obtain a conditional use permit, which shall only be issued if:

1. No proposed structure encroaches onto the horizontal or conical surfaces shown on the Airport Surfaces Map maintained by the City of Driggs; and
2. No land use to be located under the horizontal or conical surfaces will accommodate an assembly of more than twenty-five (25) people at any one time; and
3. Any proposed residential development will have a residential density of not more than one (1) dwelling unit per acre or the residential density permitted by the City of Driggs on the residentially zoned land within the City that is closest to the subject property, whichever, whichever is higher.

B. FP Floodplain Overlay Regulations³⁶

The provisions of this overlay district shall apply to those lands shown on the FP Floodplain Overlay map, as defined in Chapter 2.

1. Documentation Required: For any proposed development, that is located within a flood plain, the developer shall submit an Application for Permit to Develop in a Flood Plain with a development plan of adequate scales and supporting documentation that will show and explain the following: (Amd. 06-05)
 - a. Location of all planned improvements;
 - b. Location of existing structures;
 - c. The location of the floodway and the floodway fringe per engineering practices as specified by the army corps of engineers;
 - d. Base flood elevation;
 - e. Delineated 100-year Floodplain and Floodway;
 - f. The location of the present water channel;

³⁶ NOTE: This material has been moved with only minor changes from former section 9-6-5 "Subdivision and PUD within a flood plain" so that it can be grouped with the other overlays and apply to all development (i.e., development that may not require a Subdivision or PUD approval.

- g. Any planned rerouting of waterways;
 - h. All major drainage ways;
 - i. Areas of frequent flooding;
 - j. Means of flood proofing buildings; and
 - k. Means of ensuring loans for improvements within the flood plain. (amd. 06-05)
2. Demonstration of No Hazard: Upon the determination the buildings are planned within the flood plain or that alterations of any kind are anticipated within the flood plain area that will alter the flow of water, the developer shall demonstrate conclusively to the Commission that such development will not present a hazard to life, limb, or property; will not have adverse effects on the safety, use or stability of public way or drainage channel or the natural environment. The applicant's statement shall be prepared and signed by a civil engineer licensed to practice in the State of Idaho. (amd. 06-05)
 3. Increased Flows: No development shall be approved if levees, fills, structures or other features within the proposed development will individually or collectively significantly increase flood flows, heights or damages. If only a part of a proposed development can be safely developed, the Board shall limit development to that part and shall require that the development proceed consistent with that determination. (amd. 06-05)
 4. Required Assurances: All development shall be reviewed to assure that:
 - a. All such proposals are consistent with the need to minimize flood damages;
 - b. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages; and
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards.
 - d. New or replacement water, supply systems and/or sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding in accordance with District Seven Health policy and regulations and when required by state code the Department of Environmental Quality. (amd. 06-05)

C. HS Hillside Overlay Regulations³⁷

The HS overlay area shall be applied to building sites within the HS Hillside Overlay area (as defined in Chapter 2) that have slopes over twenty percent (20%) and to all roads and driveways providing access to those building sites.

³⁷ This section merges the provisions of the former section 8-5-2-B (Hillside Overlay) with those of section 9-6-4- (Hillside Subdivisions and PUDs).

1. Documentation required. The applicant shall submit the following documents for any portion of a development application that is within the HS Overlay area. These materials will be due with the initial development application where a subdivision or PUD approval is not requested, and at the time of preliminary plat application when a subdivision or PUD approval is requested.
 - a. Contour Plat; A contour plat showing the vertical elevation for all portions of the proposed development, showing elevation in vertical intervals of not more than five (5) feet as part of the development application and identifying each building envelope, street, and driveway will be located in relation to those contour lines³⁸
 - b. Grading Plan; A plan describing grading and cut-and-fill required for construction of the proposed development, amounts of cut-and-fill material required for the development, and proposed sites for borrow or waste materials. The Grading Plan may be combined with the Contour plat as long as the resulting document clearly identifies both the pre-development and post-development contours and the amounts of grading or cut-and-fill required for each portion of the development.
 - c. Geology and Soils Report: A report containing all available information from state or federal agencies, as well as any available local studies, regarding the nature, strength of existing soils and the underlying hydrology and geology of the site and a statement from a civil engineer licensed to practice in the State of Idaho as to whether the geology, hydrology, or soils on the parcel create any increased risk of danger to human life, damage to property, soil erosion, or contamination of surface or groundwater when compared with lands nearby lands located outside the HS Hillside Overlay area. (amd. 06-05)
 - d. Slope Stabilization and Re-vegetation Plan: A plan identifying slope stabilization measures to be installed, types and amounts of vegetation to be removed, and demonstrating that an equal or greater amount of vegetated material shall be replaced on the site.
2. Building Envelope Location. Building envelopes for all habitable buildings shall be identified in the application documents, and shall meet the following standards.
 - a. No building envelope shall be located on a portion of the development parcel identified as a geological hazard area on any map prepared by a state or federal agency unless the applicant submits a statement signed by a civil engineer licensed to practice in the State of Idaho that, based on information provided in the

³⁸ NOTE: The existing provision that building permits shall not be issued until a subdivision or PUD has completed the third phase of subdivision approval (Master Plan/Development Agreement/Final Plat) has been moved to the section on subdivision procedures.

application documents, the risks of danger to human life and damage to property from geological subsidence will not be significantly higher than similar risks on properties in Teton County located outside of mapped geological hazard areas.

- b. No building envelope shall be located on a portion of the development parcel identified as an area of high or extreme wildfire risk on the latest map being used by the fire protection, unless the applicant submits a statement signed by an official of the fire protection district that, based on information provided in the application documents, the risks of danger to human life and damage to property from wildfires will not be significantly higher than similar risks on properties in Teton County located outside of high or extreme wildfire hazard areas.
 - c. No building envelope shall be located on a portion of the development parcel with a slope over thirty percent (30%).
 - d. Building envelopes shall be located at least one hundred (100) horizontal feet from the top of each ridge,
 - e. Building envelopes shall be located to avoid rolling hillside meadows, existing rock outcroppings, and significant stands of trees and shrubs to the maximum extent feasible.
3. Street and Driveway Location. Streets and driveways shall be aligned and located to make gradual changes across contour lines (rather than running directly up or down slopes) and to avoid street and driveway grades of more than eight percent (8%) to the maximum extent feasible. Streets may have a grade of over eight percent (8%) over a distance of no more than one hundred (100) feet, and driveways may have a grade of over eight percent (8%) over a distance of three hundred (300) feet, if there is no other feasible way to access building envelopes that meet the requirements of subsection 2 above. One-way streets are permitted and are encouraged where they would reduce grading or cut-and-fill requirements or allow streets to more closely follow natural contour lines without endangering public safety. Shared private driveways, clustered parking areas, and on-street parking shall be used if they would enable the proposed development to meet the requirements of this section 8-5-2-C.
4. Avoiding Hillside Disturbance. All development shall be designed to minimize requirements for cut-and-fill that alters the natural terrain. Essential grading and cut-and-fill shall be shaped to blend with the natural terrain of the site to the maximum extent feasible. Phasing of development so that infrastructure and improvements can be completed within one construction season there by ensuring large areas are not left bare and exposed during the winter/spring runoff period.

5. **Revegetation:** The applicant shall revegetated all areas disturbed by grading or cut-and-fill activity with plants similar to those on the remainder of the development site as each stage of grading is completed, and no later than one (1) year after construction, Revegetation shall use plants that can recover from fire damage and do not contribute to a rapid rate of fire spread.
6. **Design.** The foundation of the primary structures shall be located at least thirty (30) vertical feet below the elevation of the top of the ridge, and the color of all roofs shall be similar to the colors of surrounding vegetation or land features, and may not be of highly reflective materials.
7. **Maintenance and Repair.** The applicant shall remain responsible for maintaining and repairing all graded surfaces, required revegetation, erosions prevention devices, retaining walls, and other structures required for compliance with this section 8-2-5-C unless and until such responsibilities are assumed by a homeowners' association with powers to levy dues and/or assessments as needed to carry out its responsibilities.
8. **Utilities:** All service utilities (including but not limited to electric and telecommunication lines) shall be placed underground. (amd. 06-05)

D. SC Scenic Corridor Overlay Regulations

The SC Scenic Corridor Overlay shall apply to those lands within the boundaries of the SC Scenic Corridor Overlay area (as defined in Chapter 2), .

1. **Design Review:** All development shall be subject to design review to ensure that the location, scale, and appearance of buildings, structures, and development of land shall preserve the rural character of the areas bordering major roads and to prevent the construction of buildings that project upward beyond the ridgeline of any hill located within one (1) mile of major roads when viewed from those major roads.
2. **Documentation Required.** The applicant shall submit plans and drawings showing all existing structures, building envelopes for all proposed structures, setbacks from the closest State Highway or Ski Hill Road, as applicable, existing and proposed landscaping and fences, existing and proposed off-street parking areas, and drawings of exterior elevations of primary structures visible from the closest State Highway or Ski Hill Road, These materials will be submitted with the initial development application where a subdivision or PUD approval is not requested, and at the time of preliminary plat application when a subdivision or PUD approval is requested.
3. **Design Review Criteria:** A development application shall only be approved if the Commission finds that it meets the following criteria:
 - a. **Setbacks:** No permanent structure shall be constructed within fifty (50) feet of the outer edge of the road right-of-way, unless the parcel does not contain any buildable site outside of the setback area, in which case

primary structures shall be located as far from the outer edge of the road right-of-way as possible.

- b. **Building Envelopes:** The development shall identify building envelopes for all primary and accessory structures, which shall comply with the following requirements:
 1. Building envelopes shall be located so that existing topography and natural vegetation, such as ridges, hills, and existing trees, will screen buildings from view from the State Highways and Ski Hill Road to the maximum extent feasible.
 2. Where existing topography and natural vegetation cannot be used to screen buildings as described in subsection 1 above, Building envelopes should be located at the rear or side edges of an open meadow or pasture, or at the foot of a hill or ridge, rather than in the middle of a meadow, pasture, or hillside.
 2. Notwithstanding subsections 1 and 2 above, building envelopes shall be located so that no portion of a building up to thirty (30) feet tall shall be visible over the ridge of the hillside on which it is located when viewed from the nearest public road, and the applicant shall submit a sight line analysis in sufficient detail to confirm that this standard has been met.
 - c. **Building Materials:** , The exterior of all primary and accessory buildings, except those located and designed in the form of a ranch compound, shall be built or painted with indigenous earth tone materials or colors. The exterior of a ranch compound shall be built or painted with indigenous earth tone materials, or shall be painted or stained using local, traditional ranch colors, which shall include shades of red, brown, green, or white. The color of all roofs shall be similar to the colors of surrounding vegetation or land features, and may not be of highly reflective materials.
 - d. **Roads and Driveways:** Roads and driveways shall be designed to eliminate the need to back out onto the State Highways or Ski Hill Road. Existing roads and driveways shall be used where practical. When it is not practical to use existing roads, then new roads and driveways shall be located to skirt the edge of meadows and pastures (i.e. avoid dividing them) to the maximum extent feasible.
4. **Signs:** The proposed development will include no free-standing signs except those related to a business or activity conducted on the property or related to a non-commercial message being communicated by the owner of the property. Permitted signs shall not exceed eight (8) feet in height or sixty-four (64) square feet in size, shall be located a at least fifty (50) feet from the outer edge of the road right-of-way, and shall be separated from each other by at least one hundred (100) feet of horizontal distance.

5. Satellite dishes: All satellite dishes in the proposed development shall be located to minimize visibility from the State Highways and Ski Hill Road and shall use earth tone colors and/or screening to minimize their visual impact.
6. Screening: Landscaping shall be used to screen the view of any resource extraction sites, outdoor storage areas, outdoor trash collection areas, satellite dishes over two (2) meters in diameter, and areas with inoperable equipment or more than four (4) inoperable cars or trucks. Required landscaping should be high altitude, native plant material, trees and shrubs.
7. Revegetation: The applicant shall revegetate all areas disturbed by grading or cut-and-fill activity with plants similar to those on the remainder of the development site as each stage of grading is completed, and no later than one (1) year after construction,
8. Utilities: All service utilities (including but not limited to electric and telecommunication lines) shall be placed underground.

E. WH Wildlife Habitat Overlay Regulations

The WH Wildlife Habitat Overlay shall apply to those lands within the boundaries of the WH Wildlife Habitat Overlay area (as defined in Chapter 2),

1. Design Review: All development shall be subject to design review to ensure that the location of buildings, structures, and land development shall avoid or mitigate all impacts on mapped wildlife habitat areas to the maximum extent feasible.
2. Documentation Required: Applicants for development shall notify the Idaho Department of Fish and Game (IDFG) in writing to describe the proposed development and shall request comments from IDFG on the impact of the proposed development on those species of wildlife identified on the WH Wildlife Habitat Overlay area map. The applicant shall submit with the development application a copy of its communication with IDFG and response received from IDFG. No development application shall be reviewed by staff or the Commission until those materials have been submitted to the County. In addition, the applicant shall submit information as to how it has responded to comments or recommendations made by IDFG regarding the application.
2. Design Review Criteria: A development application shall only be approved if the Commission finds that it meets the following criteria:
 - a. Building envelopes shall be located:
 1. To prevent fragmentation of any large, intact areas of native vegetation and habitat area'

2. To avoid rare landscape elements such as unique rock formations, sheltered draws or drainageways, or other features, and locate buildings near areas containing more common landscape elements.
 3. To maintain connections among wildlife habitats by identifying and avoiding development in movement corridors. There shall be a minimum one-quarter (1/4) mile buffer between any building envelope for a habitable building and any wildlife migration corridors shown on the WH Wildlife Habitat Overlay map.
 4. To maintain a minimum three hundred (300) foot buffer between any building envelope for a habitable building and any waterbird habitat area shown on the WH Wildlife Habitat Overlay map.
- b. Fencing: Fencing in areas identified as large game habitat on the WH Wildlife Habitat Overlay area map shall meet the following requirements:
1. Wood rail fencing shall employ three rails or less, be the round or split rail type, shall not exceed fifty-four (54) inches in height above ground level, and twelve (12) inches in width (top view), and shall have at least eighteen (18) inches between the first and second rail.
 2. Wire fencing must be three (3) strands or less. The top wire should be a twelve-point-five (12.5) gauge twisted barbless type at a maximum height of forty-two (42) inches. The middle strands (which may be barbed) should be located a minimum twelve (12) inches apart and from the top wire preventing entanglement when mule deer jump over. The bottom strand should be sixteen (16) inches from the ground.
3. Avoiding Vegetation Impacts: The applicant shall avoid disturbing existing native vegetation in identified wildlife habitat areas to the maximum extent feasible. When existing native vegetation must be altered to accommodate the proposed development, the applicant shall replace the disturbed vegetation with an equal or greater amount of similar vegetation of equal or greater wildlife habitat value.
 4. IDFG Recommendations. If the IDFG has made recommendations regarding the proposed development related to species shown on the WH Wildlife Habitat Overlay map, the application does not incorporate some or all of the recommended changes, the Commission may require that the application incorporate those changes as a condition of approval.
 5. Utilities: All service utilities, (including but not limited to electric and telecommunication lines) shall be placed underground.

E. WL Wetlands Overlay Regulations³⁹

³⁹ NOTE: This section merges the provisions of former sections 8-5-2-C (Wetland Overlay) and 9-6-3-C (Subdivision within a Designated Wetland Overlay Area)

:

The WL Wetlands Overlay shall apply to those lands within the boundaries of the WL Wetlands Overlay area (as defined in Chapter 2),

1. Wetland Map Information: The County zoning maps do not indicate the designated wetland areas in detail and included in the designated wetland areas are some designated upland areas. An applicant may contact the U.S. Army Corps. of Engineers (Corps. of Engineers) to obtain detailed mapping information about wetlands on or near the proposed land included in a development application. If the Corps. of Engineers provides written site-specific information regarding the location or extent of wetlands on an applicant's property, the County will use that information in its review of the application (in lieu of the more general definition in Chapter 2).

..

2. Development Criteria:

- a. All building envelopes shall be located at least one hundred (100) feet from the mean high water mark of the Teton River and at least fifty (50) feet from the mean high water mark of any stream listed in the definition of the WL Wetlands Overlay area in Chapter 2.
- b. When an application contains "upland" areas, building envelopes may be located in upland areas with the approval of, and subject to any conditions imposed or recommendations made by, the Corps of Engineers. Preservation of open space between upland areas and wetland areas may be required.
- c. All building envelopes shall comply with lot frontage, lot size, building setbacks, well, septic, sewer, and health requirements determined by the Corps of Engineers and District Seven Health Department officials, Building setbacks in section 8-4-4 shall also apply.

3. Nutrient-Pathogen Study

Nutrient-Pathogen Evaluations (N-P Studies) are designed to: locate an appropriate number of on-site septic systems on a given parcel of land and to direct the placement of the individual on-site septic systems in a way that will not significantly degrade the quality of ground or surface water resources and to protect Idaho's sole source aquifer.

- a. Requirement. A Level 1: Nutrient-Pathogen Study (NP Study) must be submitted by the applicant for any proposed development that lies wholly or partially within the WL Wetland Overlay area that is contemplating using on-site wastewater treatment systems or central septic systems, or where at least one of the following conditions exist:
 1. There is evidence that ground water, at some time of the year, comes within ten feet of the ground's surface at any location in the proposed development;

2. There is evidence that soil depth to fractured bedrock is ten feet or less, or there exists a predominance of gravel or coarse grained sediment;
 3. The development application includes a food service, commercial or industrial facility generating 600 gallons or more of wastewater per day;
 4. The proposed development is within an area where the known nitrate concentration in ground or surface water is five (5) mg/liter or higher.
- b. Qualified Professional.. When an NP Study is required, it must be performed by a professional with experience in subsurface resource evaluation practices approved by the Department of Environmental Quality
- c. Methods: An NP Study may be performed using either of the following methods:
1. Demonstration of depth of groundwater to the ground surface can be made by excavating test holes and observing redoximorphic features (soil mottling), or by installing ground water piezometers (observation wells) and measuring ground water depths weekly over the period of known or suspected high ground water (spring runoff or irrigation induced high ground water early to midsummer).
 2. Determining the level of existing nutrient and/or pathogen contamination can be made by reviewing existing ground and surface water quality data. Data sources include the Idaho Department of Water Resources Statewide Ground Water Monitoring Network; the District 7 Health Department, the Idaho Department of Agriculture ground water monitoring data, and the Idaho Department of Environmental Quality ground and surface water monitoring results, sub-basin assessments and Total Maximum Daily Load (TMDL) plans.
- d. Procedures;
1. Prior to performing an NP Study, the applicant and the qualified NP professional who is to perform the study must meet with the DEQ and the District 7 Health Department to discuss the elements and objectives of the NP Study.
 2. The NP professional shall then complete the NP Study using one of the methods described in subsection c above, and in accordance with DEQ criteria. The DEQ has Nutrient-Pathogen Evaluation guidance posted on its website at

http://www.deq.idaho.gov/water/assist_business/septic/nutrient_pathogen_eval_guide.pdf

3. The NP Study shall be submitted to the DEQ, who will review it with the applicant and/or consultant and will provide a staff report directly to the applicant within the statutory 60-day review period. Failure to complete this review within the 60-day statutory period may be construed as an approval by the County.
 4. If the application fails a Level 1 NP Study, the applicant may elect to conduct a Level II NP Study. If the DEQ determines that the development application passes the Level II NP Study, then the application may proceed at the proposed density.
 2. If the development application fails both a Level I and Level II NP Study, the density must be reduced until the proposed septic disposal systems passes an NP Study, or the applicant may choose instead to connect to an existing municipal sewer line.
- e. Approval Criteria:
1. In order to be approved, an NP Study must demonstrate that the proposed on-site wastewater treatment systems will not significantly degrade ground or surface water quality beyond existing background levels. For nitrate nitrogen the generally accepted allowable increase in ground water is 1 mg/l over background or a statistically significant concentration determined by DEQ. For nutrients affecting surface waters, the development must be included in the non-point source nutrient allocation of the approved TMDL.
 2. The application shall comply with the separation distances specified in Individual/Subsurface Sewage Disposal Rules (IDAPA 58.01.03),
- f. Request for Waiver. The DEQ and District 7 Health Department and/or the applicant may request that the requirement for NP Study be waived on grounds that the results of the study would have little or no beneficial effect in light of the facts surrounding the application. Requests for waivers shall be heard by the Board at the next available Board meeting, and the Board shall approve the request if it determines that completion of an NP Study would have little or no beneficial effect.

CHAPTER 8.6: Conditional Use – No Change

CHAPTER 8.7: Nonconforming Use – No Change

CHAPTER 8.8: Variances – No Change

CHAPTER 8.9: Signs – No Change

CHAPTER 8.10: Administration – No Change

CHAPTER 8.11: Amendments – No Change