

# Chapter 20

## WILDLIFE OVERLAY DISTRICT (W)

### 9-20-1: PURPOSE:

The Blaine County board of county commissioners finds that the county contains wildlife habitat and species of local, statewide, and national significance as documented by Idaho department of fish and game (IDF&G), the federal bureau of land management, United States fish and wildlife service and the United States forest service. It is the purpose of these regulations to preserve and enhance the diversity of wildlife habitat and species throughout the county for the economic, recreational, and environmental benefit of county residents and visitors. (Ord. 2006-19, 11-14-2006)

### 9-20-2: ESTABLISHMENT OF DISTRICT:

The wildlife overlay district (W) is hereby established and shall cover all lands within Blaine County. (Ord. 2008-17, 11-25-2008)

### 9-20-3: APPLICABILITY:

Any subdivision of land within Blaine County. (Ord. 2006-19, 11-14-2006)

### 9-20-4: DEFINITIONS:

The following terms used in this chapter shall be defined as follows:

**CLASSIFIED LANDS:** Lands within Blaine County, as follows:

**Class I Lands:** Lands within Blaine County that include elk winter habitat or mule deer winter habitat as defined within references used by IDF&G and other professional sources.

**Class II Lands:** Lands within Blaine County that include elk migration corridors or mule deer migration corridors as defined within references used by IDF&G and other professional

**sources.**

**Class III Lands:** Lands within Blaine County that include current endangered, threatened, and candidate species pursuant to the endangered species act of 1973, species of greatest conservation need as listed within IDF&G's 2005 Idaho comprehensive wildlife conservation strategy, or defined within references used by IDF&G and other professional sources.

**CONSERVATION PLAN (MITIGATION PLAN):** A plan that discusses wildlife habitat management and protection, mitigation, and habitat enhancement planned to become part of the development.

**ELK MIGRATION CORRIDORS:** The migration routes used by elk to migrate from summer habitat to winter habitat. Elk migration corridors in Blaine County are designated by IDF&G.

**ELK WINTER HABITAT:** Generally consists of low to mid elevation, southern exposed xeric and mesic sagebrush grasslands and mixed shrub grasslands that are used during winter months by elk. Winter habitat is essential to the survival of these animals during winter. Elk winter habitat in Blaine County is designated by IDF&G.

**ENDANGERED, THREATENED AND CANDIDATE SPECIES:** Protected under the endangered species act of 1973, and administered by the U.S. fish and wildlife service.

**HABITAT ASSESSMENT:** A study that determines the types and values of vegetation and habitat, including sensitive lands. It shall include, but not be limited to, a description and maps of ownership, location, type, size, condition, habitat potential, and other attributes of wildlife habitat on site. A habitat assessment shall be prepared at the applicant's expense under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense.

**MAXIMUM EXTENT PRACTICABLE:** Under the circumstances, that reasonable efforts have been undertaken to comply with the regulation or requirement, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project and that reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance.

**MULE DEER MIGRATION CORRIDORS:** The routes used by mule deer to migrate from summer habitat to winter habitat. Mule deer migration occurs over a few days or may span several weeks, depending upon the weather and other factors. Mule deer migration corridors in Blaine County are designated by IDF&G.

**MULE DEER WINTER HABITAT:** Generally consists of low elevation, southern exposed xeric and mesic sagebrush grasslands and mixed shrub grasslands that are used during winter months by mule deer. Winter habitat is essential to the survival of these animals during winter. Mule deer winter habitat in Blaine County is designated by IDF&G.

**SENSITIVE LANDS:** Lands professionally determined to be integral to the functioning of the

ecosystem, including wetlands, riparian areas and wildlife habitat.

**SPECIES OF GREATEST CONSERVATION NEED:** Those species listed as within the IDF&G's 2005 Idaho comprehensive wildlife conservation strategy, or as subsequently updated.

**WILDLIFE HABITAT:** An area with a combination of resources (food, water, cover, and space) and environmental conditions (temperature, precipitation, and presence or absence of predators and competitors) that promotes occupancy by individuals of a given species (or population) and allows those individuals to survive and reproduce. Components of wildlife habitat include, but are not limited to, principal feeding or foraging areas, winter range, summer range, transition areas, production and breeding areas, movement corridors, and areas providing essential minerals and water.

**WILDLIFE SURVEY:** Current and historical observation and documentation of the animals using the property. It shall include, but not be limited to, a description and map of the populations of wildlife species that inhabit or use the site, including a qualitative description of their spatial distribution and abundance. A wildlife survey shall be prepared at the applicant's expense under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, or similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

## **9-20-5: REVIEW PROCEDURE:**

The following procedures shall apply to all applications for subdivision in Blaine County:

### **A. Preliminary Review:**

1. Prior to the planning or designing of any subdivision, the applicant shall contact IDF&G and any other applicable agency or professional as determined by the administrator to identify any classified lands on the subject property. IDF&G shall forward all preliminary reviews to the planning and zoning administrator who will determine if classified lands are on the subject property. If classified lands are determined to exist on the subject property, the applicant shall be referred to section [9-20-6](#) of this chapter.
2. If the preliminary review by the administrator determines that the proposed subdivision will have no significant impact on wildlife or wildlife habitat, no further action is required of the applicant pursuant to this chapter.
3. An applicant may appeal the administrator's classified lands determination to the board pursuant to section [9-32-3](#) of this title. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

## 9-20-6: CONSERVATION PLAN:

The following procedures shall apply to all subdivisions in the wildlife overlay district determined by the administrator in section [9-20-5](#) of this chapter to have classified lands:

- A. Plan Preparation: A conservation plan required by this section shall be prepared by a qualified person at the applicant's expense and shall be submitted by the applicant.

A conservation plan shall be prepared at the applicant's expense, under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense.

- B. Plan Content: The conservation plan required by this section shall include, but not be limited to, the following information:

1. Wildlife survey and habitat assessment, as described in section [9-20-4](#) of this chapter.
2. Conservation plan:
  - a. An analysis of the potential adverse impacts of the proposed development on wildlife and wildlife habitat on or off site;
  - b. A list of proposed mitigation measures and an analysis of the probability of success of such measures;
  - c. A plan for implementation, maintenance and monitoring of mitigation measures;
  - d. A demonstration of prohibition of wildlife feeding;
  - e. A plan for any relevant enhancement or restoration measures, including noxious weed eradication and control; and
  - f. A demonstration of fiscal, administrative, and technical competence of the applicant or other relevant entity to successfully execute the plan.

- C. Waiver Of Requirements: The administrator may waive in writing specific submittal requirements based on the location of the development, the previous use of the site, the size and potential impact of the development, the absence of a particular species on the site and other relevant factors.

- D. Commission Or Board Review: If upon review of the application, the commission or board determines that a conservation plan is necessary the commission or board may require a conservation plan be prepared and submitted. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

## **9-20-7: DESIGN STANDARDS<sup>1</sup>:**

The following standards shall apply to all subdivisions in the wildlife overlay district and for which a completed conservation plan has been required. The applicant has the burden of demonstrating compliance with this chapter, including each of the following design review standards of evaluation. Before approving or conditionally approving this application, the board shall find that the proposed development meets the following standards:

- A. Wildlife And Wildlife Habitat: All development shall be designed so it does not have a significant adverse impact on wildlife or wildlife habitat or that such significant adverse impacts have been avoided or mitigated to the maximum extent practicable. In determining if a new development will or may have a significant adverse impact on wildlife or wildlife habitats or that such adverse impacts have been avoided or mitigated to the maximum extent practicable, the administrator, commission, or board as relevant shall consider the following criteria:
1. Wildlife Species: Impacts on wildlife species, including, but not limited to, human related activities (including impacts from domestic pets) that disrupt necessary life cycle functions of wildlife, displace wildlife from suitable habitat or decrease the capacity of an area to support wildlife. Assessment of significant impacts will be based on the following:
    - a. Activities in previously undisturbed areas involving any combination of humans, pets, and machines or equipment that disturb or harass an individual animal, group of animals or wildlife species;
    - b. Site development or activities that disrupt necessary life cycle functions, resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species. Examples include, but are not limited to, introduction of nonnative vegetation; excessive use of fertilizers and other chemicals; placement of structures in close proximity to nesting and feeding areas; and excessive exterior lighting;
    - c. Species reliance on specific, unique habitat features, such as riparian areas, that may be affected;
    - d. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, controls on domestic animals and household pets; approval of an outdoor lighting plan as required by chapter 29A of

this title; seasonal restrictions of recreational travel (motorized and nonmotorized) and activities, clustering of development to avoid intrusion into or fragmentation of habitat; and creation of buffers around critical areas.

2. **Wildlife Habitat:** Impact on wildlife habitat, including, but not limited to, the loss, degradation or fragmentation of wildlife habitat to the extent that the capacity of an area to support wildlife is diminished and the diversity of wildlife species occurring in the county is reduced. Assessment of significant impacts will be based on the following:
  - a. The amount of vegetation/habitat removal or alteration within the development site;
  - b. The amount of habitat of similar type and quality within the development site that remains contiguous;
  - c. The existing and proposed amount of lot coverage;
  - d. The existence of contiguous habitat of similar type and quality on adjoining land; and
  - e. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; restrictions on vegetation removal; and enhancement or restoration of equivalent habitat on or adjacent to the site.
3. **Wildlife Movement Patterns:** Impact on wildlife movement patterns, wildlife displacement and habitat use, including, but not limited to, disruption of necessary migration or movement patterns that prevent wildlife from using current or traditional habitats; displacement of wildlife species into areas that cannot support or sustain the species over the long term; or decrease the capacity of an area to support wildlife. Assessment of significant impacts will be based on the following:
  - a. Preventing wildlife from using current or traditional habitats, such as blocking migration corridors from summer to winter range;
  - b. Causing wildlife to find new routes that expose them to significantly increased predation, interaction with motor vehicles, intense human activity or more severe topography and climatic conditions;
  - c. The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area;
  - d. The human activity and development that would result in the inability of a single or multiple species to adapt to the new conditions;
  - e. Inability of affected species to adapt to significant alteration of their current habitats or to find a new habitat that is sufficient to sustain the species over the long term; and
  - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering or location of development to avoid intrusion into migration or movement areas; creation of buffers

around critical areas; limits on fencing that might interfere with migration and movement patterns; and enhancement or restoration of equivalent habitat on or adjacent to the site.

4. Uniqueness Of Habitat And Species: Uniqueness of habitat and species to Blaine County, including, but not limited to, loss, degradation, or fragmentation of important wildlife habitat that is identified as unique to Blaine County in that it supports wildlife species that do not commonly occur outside the county to the extent that the health and viability of a species is threatened in the county and impacts on wildlife species that do not commonly occur outside Blaine County to the extent that a species is threatened in the county. Assessment of significant adverse impacts will be based on the following:
  - a. The extent that habitat similar to that affected by the proposed development exists in Blaine County;
  - b. Whether the species does not commonly occur outside Blaine County, as determined by listing by state or federal agencies as threatened or endangered or as determined by Blaine County in conjunction with the Idaho department of fish and game;
  - c. Whether the habitat does not commonly occur outside of Blaine County as determined by the county in conjunction with the Idaho department of fish and game;
  - d. The extent of the threat to the viability of the species;
  - e. The extent of the reduction of the diversity of wildlife species in the county; and
  - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; and enhancement or restoration of equivalent habitat on the site or elsewhere in the county.
5. Cumulative Impacts Assessment: An assessment of cumulative impacts including the effects of past, present, and reasonably foreseeable future actions within and beyond the boundaries of the proposed site. Assessment of significant adverse impacts will be based on the following:
  - a. The area, including land outside the project site, in which effects of the proposed project will occur and the impacts of the proposed project that are expected to occur in that area; and
  - b. A cumulative assessment of the incremental impacts on wildlife populations and habitat of the proposed development in conjunction with the past, present, and reasonably foreseeable future impacts of other activities and developments.
6. Vegetation Removal And Revegetation:
  - a. Removal of natural vegetation shall be minimized and restricted to the smallest area necessary to construct permitted uses and associated structures, septic systems, and driveways within an activity envelope.

- b. All disturbed areas shall be revegetated with native vegetation as soon as possible and no later than one growing season after construction of the primary structure(s) is completed.
- c. Planting nonnative ornamental plants on sites near or adjacent to designated big game winter habitat is prohibited and strongly discouraged on all other sites. In areas immediately surrounding residential dwelling units, planting of nonpalatable vegetation is strongly encouraged to reduce potential human/wildlife conflicts. (Ord. 2010-06, 5-25-2010; Ord. 2006-19, 11-14-2006)