

CHAPTER 6
SPECIAL DEVELOPMENTS

SECTION:

- 10-6-1: Purpose
- 10-6-2: Provisions Are Additional
- 10-6-3: Submission Of Required Information

10-6-1: **PURPOSE:** The purpose of this chapter is to identify various types of special developments that normally pose special concerns to the commission and the council when reviewing and acting upon subdivision requests. Therefore, this chapter outlines requirements and design standards that shall be taken into consideration when acting on special developments. (Ord. 259-05, 10-4-2005)

10-6-2: **PROVISIONS ARE ADDITIONAL:** The provisions of this chapter are in addition to other applicable requirements of this title, and amendments hereto, and provisions of Idaho Code. (Ord. 259-05, 10-4-2005)

10-6-3: **SUBMISSION OF REQUIRED INFORMATION:** Required information shall be submitted to the city with the preliminary plat. (Ord. 259-05, 10-4-2005)

CHAPTER 6

SPECIAL DEVELOPMENTS

ARTICLE A. PLANNED UNIT DEVELOPMENT

SECTION:

- 10-6A-1: Purpose And Objectives
- 10-6A-2: Definitions
- 10-6A-3: General Regulations
- 10-6A-4: Use Exceptions
- 10-6A-5: Residential Density
- 10-6A-6: Common Open Space Area Required
- 10-6A-7: Development Standards
- 10-6A-8: Supplementary Regulations

10-6A-1: **PURPOSE AND OBJECTIVES:** Planned unit developments are created to allow an applicant maximum flexibility in designing quality residential, commercial, industrial, or mixed use developments which could not be achieved by the strict adherence to the terms of this title or the city zoning ordinance and may be approved by the commission to achieve the following objectives of development:

- A. To provide necessary commercial, recreational and educational facilities conveniently located to housing;
- B. To provide for well located, clean, safe and pleasant industrial sites involving a minimum of strain on transportation facilities;
- C. To encourage residential, commercial and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;
- D. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economics may inure to the benefit of those who need homes;

- E. To lessen the burden of vehicular traffic on streets and to promote safe and efficient pedestrian and bicycle traffic;
- F. To conserve the value of the land;
- G. To provide a procedure which can relate the type, design and layout of residential, commercial and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and
- H. To encourage integrated planning in order to achieve the above purposes and objectives of development. (Ord. 259-05, 10-4-2005)

10-6A-2: **DEFINITIONS:** As used in this article, unless the context otherwise requires, the following words and terms shall have the meanings ascribed to them in this section:

COMMON OPEN SPACE:	A parcel of land, an area of water, or a combination of land and water, within the site designated for a planned unit development, designed and intended primarily for the use or enjoyment of residents, occupants and owners of the planned unit development.
PLAN:	The provisions for development of a planned unit development which may include, and need not be limited to, easements, covenants and restrictions relating to use, location and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas and parking facilities, common open space, and other public facilities. "Provisions of the plan" means the written and graphic materials referred to in this definition.
PLANNED UNIT DEVELOPMENT (PUD):	A contiguous area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, residential, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which may not correspond in lot size,

bulk, or type of use, density, lot coverage, open space, or other restriction to the existing land use regulations.

STREET: A public or private thoroughfare used or intended to be used for passage or travel. (Ord. 259-05, 10-4-2005; amd. 2010 Code)

10-6A-3: GENERAL REGULATIONS:

- A. **Scope:** Applications for planned unit development zoning may be made for land located in any zoning district.
- B. **Compliance With Other Laws:**
 - 1. **Comprehensive Plan:** No PUD shall be approved unless it is found by the commission to be in general conformity with the comprehensive plan.
 - 2. **Zoning And Subdivision Regulations; Conflicting Provisions:** Sections pertaining to zoning and the regulations in this title shall be applicable to planned unit developments insofar as such applicability is consistent with this article. To the extent that specific zoning or subdivision regulations conflict with standards contained in this article, such regulations shall not be applicable.
- C. **Approval Conditions:** The commission may approve a proposed PUD upon a finding that it will implement the purposes of this article and will meet the standards and requirements set forth in this article.
- D. **Minimum Land Area:** The minimum size of a parcel of land that may comprise a PUD is any lot or parcel of record of five (5) acres or more. (Ord. 259-05, 10-4-2005)

10-6A-4: USE EXCEPTIONS: Upon recommendation of the commission, the council may authorize specific uses not normally permitted by the use regulations of the district in which the development is located. In granting such authorization, the commission and council shall make the following findings:

- A. The uses permitted by the exception are strongly related to the principal use of the development and have the purpose of providing services or facilities useful or complementary to the primary use.

- B. No more than five percent (5%) of the total area of the project shall be devoted to the uses permitted by the exception.
- C. The uses permitted by the exception are integrated into the overall project by:
 - 1. Being located in proximity to and within convenient walking distance of the primary uses.
 - 2. Utilizing one or more of the main vehicular accesses to the primary use site as the main access to the exception site or interconnection through a system of private roadways and/or pathways.
 - 3. Providing pedestrian and bicycle pathway connections with the primary use site.
 - 4. Orienting buildings on the exception site to facilitate vehicular and/or pedestrian access from the primary use site.
 - 5. Continuing architecture, landscaping, and building bulk concepts from the primary use into the use of the exception site so they are consistent and harmonious throughout the development.
- D. The use(s) permitted by the exception is neighborhood or community serving in size and character and not regional, and is not detrimental to adjacent neighborhoods in location and character. (Ord. 259-05, 10-4-2005)

10-6A-5: **RESIDENTIAL DENSITY:** Densities may be transferred between zoning districts within a PUD, provided the aggregate overall allowable density of units shall be no greater than that allowed in the zoning district or districts in which the development is located. (Ord. 259-05, 10-4-2005)

10-6A-6: **COMMON OPEN SPACE AREA REQUIRED:**

- A. Twenty five percent (25%) of the total area within the boundary of any PUD shall be devoted to usable and accessible common open space; provided, however, that the commission may reduce such requirement if it finds that such decrease is warranted by the design of, and the amenities and features incorporated into, the plan and that the needs of the occupants of the PUD for common open space

can be met in the proposed PUD and the surrounding area. Nonresidential PUDs shall justify, during the review process, any reduction in the open space dedication. During the review process, the PUD applicant shall justify any reduction in the open space dedication.

- B. Dedication of parks and open space shall conform with section 10-4-6 of this title and any adopted plans for open space, parks, trails or corridors. The commission shall determine the suitability of open space to be dedicated. Dedication of open space prone to frequent flooding, or part of a watercourse, or consisting of steep slopes may not be considered as meeting all or part of the twenty five percent (25%) open space requirement. The commission may give partial credit for dedication of land such as that listed above. (Ord. 259-05, 10-4-2005)

10-6A-7: DEVELOPMENT STANDARDS:

A. Modification Of Zoning And Subdivision Development Standards:

1. Street standards shall conform to the regulations of this title, except where, in the event of extraordinary circumstances, a need for relief is demonstrated by the applicant.

2. For single-family homes and duplexes, the averaging of lot areas shall be permitted to provide flexibility in design and relate lot size to topography, but each lot shall contain an acceptable building site. Setbacks, accessory buildings and building height shall be governed by the existing district regulations where the proposed PUD is to be located.

3. The clustering of development with usable common open areas shall be permitted to encourage provisions for and access to common open areas and to save street and utility construction and maintenance costs. Such clustering is also intended to accommodate contemporary building types which are not spaced individually on their own lots but share common side walls, combined service facilities or similar architectural innovations, whether or not providing for separate ownership of land and buildings.

- B. Site Plan Criteria And General Requirements: The PUD shall meet the following site plan criteria unless the applicant can demonstrate that one or more of them is not applicable or that another practical solution has been otherwise achieved:

1. The PUD shall have an appropriate relationship to the surrounding area, with unreasonable adverse effects on the surrounding area being minimized.

2. The PUD shall provide an adequate internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience and access. Private internal streets may be permitted; provided, that adequate access for police and fire protection is maintained and provisions for using and maintaining such streets are imposed upon the private users and approved by the commission. Bicycle traffic shall be provided in any area designated for commercial or residential use. Wherever possible, bicycle paths shall be provided to link with other existing or proposed pathways.

3. The PUD shall provide parking areas in conformance with the minimum site development standards of this title in terms of number of spaces for each use, location, dimensions, circulation, landscaping, safety, convenience, separation and screening.

4. The PUD shall provide common open space adequate in terms of location, area and type of the common open space, and in terms of the uses permitted in the PUD. The PUD shall strive for optimum preservation of the natural features of the terrain.

5. The PUD shall provide for variety in housing types and densities, other facilities, and common open space.

6. The PUD shall provide adequate privacy between dwelling units.

7. The PUD shall provide pedestrianways adequate in terms of safety, separation, convenience, access to points of destination and attractiveness. (Ord. 259-05, 10-4-2005)

10-6A-8: SUPPLEMENTARY REGULATIONS:

A. Common Open Space Maintenance Requirements:

1. The common open space of a PUD may be owned and maintained by the property owners within the PUD, or by an organization chosen therefrom. In the event that the organization established to own and maintain common open space, or any successor organizations, shall at any time fail to maintain the common open space in reasonable order and condition, the administrator may serve written notice upon

such organization or upon the residents of the PUD setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing which shall be held within fourteen (14) days of the notice. At the hearing, the commission may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within thirty (30) days or any extension granted, the commission, in order to preserve the taxable values of the properties and to prevent the common open space from becoming a public nuisance, may enter the common open space and maintain said space for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same has been voluntarily dedicated to the public by the owners.

2. Before the expiration of the year, the commission shall, upon their initiative or upon the written request of the organization responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the PUD, to be held by the commission, at which hearing, such organization or the residents of the PUD shall show cause why maintenance by the commission shall not, at the election of the commission, continue for a succeeding year.

3. If the commission determines that such organization is ready and able to maintain the common open space in reasonable condition, the commission shall cease maintenance of such common open space at the end of said year.

4. If the commission determines such organization is not able to maintain the common open space in a reasonable condition, the commission may, in their discretion, continue to maintain the common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

5. The cost of maintenance by the commission shall include actual cost, plus overhead, plus twenty five percent (25%), and shall be paid by the owners of properties within the PUD that have a right of enjoyment of the common open space, and any unpaid assessments shall become a tax lien on the properties.

6. The commission shall file a notice of such lien in the office of the county clerk and recorder upon the properties affected and shall certify such unpaid assessments to the county commissioners and the county treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement and remittance of general property taxes.

B. Development Schedule; Completion In Stages; Time Limits:

1. The applicant must begin development of the PUD within one year from the time of its final approval; provided, however, that the PUD may be developed in stages and/or with specific time requirements as approved by the commission. The applicant must complete the development of each stage and of the PUD as a whole in substantial compliance with the development schedule approved by the council.

2. If the applicant does not comply with the time limits imposed by subsection B1 of this section, the commission shall review the PUD and may revoke approval for the uncompleted portion of the PUD, or require that the PUD be amended, or extend the time for completion of the PUD.

3. Each stage within a PUD shall be so planned and so related to existing surroundings and available facilities and services that failure to proceed to a subsequent stage will not have a substantial adverse impact on the PUD or its surroundings.

4. If a PUD contains nonresidential uses, they may be constructed in advance of residential uses if the commission finds that such phasing is consistent with orderly development and will have no substantial adverse effect on the quality or character of the PUD.

C. Enforcement Of And Modifications To Plan:

1. The provisions of the plan relating to the use of land and the location of the common open space shall run in favor of the city and shall be enforceable at law or in equity by the city without limitation on any powers or regulation otherwise granted by law.

2. All provisions of the plan shall run in favor of the residents, occupants and owners of the PUD but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to that extent, said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by such residents, occupants or owners acting individually,

jointly or through an organization designated in the plan to act on their behalf.

3. All those provisions of the plan authorized to be enforced by the city may be modified, removed or released by the city subject to the following:

a. No modification, removal, or release of the provisions of the plan by the city shall affect the rights of the residents, occupants and owners of the PUD to maintain and enforce those provisions at law or in equity; and

b. No substantial modification, removal or release of the provisions of a PUD plan by the city shall be permitted except upon a finding by the commission, following a hearing upon notice as required, that the modification, removal or release is consistent with the efficient development and preservation of the entire PUD, does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across the street from the PUD or the public interest, and is not granted solely to confer a special benefit upon any person.

4. Residents and owners of the PUD may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the city to enforce the provisions of the plan. (Ord. 259-05, 10-4-2005)

D. State Taking Analysis: Denial of a planned unit development or approval of a planned unit development with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided by Idaho Code section 67-8003, consistent with requirements established thereby. (2010 Code)

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ARTICLE B. SUBDIVISION WITHIN A FLOODPLAIN

SECTION:

- 10-6B-1: Development Plan
- 10-6B-2: Justification For Development
- 10-6B-3: Factors For Determining Appropriateness Of Subdivision
- 10-6B-4: Floodproofing Plans

10-6B-1: **DEVELOPMENT PLAN:** For any proposed subdivision that is located within a floodplain, the subdivider shall provide the commission with a development plan of adequate scale and supporting documentation that will show and explain at least the following:

- A. The location of all planned improvements;
- B. The location of floodways and the floodway fringe in accordance with sound engineering practices;
- C. The location of the present water channel;
- D. Any planned rerouting of waterways;
- E. All major drainageways;
- F. Areas of frequent flooding;
- G. Means of floodproofing buildings;
- H. Means of ensuring loans for improvements within the floodplain; and
- I. Description of flood insurance requirements as may be required by any local, state, or federal agency. (Ord. 259-05, 10-4-2005)

10-6B-2: **JUSTIFICATION FOR DEVELOPMENT:** Upon determination that buildings are planned within the floodplain or that alterations of any kind are anticipated within the floodplain area that will alter the flow of water, the subdivider shall demonstrate conclusively that such development will not present a hazard to life or limb, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel and not have an adverse impact on the natural environment. (Ord. 259-05, 10-4-2005)

10-6B-3: **FACTORS FOR DETERMINING APPROPRIATENESS OF SUBDIVISION:**

- A. In determining the appropriateness of subdivision for land located within a floodplain, the commission and council shall consider the objectives of this title, and at least the following:
1. The danger to life and property due to the increased flood heights or velocities caused by subdivision fill, roads and intended uses; (Ord. 259-05, 10-4-2005)
 2. The danger that intended uses may be dislodged and swept into others within the subdivision downstream to the injury of others; (Ord. 259-05, 10-4-2005; amd. 2010 Code)
 3. The adequacy of proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions under flood conditions;
 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 5. The importance of the services provided by the proposed facility to the community;
 6. The requirements of the subdivision for a waterfront location;
 7. The availability of alternative locations not subject to flooding for the proposed subdivision and land uses;
 8. The compatibility of the proposed uses with existing development and development anticipated in the foreseeable future;
 9. The relationship of the proposed subdivision to the comprehensive plan and any floodplain management program for the area;

10. The safety of access to the property for emergency vehicles in time of flood;

11. The expected height, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site during a 100-year flood; and

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

- B. No subdivision or part thereof shall be approved if levees, fills, structures, or other features within the proposed subdivision will, individually or collectively, significantly increase flood flows, heights, or damages. If only part of a proposed subdivision can be safely developed, development shall be limited to that part, and the city shall require development to proceed consistent with that determination. (Ord. 259-05, 10-4-2005)

10-6B-4: **FLOODPROOFING PLANS:** Floodproofing plans must be individually approved by the council upon recommendation from the commission before such uses are constructed. Floodproofing may include, but not be limited to, the following:

- A. Anchorage to resist flotation and lateral movement;
- B. Installation of watertight doors, bulkheads and shutters, or similar methods of closure;
- C. Reinforcement of walls to resist water pressure;
- D. Use of paints, membranes, or mortars to reduce seepage of water through walls;
- E. Addition of mass or weight to structures to resist flotation;
- F. Installation of pumps to lower water levels in structures;
- G. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwater;

- H. Installation of pumps or comparable facilities for subsurface drainage systems to relieve external foundation wall and basement flood pressures;
- I. Building design and construction to resist rupture or collapse caused by water pressure or floating debris;
- J. Installation of valves or controls on sanitary and storm drains which permit the drains to be closed to prevent backup of sewage and stormwaters into buildings or structures;
- K. Location and installation of all electrical equipment, circuits and electrical appliances so that they are protected for inundation by the regulatory flood; and
- L. Location of storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare at elevations above the height associated with the regulatory protection elevation; or design of such facilities to prevent flotation of storage containers, or damage to storage containers which could result in the escape of toxic materials into floodwaters. (Ord. 259-05, 10-4-2005)

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ARTICLE C. LARGE SCALE DEVELOPMENT SUBDIVISION

SECTION:

10-6C-1: Required Information

10-6C-1: **REQUIRED INFORMATION:** Due to the impact that a large scale development would have on public utilities and services, the developer shall submit the following information along with the preliminary plat:

- A. A quantified analysis of impacts on public services that would be provided to the development, including a traffic impact analysis.
- B. Estimate public service costs to provide adequate service to the development.
- C. Estimate the tax revenue that will be generated from the development.
- D. Suggested means of financing the services for the development if the cost for the public services would not be offset by tax revenue received from the development. (Ord. 259-05, 10-4-2005)

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ARTICLE D. SUBDIVISION FOR A CEMETERY

SECTION:

- 10-6D-1: Function
- 10-6D-2: Compliance With State Law

10-6D-1: **FUNCTION:** The developer shall provide the commission with written documentation that will sufficiently explain if the proposed cemetery will be used for either human or animal remains and the functions that are anticipated on the property. (Ord. 259-05, 10-4-2005)

10-6D-2: **COMPLIANCE WITH STATE LAW:** The developer shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural platting requirements and management requirements that are outlined in Idaho Code title 27. (Ord. 259-05, 10-4-2005)

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ARTICLE E. AREAS OF CRITICAL CONCERN

SECTION:

- 10-6E-1: Designation Of Areas Of Critical Concern
10-6E-2: Environmental Impact Statement

10-6E-1: **DESIGNATION OF AREAS OF CRITICAL CONCERN:** The development of any hazardous or unique areas that have previously been designated as areas of critical concern by the council, as provided by Idaho Code, shall demand that special consideration be given by the subdivider to assure that the development is necessary and desirable in the public interest, in view of the existing unique conditions. Areas that may be designated by the council, through due process, as hazardous or unique may be as follows:

- A. Unstable soils;
- B. Unique animal and wildlife habitat;
- C. Unique plant life habitat;
- D. Scenic areas;
- E. Historical significance areas;
- F. Floodplains; and
- G. Other areas of critical concern. (Ord. 259-05, 10-4-2005)

10-6E-2: **ENVIRONMENTAL IMPACT STATEMENT:**

- A. Submission: The subdivider shall prepare and submit an environmental impact statement for those areas as noted and designated in

section 10-6E-1 of this article along with the preliminary plat application.

B. Content: The content of the environmental impact statement shall usually be prepared by a team of professionals that will provide answers to the following questions:

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

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

3. What adverse effects of the proposed development cannot be avoided? (Ord. 259-05, 10-4-2005)