

SECTION 10

SPECIAL PROVISIONS

What this Section Does: The provisions within this section of the Ordinance are in place to provide special protection to areas that maybe considered as sensitive areas. Special performance standards apply to all developments and specific performance standards are additional standards that apply to certain uses.

- A. Sensitive Lands. This section implements the comprehensive plan by establishing performance standards designed to protect the natural resources that contribute to the environmental quality and economic value of the city.
- B. Common Open Space. The total area of reserved common land within the development shall not be less than 20% of the entire parcel. The open space shall be shown on the recorded subdivision plan with appropriate notation that it shall not be used for future building lots and shall not be further subdivided.

The common open space shall be usable for low-intensity recreation, such as hiking, skiing and picnicking, agriculture or other outdoor living purposes, including structures accessory thereto, and for preserving the natural features of the site, and for active recreation use. The use of any open space may be further limited or controlled at the time of final subdivision approval where necessary to protect adjacent properties.

- C. River and Stream setback. All development along waters of the U.S and tributaries to the river or other streams shall be setback at least 75 feet from the tributary or stream.
 - 1. Measurement. Setbacks shall be measured from the top of the bank of the river / stream or from the mean high water mark of the, whichever is further from the thread or center of the watercourse.
 - 2. Setback. The protected setback shall remain free from development that includes but is not necessarily limited to buildings, parking, driveways, roads, open storage and similar land disturbing activities. Setbacks shall be left in or reclaimed to the native riparian vegetation. An exception to this setback is established for essential development.
 - 3. Notwithstanding the above established setbacks, essential roads and utilities may be approved to cross the setback when no reasonable alternative alignment exists that avoids the setback crossing. Furthermore, boat ramps and docks may be constructed in the river setback provided the ramp or dock occupies no more than 24 feet of the river edge. In waters of the U.S. permits from the pertaining state agencies are required.
 - 4. Wetlands. Jurisdictional wetlands may be disturbed only in compliance with a permit from the U.S. Army Corps of Engineers.
- D. Area of Special Concern: An area of special concern is any area where at least one of the following conditions exist: 1) There is evidence that ground water, at sometime 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; or 3) The proposed development is within an area where the known nitrate concentration in ground or surface water is 5mg/liter or higher.

1. Determination of Area of Special Concern:
 - a. 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).
 - b. 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 Eastern Idaho Public 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.

2. Water Quality Impact Analysis Required: A Water Quality Impact Analysis is required for any proposed large soil absorption system handling a volume equal to or greater than 2,500 gallons per day, and any of the following developments occurring in an area of special concern as defined above.
 - a. Subdivisions that contain more than five lots;
 - b. Commercial or industrial facilities generating 600 gallons or more of wastewater per day; and
 - c. Any development where a central septic system is proposed which serves two or more lots or buildings, which are under, separate ownership.

3. Water Quality Impact Analysis: If required, the developer shall have performed by an approved professional (as determined by the Idaho Department of Environmental Quality (DEQ)) a Level One Water Quality Impact Analysis to determine if the cumulative impact of the proposed on-site wastewater treatment (or central septic) systems will create a nutrient problem for ground or surface waters.
 - a. Procedures for Conducting a Water Quality Impact Analysis:
 - 1) A Water Quality Impact Analysis must be performed by a qualified party with experience in subsurface resource evaluation practices. The work is typically performed by environmental consultants with a background in geology, hydrogeology, soil science, geochemistry, or related engineering disciplines.
 - 2) Prior to performing a Water Quality Impact Analysis, the project representative and Water Quality Impact Analysis professional must meet with the DEQ and the Eastern Idaho Public Health Department to discuss the elements and objectives of the Water Quality Impact Analysis.
 - 3) The Water Quality Impact Analysis must be submitted to the DEQ and done in accordance with the criteria as outlined by the DEQ.

- E. Hillside Preservation of Natural Features: In order to preserve, retain, enhance and promote the existing and future appearance, natural topographic features, qualities and resources of hillsides, special consideration shall be given to the following:
 1. Skyline and ridge tops;
 2. Rolling grassy land forms, including knolls, ridges and meadows;

3. Tree and shrub masses, grass, wild flowers and topsoil;
 4. Rock outcroppings;
 5. Stream beds, draws and drainage swales, especially where tree and plant formations occur;
and
 6. Characteristic vistas and scenic panoramas.
- F. Flood Channels: No building or structure, fence or other obstruction, may be constructed within any natural waterway which has been designated as a flood way by the City Council, and no such waterway may be otherwise reduced in effectiveness in any manner by the dumping of garbage or other refuse or earth, or by leveling, or by obliteration. All buildings shall be set back seventy-five (75) feet of the banks of such designated natural flood channels.