

**CITY OF CAREY, IDAHO**  
**SUBDIVISION ORDINANCE**

**ORDINANCE NO. 97-06**

**2009 Edition**

(Printed 11-17-11)

Amendments to this document:

Revision	Summary of Ordinance	Revision Date: (date published)
Ordinance 2004-03	Deleting 4.4g requiring minimum 20 feet of frontage on dedicated public street	12/21/04
Ordinance 2005-04	Amending Chapter 3, Section 3.13, copies of final plat requirements	8/29/06
Ordinance 2005-04	Chapter 4, Section 4.9, Water System Improvements requiring an Irrigation System	8/29/06
Ordinance 2006-08?	Chapter 4, Section 4.9 (b&c), Water System Improvements requiring an specific surface irrigation water amount and ground mitigation plan	11/28/06
Ordinance 2007-06	Chapter 2 Section 2.28 Definition of Lot Area	12/26/07
Ordinance 2007-08	Chapter 6 Section 6.2 Lot Line Adjustment Procedures	12/26/07
Ordinance 2008-01	Amending Section 3.12, Time Limitations, Section 4.8 Sanitary Sewage disposal improvements, Section 4.9 Water system improvements, Section 4.7 Required easements, Chapter 2 Adding definitions	4/09/08

**CITY OF CAREY, IDAHO  
ORDINANCE #97-06**

AN ORDINANCE OF THE CITY OF CAREY, IDAHO, REGULATING THE SUBDIVISION OF LAND BY PROVIDING THE PURPOSES; JURISDICTION; SCOPE; EXCEPTIONS; INTERPRETATIONS; ADMINISTRATION; DEFINITIONS; ESTABLISHING PRELIMINARY REQUIREMENTS AND PROCEDURES AND FINAL PLAT REQUIREMENTS AND PROCEDURES FOR SUBDIVISION PLAT APPROVAL; DEVELOPMENT AND DESIGN STANDARDS FOR AND REQUIRING CERTAIN IMPROVEMENTS BE INSTALLED BY SUBDIVIDER; PROVIDING REQUIREMENTS AND PROCEDURES FOR SHORT PLATS; PROVIDING REQUIREMENTS AND PROCEDURES FOR ADJUSTMENT OF LOT LINES AND MINOR PLAT AMENDMENTS; PROVIDING REQUIREMENTS AND PROCEDURES FOR DUPLEX SUBLOT SUBDIVISIONS; PROVIDING PROCEDURES FOR VACATIONS; PROVIDING ADDITIONAL PROCEDURES AND STANDARDS FOR CONDOMINIUMS; PROVIDING REQUIREMENTS AND PROCEDURES FOR PHASED DEVELOPMENT PROJECTS; PROVIDING FOR IMPACT STATEMENTS; PROVIDING PROCEDURES FOR VACATIONS; ESTABLISHING PROCEDURES FOR WAIVER REQUESTS; PROVIDING FOR ADMINISTRATION, PROCEDURES AND APPEALS; PROVIDING FOR ESTABLISHMENT OF APPLICATION FEES AND CHARGES BY RESOLUTION; PROVIDING ENFORCEMENT, VIOLATIONS AND PENALTIES; AND, PROVIDING SAVING CLAUSE, REPEALER CLAUSE, AND AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and City Council of the City of Carey, Idaho, as follows.

**CITY OF CAREY**  
**SUBDIVISION ORDINANCE**  
**TABLE OF CONTENTS**

Chapter 1	Title & General Provisions	Pg 4
Chapter 2	Definitions	Pg 6
Chapter 3	Procedures for Subdivision Approval	Pg 10
Chapter 4	Development, Design and Improvements	Pg 16
Chapter 5	Short Plat Procedures	Pg 23
Chapter 6	Adjustment of Lot Lines	Pg 24
Chapter 7	Duplex Sublot Plats	Pg 25
Chapter 8	Condominium Plats	Pg 26
Chapter 9	Phased Developments	Pg 26
Chapter 10	Impact Statements	Pg 24
Chapter 11	Vacations and Dedications	Pg 25
Chapter 12	Waiver Requests	Pg 25
Chapter 13	Administration, Procedures, Hearings and Appeals	Pg 26
Chapter 14	Fees	Pg 28
Chapter 15	Enforcement, Violations and Penalties	Pg 28
Chapter 16	Savings, Repealer & Effective Date	Pg 29

# **CHAPTER 1**

## ***GENERAL PROVISIONS***

1.1 **TITLE.** This ordinance shall be known and may be cited as the “Carey Subdivision Ordinance”.

1.2 **PURPOSES.** The general purpose of this ordinance is protect and promote the public health, safety, convenience, and welfare by establishing regulations and a process of review for all proposed subdivisions of land and creation of condominiums. This ordinance establishes standards for land subdivision in order to accomplish the following purposes:

- (a) To promote orderly, harmonious, and integrated development of land;
- (b) To provide safe, adequate, and efficient pedestrian and vehicular traffic systems and circulations;
- (c) To provide adequate all weather ingress and egress to subdivisions and lots therein;
- (d) To prevent overcrowding of land and congestion on streets and highways;
- (e) To provide for adequate air, light, solar access, privacy, and open space;
- (f) To provide for adequate fire protection;
- (g) To prevent inadequate or inappropriate provision of water, sewer, streets, utilities, pedestrian easements and public expenditures to provide such improvements;
- (h) To protect and conserve wildlife, streams, natural topography, and other desirable natural features by providing for maximum retention of natural topographic features and qualities such as, but not limited to, skyline and ridge tops, knoll ridges, established trees and shrub masses, top soil, stream beds and banks, drainage swales, and preventing damage to the natural environment or scenic beauty;
- (i) To safeguard and enhance the character, appearance, and economic stability of the community;
- (j) To provide adequate and uniform monumenting of land subdivisions and promote accurate legal descriptions;
- (k) To protect the economic base of the community, including property values;
- (l) To provide access to public lands and waters;
- (m) To insure the provision and construction of adequate improvements, including but not limited to, water, sewer, and other utilities, streets, bridges, drainage, street lighting, and easements;
- (n) To encourage and promote energy conservation and alternative energy sources as well as other advanced building technology;
- (o) To mitigate the effects of subdivision development on the ability of political subdivisions of the state, including without limitation, school districts, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision;
- (p) To insure conformance of proposed subdivisions with the above stated-purposes and to insure design conformance with the standards and purposes of this ordinance and all other municipal ordinances relating thereto, including subsequent amendments.

1.3 **JURISDICTION.** The regulations and procedures as set forth in this ordinance shall apply to each and every subdivision of land, as herein defined, within the corporate limits of the City of Carey, Idaho, and all lands within one (1) mile of said corporate limits, and all lands within the area of city impact subsequently established as provided by law, and all jurisdictional areas of the City presently existing or hereafter adopted.

1.4 **SCOPE.** The regulations and procedures contained in this ordinance shall be complied with prior to any of the following:

- (a) Division of a parcel of land into two (2) or more tracts, lots, or parcels for transfer of ownership, building development, leasing, or encumbering with mortgage or deed of trust;
- (b) The establishment of a condominium, as herein defined and by applicable state statutes;
- (c) Any alteration, modification, change, addition to or deletion from any plat of record, and including, without limitation, boundary shifts and/or removal of lot lines between existing platted or unplatted lots or parcels of land.

- 1.5 **INTERPRETATION.** All proposed subdivisions of land shall comply with the regulations of this ordinance. The regulations contained in this ordinance are in addition to all other regulations and where at variance with other laws, regulations, ordinances, or resolutions of the City of Carey, or any other governmental body having jurisdiction there over, the more restrictive requirements shall apply. Furthermore, where appropriate for the protection of the public health, safety, convenience or welfare more stringent standards may be imposed by the Commission or Council.
- 1.6 **ADMINISTRATOR.** The Mayor may appoint, with the approval of the Council, an administrator to receive and process all subdivision applications and make recommendations to the Commission and the Council with regard thereto. The administrator shall serve at the will of the Mayor. If no administrator exists, then the Commission shall act administrator.

## **CHAPTER 2**

### ***DEFINITIONS***

- 2.1 **DEFINITIONS.** For interpretation of this ordinance, certain terms and words are hereby defined. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural and the plural shall include the singular; The word “shall” is always mandatory and the word “may” indicates the use of discretion in making the decision.
- 2.2 **ADJUSTMENT OF LOT LINES:** A change or modification of the boundary lines between existing lots or parcels of land or between dwelling units which does not reduce the area, frontage, width, depth, or building setback lines of such lots below the minimum zoning requirements and which does not create additional lot(s) or dwelling unit(s). Adjustment of lot lines is intended to include other minor changes to a subdivision or condominium plat such as, but not limited to, notation changes, boundary shifts and removal of lot line(s), each of which do not reduce the area, frontage, width, depth, or building set back lines of each lot below the minimum zoning requirements nor create additional lots or dwelling unit(s).
- 2.3 **ALLEY:** A minor public way providing secondary access to the back or the side of property otherwise abutting a street.
- 2.4 **BLOCK:** A group of lots, tracts, or parcels within well defined boundaries, usually streets.
- 2.5 **BUILDING:** Any structure used or designed to be used for supporting or sheltering any use or occupancy.
- 2.6 **BUILDING ENVELOPE:** The site for location of a structure delineated on a preliminary plat and final plat within which the entire building must be constructed. A building envelope shall conform to all minimum zoning ordinance requirements and requirements of this ordinance. A building envelope shall not be located in the floodway or slopes in excess of twenty-five percent (25%) grade.
- 2.7 **CITY:** The City of Carey, Idaho.
- 2.8 **CLERK:** The City Clerk, the City of Carey, Idaho.
- 2.9 **COMMISSION:** The Carey Planning and Zoning Commission.
- 2.10 **COMPREHENSIVE PLAN:** The officially adopted comprehensive plan of the City of Carey, Idaho.
- 2.1 **CONDOMINIUM:** An estate consisting of an undivided interest in common in real property, in an interest or interest in real property, or any combination thereof, together with a separate estate in real

property, in an interest or interests in real property, or any combination thereof as defined by the Statutes of the State of Idaho.

- 2.12 COUNCIL: The City Council of the City of Carey, Idaho.
- 2.13 COUNTY RECORDER: The Blaine County Recorder, Hailey, Idaho.
- 2.14 COVENANTS, PRIVATE: A written promise, covenant, restriction, or rule imposed upon land by the property owners or land developers which are private in nature and enforced accordingly. Such covenants do not replace or impair the validity of the restrictions or regulations imposed by this ordinance or any other applicable ordinance of the City or government entity having jurisdiction there over.
- 2.15 DEDICATION: The setting apart of land, or interest in land for use by the public. Land becomes dedicated when accepted by the Council as a public dedication by ordinance, resolution, or approval and acceptance thereof on a final plat.
- 2.16 DEVELOPMENT PLAN: A master plan for development of a phased project or planned unit development establishing location of required improvements and all existing and proposed structures together with a schedule for development thereof.
- 2.17 DRIVEWAY: A nondedicated vehicular access constructed on private property which provides access to not more than four (4) dwelling units and is constructed in conformance with street standards of the City, except that the surface may be gravel and the minimum width may be not less than sixteen (16) feet for a driveway of less than one hundred fifty feet (150), and not less than twenty (20) feet in width for a driveway of one hundred fifty (150) feet, or more, in length. All driveways shall have turn-around areas of with a diameter of not less than forty five (45) or a hammerhead turn-around area approved by the Carey Rural Fire District and meets Uniform Fire Code requirements.
- 2.18 DWELLING UNIT: A building or portion thereof providing complete independent living facilities for one or more persons, including a single kitchen and not less than one bathroom, to be occupied by a family unit exclusively for residential occupancy.
- 2.19 EASEMENT: A grant by a property owner to a specific person(s) or the public right to use land for specific purpose(s). Also, such a right acquired by prescription.
- 2.20 FLOOD PLAIN: The low land near the channel of a stream, a river, lake or other body of water which is subject to inundation of a one hundred (100) year frequency, as identified and defined in the flood insurance study and flood boundary and floodway map prepared by the federal insurance administration of the U.S. Department of Housing and Urban Development in conjunction with the U.S. Army Corps of Engineers.
- 2.21 FLOODWAY: The channel of a river or other watercourse and the adjacent land which is reasonably required to discharge the base flood or bulk of the flood water of a river or stream without cumulatively increasing the water surface elevation more than one (1) foot, as identified and defined in the flood insurance study and flood boundary and floodway map prepared by the federal insurance administration of the U.S. Department of Housing and Urban Development in conjunction with the U.S. Army Corps of Engineers. No building construction shall be permitted in the floodway.
- 2.22 ENGINEER: An officially licensed and registered engineer by the State of Idaho.
- 2.23 ENGINEER, CITY: A representative of the City authorized to check plats and provide on site inspections to insure compliance with the provisions of this ordinance.
- 2.24 HIGHWAY: A street designed or designated as a highway by the state or federal agency responsible therefore.
- 2.25 IMPROVEMENTS: Any grading, excavation, filling or other alteration to the land or any construction including, without limitation, streets, drainage, sidewalks, or utilities.
- 2.26 IMPROVEMENTS, REQUIRED: Those subdivision improvements required to be constructed after preliminary plat approval and prior to final plat approval by the Council.

- 2.27 LOT: The parcel, plot, tract, or other area of real property intended for sale, transfer, lease, development, or encumbrance.
- 2.28 LOT, AREA: The area within the boundaries of a lot, exclusive of any of the areas contained within a public or private street, alley, fire lane, or private roadway easement, and exclusive of any area contained within a floodway. Also, exclusive of any narrow strip of land connecting a lot setback from any public street for the purpose of providing driveway access with that street."
- 2.29 LOT, BUILDABLE: A lot, which contains a building envelope. Structures shall only be built upon buildable lots.
- 2.29A ORDINARY HIGH WATER MARK: The mark on all watercourses, where the presence and action of waters is so common and continued in ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation and destroys its value for agricultural purposes. In areas where rip-rap bank stabilization has occurred the measurement shall begin on the landward side of such stabilization work.
- 2.30 OWNER: The individual, firm, association, syndicate, partnership, or corporation, holding fee simple title evidenced by a deed recorded in the office of the Blaine County Recorder.
- 2.31 PARCEL: A tract, lot, or independently described portion of real property.
- 2.32 PERFORMANCE BOND: Either the amount of money, or upon approval of the City Council other negotiable security deposited by the subdivider with the City Clerk or a bond executed by a qualified surety company registered to do business in the State of Idaho, which guarantees that the subdivider will perform all actions and install all required improvements or his surety will pay the costs thereof and damages up to a limit of the amount of bond or security deposited. No personal checks shall be allowed as performance bonds.
- 2.33 PHASED DEVELOPMENT: Development of a parcel of land in stages either as a series of subdivisions or as a single parcel with construction of buildings and/or improvements over a specified series of years.
- 2.34 PLANTING STRIP: A strip of land within a subdivision not less than ten (10) feet in width across which there is no driveway, street, or other access, and which is devoted exclusively to landscaping, primarily trees of not less than five (5) feet in height placed in a manner to screen from view streets, highways, adjacent incompatible or inappropriate land uses, and off-street parking areas.
- 2.35 PLAT, FINAL: A map of a subdivision, or dedication, and in conformance with the approved preliminary plat, and prepared in accordance with this ordinance, and Title 50, Chapter 13, Idaho Code, as amended or subsequently codified.
- 2.36 PLAT, PRELIMINARY: A preliminary plat prepared in conformance with this ordinance submitted together with such other information or documentation as required by this ordinance.
- 2.37 PLAT, RECORDED: A final plat, which has been accepted by the Council and recorded with the Office of the Blaine County Recorder.
- 2.38 PUBLIC HEARING NOTICE: Notice of a public hearing before the Council or Commission, as required by Section 13.6, of this ordinance. Also, referred to as "duly noticed public hearing".
- 2.38A RIPARIAN: Lands adjacent to a river, stream or other natural watercourse or body of water that are influenced by water and have the presence of riparian vegetation.
- 2.39 STATE: State of Idaho.
- 2.40 STANDARD SPECIFICATIONS: Specifications for design and construction of improvements as specified in this ordinance or other ordinances, resolutions, policies or requirements of the City or by any other governmental entity having jurisdiction there over, including subsequent amendment or codification.
- 2.41 STREET: A public right of way, which provides vehicular and pedestrian access to adjacent properties, the dedication of which has been officially accepted. The term street also includes the terms, highway, thoroughfare, parkway, road, avenue, boulevard, lane, place, and all such terms, except driveway as herein defined.



- 2.42 STREET, ARTERIAL: A street designated for the purpose of carrying fast and/or heavy traffic, connecting major districts of the City.
- 2.43 STREET, COLLECTOR: A street designated for the purpose of carrying traffic from residential streets to other collector streets and/or arterial streets.
- 2.44 STREET, CUL DE SAC: A dead end street provided with turnaround space at its terminus.
- 2.45 STREET, DEAD-END: A street connected to another street at one end only and not having provision for vehicular turnaround at its terminus.
- 2.46 STREET, FRONTAGE: A minor street, parallel to and adjacent to an arterial street, which has the primary purpose of providing access to abutting properties.
- 2.47 STREET, RESIDENTIAL: A minor street which has the primary purpose of providing access to abutting residential dwelling units or properties and carries no heavy, through, or collector traffic.
- 2.48 STREET, PARTIAL: A dedicated right of way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land where remaining right of way widths can be obtained from adjacent properties where said properties are subdivided.
- 2.49 STREET, PRIVATE: A privately owned street which provides vehicular and pedestrian access to more than four (4) dwelling units and constructed to standard street specifications, however, not accepted for a dedication by the City.
- 2.50 SUBDIVIDER: The individual, firm, corporation, partnership, association, syndicate, trust, or any other legal entity that files application and initiates proceedings for subdivision of land in accordance with provisions of this ordinance. If the subdivider is not the owner of the property, he shall be the agent of the owner as evidenced by a recorded power of attorney for said purpose.
- 2.51 SUBDIVISION: Division of a parcel of land into two (2) or more tracts, lots, or parcels for transfer of ownership, building development, leasing, or encumbering with mortgage or deed of trust or the creation of condominium units, as defined by state law. Also referred to herein as “subdivision of land”.
- 2.52 USEABLE OPEN SPACE: Land devoid of buildings, parking area, structures or areas included within normally required stream building setbacks unless said area is included within common area or dedicated to the public.
- 2.53 UTILITIES: Installations for providing services to and used by the public, including water, sewer, electricity, gas, telephone, television cable, and similar facilities.
- 2.54 VICINITY MAP: A small map showing the location of a tract of land in relation to the City, including existing major streets and highways and surrounding subdivision(s) or large parcels of land.
- 2.55 WAIVER: Modification of a regulation of this ordinance which is not contrary to public interest or public health, safety, or welfare, and only due to physical characteristics of the particular parcel of land and not the result of actions of the subdivider where literal enforcement of this ordinance would result in undue hardship. The granting of a waiver shall be upon written application and the granting thereof rests with the sound discretion of the Council, on a case-by-case basis.
- 2.56 WATER COURSE: A natural depression or channel, which carries or gives direction to a current of water any time of the year.

### **CHAPTER 3**

#### ***PROCEDURE FOR SUBDIVISION APPROVAL***

- 3.1 **ADMINISTRATION.** The administrator shall have the duty of administering the regulations contained in this ordinance, and shall prepare and require the use of such forms as are necessary for the reasonable administration of these regulations.
- 3.2 **PLAT APPROVAL REQUIRED.** Any person desiring to subdivide or resubdivide land shall submit the applications required in this ordinance to the City Clerk. No final plat shall be filed with the County Recorder until the same has been acted upon by the Commission and approved by the Council as a preliminary plat and as a final plat. No lots or parcels of land described by metes and bounds or otherwise shall be sold or offered for sale until a final plat thereof has been recorded in the office of the County Recorder.
- 3.3 **PRE-APPLICATION MEETING.** A person desiring to subdivide property may request a pre-application meeting with the Commission. The purpose of the pre-application meeting is to provide the applicant with an opportunity to preview the proposal to and receive comments from the Commissioners. At the time of requesting the meeting, the person shall pay a such pre-application fee as established by resolution of the Council. No decisions or binding commitments can be made by the Commission at the pre-application meeting.
- 3.4 **PRELIMINARY PLAT PROCEDURE.** (a) Application: The subdivider shall file with the administrator copies of the completed subdivision application form and preliminary plat data as required by this ordinance.
- (b) Certification by Administrator: Upon receipt of the preliminary plat application and data, the administrator shall certify the application as complete and affix the date of acceptance thereon.
- (c) Review by Departments and Agencies: After certification of a preliminary plat application, the administrator shall transmit for review and comment one (1) copy of the application and preliminary plat to the Carey Water and Sewer District (“CWSD”), the Carey Rural Fire Department (“CRFD”), the City Engineer, and other appropriate departments and agencies such as Blaine County, district health department, utility companies, soil conservation district, and the state highway department. The review period shall be forty five (45) days.
- (d) Review by Administrator: The administrator shall review the preliminary plat application and data as well as the recommendations received from the various departments and agencies to insure that said application and plat are in conformance with all applicable rules and regulations. Thereafter, the administrator shall place said preliminary plat on the Commission agenda for consideration at a regular meeting of the Commission. The administrator shall report to the Commission.
- 3.5 **CONTENTS OF PRELIMINARY PLAT.** The preliminary plat together with all application forms, fees, title insurance reports, deeds, maps, and other documents and information reasonably required by the administrator, shall constitute a complete subdivision application. The preliminary plat shall be drawn to a scale of not less than one (1) inch equals twenty (20) feet and shall show the following:
- (a) The scale, north point and date;
- (b) The name of the proposed subdivision, which shall not be the same or confusing with the name of any other subdivision in Blaine County, Idaho;
- (c) The name and address of the owner(s) of record, the subdivider, and the engineer, surveyor, or other person preparing the plat;

- (d) Legal description of the area platted;
- (e) A survey of the real property;
- (f) A contour map of the subdivision with contour lines having a maximum interval of five (5) feet to show the configuration of the land based upon the U.S. Geodetic Survey data, and other data approved by a city engineer;
- (g) The scaled location of existing buildings, water bodies and courses and location of the adjoining or immediately adjacent dedicated streets, roadways, and easements, public and private;
- (h) Boundary description and the area of the tract;
- (i) Existing zoning of the tract;
- (j) The proposed location of street rights of way, lots and lot lines, easements, including all approximate dimensions and including all proposed lot and block numbering and proposed street names;
- (k) The location, approximate size, and proposed use of all land intended to be dedicated for public use or for common use of all future property owners within the proposed subdivision;
- (l) The drainage information and plans set forth in Section 4.12 and the grading plans and information set forth in Section 4.11, of this ordinance.
- (m) Engineered preliminary construction drawings, plans and specifications for the water and sewer systems shall have been approved by the CWSD in writing. In addition, engineered preliminary construction drawings, plans and specifications for all streets, drainage and other improvements shall be submitted. All such plans, drawings and specifications shall comply with the design standards and other requirements of this ordinance and other applicable standards.
- (n) All percolation tests and/or exploratory pit excavations required by State Health Authorities;
- (o) A copy of any proposed Articles of Incorporation and By-Laws of Homeowner's Association and/or condominium declarations to be filed with the final plat of the subdivision;
- (p) Vicinity map drawn to approximate scale showing the location of the proposed subdivision in reference to existing and/or proposed arterial and collector streets;
- (q) The boundaries of any flood plain, floodway, and avalanche-zoning district shall be clearly delineated and marked on the preliminary plat;
- (r) Building envelopes shall be shown on each lot all or part of which is within a floodway or any lot that is adjacent to the Little Wood River or which will be created adjacent to the intersection of two (2) or more streets;
- (s) Lot area of each lot;
- (t) Existing mature trees;
- (u) A current title report shall be provided at the time that the preliminary plat is filed with the administrator together with a copy of the owner's recorded deed to said property;

- (v) The names of all adjacent subdivisions, and the intersection boundary lines of adjoining subdivisions and parcels of property;
- (w) A map of and a complete list of the owners of record of all property within three hundred (300) feet of the exterior boundary lines of the property and stamped envelopes addressed to each such property owner.
- (x) Such other information, plans and data as may be reasonably required by the administrator, Commission or Council during the review process;
- (y) Five (5) copies of the preliminary plat application and supporting data shall be filed with the administrator;
- (z) Preliminary Plat Application Fee established by resolution of the Council.

**3.6 COMMISSION ACTION ON PRELIMINARY PLAT.** The Commission shall hold a public hearing on all preliminary plat subdivision applications with public hearing notice. After the public hearing, the Commission shall review the preliminary plat and supporting data, testimony of the subdivider and public. The Commission shall approve, approve with specific conditions, or deny the preliminary plat and the Commissions findings and reasons for such action shall be stated in writing and provided to the Council and applicant. Upon approval or conditional approval, the preliminary plat application and plat, along with all other data and a copy of the Commission findings and recommendations shall be transmitted to the Council.

**3.7 COUNCIL ACTION ON PRELIMINARY PLAT.** After receipt of a preliminary plat application from the Commission, the Council shall hold a public hearing on the application with public hearing notice. The Council shall consider the preliminary plat, subdivision application and information, the recommendations of the Commission, and the public testimony. In appropriate cases, the Council may table the application or remand the application back to the Commission to request, receive or consider additional information or data. The Council shall approve, conditionally approve, or deny the application and make written findings of fact and conclusions consistent with law and this ordinance. Upon approval of the preliminary plat by the Council, the Subdivider shall prepare and receive approval of all final construction drawings, plans and specifications by the Commission, Council and City Engineer and CWSD prior to the subdivider commencing construction of the required improvements.

**3.8 FINAL PLAT PROCEDURES.** (a) After approval of the preliminary plat and construction of all required improvements, the subdivider shall cause the subdivision to be surveyed and a final plat to be prepared in conformance with the preliminary plat as approved, and Title 50, Chapter 13, Idaho Code.

(b) Final Plat Application. Upon completion of said final plat and construction of all required improvements, the subdivider shall submit a final plat application with the City Clerk together with the following materials and documents:

- (i) five (5) sets of the final plat;
- (ii) three (3) sets "as constructed" drawings and specifications, certified as compete by the project engineer, of all public street, public water system, public sewer system and all utilities and required improvements;
- (iii) a current title report for the land to be subdivided
- (iv) When submitted to the City Clerk, the final plat shall bear all required certificates, acknowledgements and signatures, except those of the City and County Recorder.
- (v) Final plat application fee established by resolution of the Council.

- (c) **Commission Action.** Upon the filing of a complete final plat application and payment of all fees, then the administrator shall place said final plat upon the Commission's regular meeting agenda. In the event that the Commission finds that final plat does not substantially conform to the approved preliminary plat or any requirement of this or any other applicable ordinance or any condition for approval placed by the Council, the Commission shall deny said plat. Otherwise, the Commission may approve or conditionally approve the final plat and the chairman of the Commission affix the date of acceptance and his/her signature thereon. Thereafter, the final plat and application shall be transmitted to the Council.
- (d) **Council Action.** The final plat shall be place upon a Council regular meeting agenda. The Council shall hold a duly noticed public hearing on the final plat application. The final plat shall conform to the approved preliminary plat, all requirements of this ordinance, all conditions placed upon preliminary plat by the Commission and Council, and all requirements of Idaho law. The Council shall approve, conditionally approve or deny the final plat and shall make written findings of fact and conclusions consistent with law and this ordinance with regard thereto.

**3.9 CONTENTS OF FINAL PLAT.** The final plat shall be drawn in accordance with and contain all items required under Title 50, Chapter 13, Idaho Code. The reverse side of said sheet shall not be used for any portion of the drawing. In addition, the final plat shall include:

- (a) Tract boundary lines, property lines, lot lines, street right of way and center lines, building envelopes as required on the preliminary plat, lot area of each lot, boundaries of flood plain and floodway, all with bearings accurate dimensions in feet and decimals thereof, in degrees and minutes and radii, arcs, central angles, tangents, and chord lengths of all curves to the above accuracy;
- (b) Names and locations of all adjoining subdivisions;
- (c) Location, dimension, and purpose of all easements, public and private;
- (d) The lots numbered consecutively throughout each block;      (e) The outline of any property other than a street, alley, or easement which is offered for dedication to public use, fully dimensioned by distances and bearings with the area marked "Dedicated to the City of Carey for Public Use" or similar language, approved by the Council, together with any other descriptive language with regard to the precise nature of the use of the land so dedicated;
- (f) The title shall include the name of the subdivision, city, county and state, and the location and description of the subdivision referenced to section, township, and range;
- (g) Scale, north arrow, and date;
- (h) Location, width, names of all existing or dedicated streets, and other public ways within or adjacent to the proposed subdivision;
- (i) A provision in the owner's certificate referencing the county recorder's instrument
- (ii) Number where the condominium declaration(s), Articles of Incorporation of Homeowner's Association, Declarations of Covenants, Conditions and Restrictions or similar documents, if any, governing the subdivision are recorded;
- (j) Certificate by registered engineer or surveyor preparing the map certifying to the accuracy of surveying plat;

- (k) Certification of owner(s) of record and all holders of security interest(s) of record with regard to said property;
- (l) Certification and signature of engineer verifying that the subdivision and design standards meet all city and state requirements;
- (m) Certification and signature of the city engineer verifying that the subdivision and design standards meet all city and state requirements;
- (n) Certification and signature of the City Clerk verifying that the subdivision has been approved by the Council;
- (o) Notation of any additional restrictions or conditions imposed by the Council on the real property;
- (p) Sanitary restrictions placed upon the lots by the state.
- (q) In all zoning district where “Agricultural Uses” are a “Permitted Use” the plat shall contain a note that expressly waives any claims for nuisance against lawfully established and operating agricultural uses and a recorded nuisance waiver shall be required to be recorded in the Office of the Blaine County Recorder, as approved by the Council.
- (r) Other notations reasonably required by the Commission or Council.

**3.10 CONDITIONS.** The Commission or Council may attach conditions to the approval of a preliminary plat application or a final plat application. Regulation of the subdivision of land and the attachment of reasonable conditions thereto is a proper exercise of valid police power granted to the City by Article XII, Section 2 of the Idaho Constitution and other applicable laws. The subdivider has the duty of compliance with such reasonable conditions laid down by the Commission or Council for design, dedication or construction of on-site or off-site improvements, and restrictive use of land, or other reasonable conditions in order to conform with the requirements of this or other ordinances, or the physical and economic development of the City, or the safety and general welfare of future lot owners within said subdivision, neighboring properties, or the public at large.

**3.11 ACCEPTANCE OF DEDICATIONS.** Approval of the final plat by the Council shall constitute acceptance of all dedications for public streets, rights of way, easements, and other lands dedicated for public purpose or use as shown thereon. As a condition precedent to the acceptance of any streets or required improvements, the Council shall require that the subdivider install said improvements in accordance with the City of Carey or other applicable standards.

**3.12 TIME LIMITATIONS.**

- (a) The failure to obtain final plat approval by the Council of an approved preliminary plat within one (1) year after approval of the preliminary plat by the Council shall cause all approvals of said preliminary plat to be null and void. An extension of the final plat approval deadline may be granted by the City Council if the following criteria are met:
  - (1) appropriate extenuating circumstances must exist and
  - (2) signs of work or progress on the required improvements must be evident, and
  - (3) the request for extension must be made to the City Council in writing at least forty-five (45) days prior to expiration of said deadline. Extension for the deadline will be reviewed by the City Council on a case-by-case basis.
- (b) The final plat shall be filed with the Blaine County Recorder within one (1) year after final plat approval by the Council. Failure to file said final plat within that time shall cause all approvals of said final plat to be null and void. A single one-year extension of the filing deadline may be

granted by the Council with appropriate conditions provided written request for such extension is filed with the City Clerk prior to the expiration of the original final plat approval.

- (c) No building permit shall be issued with regard to any parcel of land within a proposed subdivision until the final plat has been recorded and a certified copy of the final recorded plat filed with the City Clerk.
- (d) The failure to obtain preliminary plat approval by the Council within one (1) year after said application is certified by the Planning and Zoning Administrator shall cause the application to be null and void. An extension of this preliminary plat approval deadline may be granted by the City Council if the following criteria are met:
  - (1) appropriate extenuating circumstances must exist;
  - (2) the applicant has shown good faith effort and willingness to work towards meeting the standards of all applicable city ordinance requirements, and;
  - (3) the request for extension must be made to the City Council in writing at least forty-five (45) days prior to expiration of said deadline. Extension for the deadline will be reviewed by the City Council on a case-by-case basis.

### **3.13 FINAL PLAT COPIES.**

- (a) Two (2) copies of the final plat as approved by the Council and signed by the City Clerk shall be retained by the City.
- (b) The final plat shall show a minimum of two Blaine County Survey Control Monuments with ties to the property and an inverse between the two monuments. The Survey Control Monuments shall be clearly identified on the face of the plat.
- (c) In addition to all other copies of said final plat required hereunder, an electronic CAD file shall be submitted to the Blaine County Recorder's Office concurrent with the recording of the final plat containing the following data:
  - (i) The line work delineating all Lots, parcels and roadways on a CAD layer/level designated as "parcel";
  - (ii) line work delineating all roadway centerlines on a CAD layer/level designated as "road", and
  - (iii) line work that reflects the ties and inverses for the Survey Control Monuments shown on the fact of the Plat shall be shown on a CAD layer/level designated as "control".
- (d) All information within the electronic file shall be oriented and scaled to Grid per the Idaho State Plane Coordinate System, Central Zone, NAD1983(1992), U.S. Survey Feet, using the Blaine County Survey Control Network. Electronic CAD files shall be submitted in a "dwg", "dgn" or "shp" format, and shall be submitted on a 3.5" floppy diskette, a CD ROM or a Zip Disk. When the endpoints of the lines submitted are indicated as coincidental with another line, the CAD line endpoints shall be separated by no greater than 0.0001 drawing units.
- (e) Any digital submittal will convey the rights to Blaine County, Idaho, (herein also referred to as "Blaine County") for use within its GIS and acceptance of digital data by Blaine County absolves the surveyor of any liability related to the electronic submittal as set forth by Blaine County in Blaine County Resolution No. 2002-54.
- (f) The technical requires of this Subsections 3.13 (C), (D) and/or (E), above, may, from time to time, be amended by resolution of the Carey City Council.

## **CHAPTER 4**

### ***DEVELOPMENT DESIGN AND REQUIRED IMPROVEMENTS***

- 4.1 **REQUIRED IMPROVEMENTS.** The improvements set forth in this section shall be shown on the preliminary plat, and shall be constructed, inspected and approved by the City Engineer prior to approval of the final plat. Two (2) sets of all construction drawings, plans and specifications thereof shall be submitted and approved by the City Engineer prior to start of construction. All improvements shall be in accordance with applicable ordinances, regulations, rules and construction standard specifications adopted or required by the City and any other entity having jurisdiction there over. All such plans, drawings and specifications shall be prepared by an engineer licensed in the State of Idaho.
- 4.2 **AS-CONSTRUCTED DRAWING.** Prior to final plat approval and acceptance by the Council of any improvements installed by the subdivider, two (2) sets of “as-constructed” plans and specifications certified by the subdivider’s engineer as complete and accurate shall be filed with the City Engineer. Within ten (10) days after completion of improvements and submission of “as-constructed” drawings, the city engineer shall certify the completion of the improvements and the acceptance thereof and shall submit a copy of said certification to the administrator and subdivider.
- 4.3 **MONUMENTATION.** Following completion of construction of the required improvements and prior to certification of completion by the city engineer, certain land survey monuments shall be reset or verified by the subdivider’s engineer or surveyor to still be in place. These monuments shall have the size, shape, and type of material as shown on the subdivision plat. The monuments shall be located as required by state and (a) all angle points in the exterior boundary of the plat; (b) All street intersections, points within and adjacent to the final plat; (c) all street corner lines ending at boundary line of final plat; (d) all angle points and points of curves on all streets; (e) the point of beginning of the subdivision plat descriptions.
- 4.4 **LOT REQUIREMENTS.** The length, width, shape and characteristics of lots within proposed subdivision shall conform to the following requirements:
- (a) Lot size, width, depth, shape, orientation, and minimum building set-back lines shall be in compliance with the zoning district in which the property is located; and compatible with the location of the subdivision and the type of development;
  - (b) Whenever a proposed subdivision contains lot(s), in whole or in part within the floodway or create corner lots at the intersection of two (2) or more streets, building envelopes shall be shown for the lot(s) so affected on the preliminary and final plats. Also, lots and building envelopes shall be located to promote access to the lots and maintenance of public utilities, to minimize cut and fill for roads and building foundations, and minimize adverse impact upon environment, water courses, and topographical features;
  - (c) Corner lots shall have a property line curve or corner of minimum radius of twenty-five (25) feet unless a longer radius is required to serve an existing or future use;
  - (d) Side lot lines shall be within twenty (20) degrees to a right angle or radial line to the street line;
  - (e) Double frontage lots shall not be created.
  - (f) A planting strip shall be provided along the boundary line of lots adjacent to arterial streets or incompatible zoning districts.
- 4.5 **BLOCK REQUIREMENTS.** The length, width, shape and characteristics of blocks within proposed subdivision shall conform to the following requirements:



- (a) No block shall be longer than one thousand (1,000) feet, nor less than four hundred (400) feet between the street intersections, and shall have sufficient depth to provide for two (2) tiers of lots;
- (b) Blocks shall be laid out in such a manner as to comply with the lot requirements;
- (c) The layout of blocks shall take into consideration the natural topography of the subdivision and minimize cuts and fills for roads and minimize adverse impact on environment, water courses, and topographical features;
- (d) Corner lots shall contain a building envelope outside of a seventy-five (75) foot radius from the intersection of the streets.

**4.6 STREET IMPROVEMENTS.** The streets and other public ways within proposed subdivision shall conform to the following requirements:

- (a) The arrangement, character, extent, width, grade, and location of all streets put in the proposed subdivision shall conform to the comprehensive plan and shall be considered in their relation to existing and planned streets, topography, public convenience and safety, and the proposed uses of the land;
- (b) All streets shall be constructed to meet or exceed the criteria and standards set forth in the City's street standards and specifications and all other applicable ordinances, resolutions, or regulations of the City, or any other governmental entity having jurisdiction there over, now existing or hereafter adopted, amended or codified;
- (c) Where a subdivision abuts or contains an existing or proposed arterial street or limited access highway the Council may require a frontage street, planting strip, or similar design features;
- (d) Streets may be required to provide access to adjoining lands and provide proper traffic circulation through existing or future neighborhoods;
- (e) Street grades shall not be less than three-tenths (.3%) percent and not more than seven (7%) percent so as to provide for adequate drainage, snow plowing and emergency vehicle access;
- (f) In general, partial street dedications shall not be permitted. However, the Council may accept a partial street dedication when such a street forms a boundary of the proposed subdivision and is deemed necessary for the orderly development of the neighborhood, and provided the Council finds it practical to require the dedication of the remainder of the right of way when the adjoining property is subdivided. When a partial street exists adjoining the proposed subdivision, the remainder of the right of way shall be dedicated;
- (g) Dead-end streets shall not be permitted. However, a cul-de-sac street may be permitted by the City only when necessary to the development of the subdivision provided such street shall have a maximum length of no greater than four hundred (400) feet from entrance to center of turnaround and a minimum turnaround radius of sixty (60) feet at the curb line or the curb line whichever is less, unless public access to public lands or access adjacent private land is determined appropriate by the Council;
- (h) Streets shall be planned to intersect as nearly as possible at right angles, but in no event at less than seventy degrees (70);
- (i) Where any street deflects any angle of ten degrees (10) or more, a connecting curve shall be required having a minimum center line radius of three hundred (300) feet for arterial and collector streets, and one hundred twenty-five (125) feet for minor streets;
- (j) Streets with center line off-sets of less than one hundred twenty-five (125) feet shall be prohibited;
- (k) A tangent of at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets;
- (l) Proposed streets, which are a continuation of an existing street, shall be given the same names as the existing street. All new street names shall not duplicate or be confusing with the names of existing streets within the City;

- (m) Street alignment design shall follow natural terrain contours to result in safe streets, useable lots, and minimum cuts and fills;
- (n) Street in residential areas shall be designed to extend existing street patterns, and minimize through traffic while readily accessible to adjacent collector and arterial streets;
- (o) Reserve planting strips controlling access to public streets shall be permitted under conditions specified and shown on the final plat and all landscaping and irrigation systems shall be installed as required improvements by the subdivider;
- (p) In general, the center line of streets shall coincide with the center line of the street right of way and all crosswalk markings shall be installed by the subdivider as a required improvement;
- (q) Street lighting may be required by the Commission or Council where appropriate, and shall be installed by the subdivider as a required improvement;
- (r) Private streets may be allowed under appropriate circumstances, except all streets in mobile home parks and planned unit developments shall be private unless public access to public lands or access adjacent private land is determined appropriate by the Council;
- (s) Street signs shall be installed by the subdivider as a required improvement of a type and design approved by the administrator and shall be consistent with the type and design of existing street signs elsewhere in the City;
- (t) Bridges: Whenever a proposed subdivision requires construction of a new bridge, or will create substantial additional traffic which will require construction of a new bridge or improvement of an existing bridge, said construction or improvement shall be a required improvement by the subdivider. Said construction or improvement shall be in accordance with adopted standard specifications therefor;

**4.7 REQUIRED EASEMENTS.** Easements and setbacks, as set forth hereinafter, shall be required for location of utilities and other public services, to provide adequate pedestrian circulation and access to public waterways and lands, and for adequate setbacks from rivers and other waterways:

- (a) A public utility easement of, at least, twenty (20) feet in width shall be required centered along the front property line along the outer boundaries of the street right of way boundaries of all streets, and at appropriate locations across lots;
- (b) Where a subdivision contains or borders on a water course, drainage way, channel or stream, irrigation canal or ditch an easement shall be required of sufficient width to contain said water course and provide access for private maintenance and reconstruction thereof;
- (c) All subdivisions, which border the Little Wood River, shall dedicate a twenty (20) foot wide fisherman and pedestrian easement along the riverbank measured from and moving with the ordinary high water mark. Furthermore, the Council shall require an easement(s) providing access through the subdivision to said fisherman's easement;
- (d) All subdivisions which border on the Little Wood River or any tributary shall dedicate a twenty five (25) foot floodplain and riparian setback measured from and moving with the ordinary high water mark within which no structure shall be built in order to protect structures from damage or loss due to river bank erosion;
- (e) Where access to public lands determined appropriate by the Council reasonable public access easements thereto shall be required as part of the subdivision traffic circulation;
- (f) No ditch, pipe, or structure for irrigation water or irrigation waste water shall be constructed, re-routed, or changed within a proposed subdivision unless same has first been approved in writing by the ditch company or property owner holding the water rights thereto. A written copy of such approval shall be filed as part of preliminary plat application;
- (g) Non-vehicular transportation system easements including pedestrian walkways, bike paths, equestrian paths, and similar easements shall be dedicated by the subdivider in accordance with a plan adopted by the City.

#### **4.8 SANITARY SEWAGE DISPOSAL IMPROVEMENTS.**

- (a) All subdivisions within the boundaries of the Carey Water and Sewer Service Area (“CWSSA”) (formerly the Carey Water and Sewer District) shall construct and connect a central sanitary sewer system and related improvements to the municipal central sewerage system as a required improvement by the subdivider. Preliminary design plans and specifications for central sanitary sewer extension shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and Council prior to preliminary plat approval. Construction drawings and specifications for central sanitary sewer extension shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and state of Idaho prior to commencement of construction. The sewer system improvements shall comply with the requirements and standards of the Carey Sewer Ordinance, this ordinance and all other applicable city, state and federal laws, rules and regulations.
- (b) If the proposed subdivision is not within the CWSSA, the alternative provision for sewage disposal in accordance with the requirements of the Idaho Department of Health and Welfare may be approved by the Council until such time as connection to the municipal system is required by the City. The subdivider shall provide preliminary design plans and specifications for any such alternative sanitary sewer system which shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and Council prior to preliminary plat approval. In considering such alternative provisions, the Council may require an increase in the minimum lot size and may impose any other reasonable requirements, which it deems necessary to protect public health, safety and welfare. Construction drawings and specifications for central sanitary sewer extension shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and state of Idaho prior to commencement of construction. The sewer system improvements shall comply with the requirements and standards of the Carey Sewer Ordinance, this ordinance and all other applicable city, state and federal laws, rules and regulations.

#### **4.9 WATER SYSTEM IMPROVEMENTS.**

- (a) A central domestic water distribution system shall be installed in all subdivisions by the subdivider as a required improvement. The subdivider shall also be required to locate and install an adequate number of fire hydrants within the proposed subdivision according to specifications and requirements of the City under the supervision of the Carey Rural Fire District. Furthermore, the central water system shall have sufficient flow for domestic use and adequate fire flow. All such water systems installed shall be looped extensions and no dead-end systems shall be permitted. All subdivisions within the boundaries of the Carey Water and Sewer Service Area (“CWSSA”) shall construct and connect a central water system to the municipal water system as a required improvement by the subdivider. All water systems shall meet the standards of all ordinances, rules, and requirements of the City and of the state of Idaho, and be approved prior to preliminary plat by the city engineer and Council prior to preliminary plat approval. Construction plans and specifications for municipal water system extension shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and state of Idaho prior to commencement of construction. The municipal water system improvements shall comply with the requirements and standards of the Carey Water Ordinance, this ordinance and all other applicable city, state and federal laws, rules and regulations.
- (b) If the proposed subdivision is not within the CWSSA, alternative provisions for water shall be provided by the subdivider in accordance with the requirements of the Idaho Department of Health and Welfare and must be approved by the city engineer and Council. All subdivisions or

developments containing more than four (4) units shall have a centralized common water system. The Council may alter or waive this requirement based on consideration of density and/or proximity to existing CWSSA service. Preliminary design plans and specifications for any such alternative water system shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and Council prior to preliminary plat approval. In considering such alternative provisions, the Council may require an increase in the minimum lot size and may impose any other reasonable requirements which it deems necessary to protect public health, safety and welfare. Construction plans and specifications for water improvements shall be prepared by a licensed engineer for the subdivider and approved by the city engineer and state of Idaho prior to commencement of construction. The water system improvements shall comply with the requirements and standards of all applicable city, state and federal laws, rules and regulations.

- (c) A central irrigation water system, separate and apart from the water system providing potable water and fire flows to the subdivision, shall be installed in all subdivisions by the subdivider as a required improvement. All such irrigation water systems shall provide adequate water rights of not less than 4.35 acre feet per irrigated acre of land within the proposed subdivision delivered at the field headgate to irrigate all lots and parcels within the subdivision and shall convey said water rights in perpetuity to the homeowners association of the subdivision. All such irrigation systems shall be approved by the City Engineer, and shall comply with laws, ordinances, rules, regulations and standards with regard thereto. The City may adopt and amend the standards for such irrigation water systems by resolution."
- (d) The Council may also require a groundwater mitigation plan ("GMP") approved by the Idaho Department of Water Resources ("IDWR") be implemented prior to final subdivision plat. The purpose of the GMP is to (i) mitigate depletion of groundwater by the subdivision, (ii) provide irrigation water at times when the surface or other irrigation water rights appurtenant to the property are not available in lieu of having the applicant acquire supplement water rights and (iii) for any water remaining under the GMP after the preceding purpose (iv) for use by Carey to provide groundwater mitigation to Carey in order for the City or its assigns, to draw additional groundwater for municipal irrigation purposes for the benefit of the property. All groundwater mitigation from the water rights under the GMP shall be dedicated in perpetuity for said groundwater mitigation purposes. Water rights above and beyond the required 4.35 acre feet per irrigated acre and those dedicated in perpetuity for said groundwater mitigation plan may be transferred or conveyed from the property or removed from the GMP without the prior written consent of the City. The GMP plan and application shall be approved by the City through an administrative approval process prior to filing with IDWR. All costs and expenses incurred with regard to the study, preparation, filing, review and implementation of the GMP shall be paid for by the applicant."

**4.10 PLANTING STRIPS IMPROVEMENTS.** Planting strips shall be required improvements when a proposed subdivision adjoins incompatible or inappropriate land uses or features including, without limitation highways, off-street parking areas, and commercial or light industrial districts. The subdivider shall provide planting strips or fencing as approved by the Council to screen from view of such incompatible features. The subdivider shall submit a landscaping plan for said planting strip with the preliminary plat application and the landscaping shall be a required improvement.

**4.11 CUTS, FILLS, AND GRADING IMPROVEMENTS.** Proposed subdivisions shall be carefully planned to be compatible with natural topography, soil conditions, geology and hydrology of the

site, as well as to minimize cuts, fills, alterations of topography, streams, drainage channels, and disruption of soils and vegetation. The design criteria shall include the following:

- (a) A preliminary soil report prepared by a licensed engineer may be required by the Commission and/or Council as part of the preliminary plat application;
- (b) Preliminary grading plan prepared by a licensed engineer shall be submitted as part of all preliminary plat applications. Said plan shall contain the following information:
  - (i) Proposed contours at a maximum of five (5) foot contour intervals,
  - (ii) Cut and fill banks in pad elevations,
  - (iii) Drainage patterns,
  - (iv) Areas where trees and/or natural vegetation will be preserved,
  - (v) Location of all street and utility improvements including driveways to building envelopes, and any other information which may be reasonably required by the administrator, Commission, or Council to adequately review the affect of the proposed improvements.
- (c) Grading shall be designed to blend with natural land forms and to minimize the necessity of padding or terracing of building sites, excavation for foundations, and minimize the necessity of cuts and fills for streets and driveways;
- (d) Areas within a subdivision which are not well suited for development because of existing soil conditions, steepness of slope, geology or hydrology shall be allocated for open space for the benefit of future property owners within the subdivision;
- (e) Where the existing soils and vegetation are disrupted by subdivision development, provision shall be made by the subdivider for re-vegetation of disturbed areas with perennial vegetation sufficient to stabilize the soil upon completion of the construction. Until such times as said re-vegetation has been installed and established, the subdivider shall maintain and protect all disturbed surfaces from erosion;
- (f) Where cuts, fills, or other excavation are necessary, the following development standards shall apply:
  - (1) Fill areas shall be prepared by removing all organic material detrimental to proper compaction for soil compatibility,
  - (2) Fills shall be compacted to at least ninety-five percent (95%) of maximum density as determined by ASSHO T99 (Am. Assoc. State Highway Officials) and ASTM D698 (Am. Std. Testing Methods),
  - (3) Cut slopes shall be no steeper than two (2) horizontal to one (1) vertical. Subsurface drainage shall be provided as necessary for stability,
  - (4) Fill slopes shall be no steeper than three (3) horizontal to one (1) vertical. Neither cut nor fill slopes shall be located on natural slopes of three (3) to one (1) or steeper, or where fill slope toes out within twelve feet (12) horizontally of the top of an existing or planned cut slope,
  - (5) Toes of cut and fill slopes shall be set back from property boundaries a distance of three (3) feet plus one-fifth ( $1/5$ ) of the height of the cut or the fill but may not exceed a horizontal distance of ten (10) feet; tops and toes of cuts and fill slopes shall be set back from structures at a distance of at least six (6) feet plus one-fifth ( $1/5$ ) of the height of the cut or the fill. Additional setback distances shall be provided as necessary to accommodate drainage features and drainage structures.

**4.12 DRAINAGE IMPROVEMENTS.** The subdivider shall submit with the preliminary plat application, such maps, profiles, and other data prepared by an engineer to indicate the proper drainage of the surface water to natural drainage courses or storm drains, existing or proposed. The location and width of the natural drainage courses shall be shown as an easement to all owners

within the subdivision and the City on the preliminary and final plat. All natural drainage courses shall be left undisturbed or be improved in a manner that will increase the operating efficiency of the channel without overloading its capacity. An adequate storm and surface drainage system shall be a required improvement in all subdivisions and shall be installed by the subdivider. Culverts shall be required where all water or drainage courses intersect with streets, driveways, or improved public easements and shall extend across and under the entire improved width thereof including shoulders.

- 4.13 **UTILITIES.** In addition to the terms mentioned hereinabove, all utilities including but not limited to, electricity, natural gas, telephone, and cable services shall be installed underground as a required improvement by the subdivider. Adequate provision for expansion of such services within the subdivision or to adjacent lands including installation of conduit pipe across and underneath streets shall be installed by the subdivider prior to construction of street improvements.
- 4.14 **OFF-SITE IMPROVEMENTS.** Where off-site improvements are necessary to provide required improvements or adequate infrastructure to a proposed subdivision or where a subdivision is found by the Council to create substantial additional traffic or other off-site impacts, such off-site improvements shall be constructed by the subdivider as a required improvement for preliminary plat approval and final plat approval. Such improvements may include, but not limited to, bridges, intersections, streets, traffic control devices, water mains and facilities, and sewer mains and facilities. All such improvements shall be constructed prior to final plat approval and in accordance with the applicable standard specifications of the City or the governmental entity having jurisdiction there over.
- 4.15 **PARK DEDICATION.** In order to maintain adequate public parks for the inhabitants of the subdivision at near the existing level of parks for all citizens within the city, a subdivider shall dedicate parkland and construct improvements thereon a required improvement. The amount of parkland shall be in an amount equal to five per cent (5%) of the land within the proposed subdivision. The location of the park shall be shown as a separate lot on the preliminary plat. The improvements thereto shall be determined by the use to be generated by the inhabitants of the subdivision. Where the amount of land to be dedicated would not be of sufficient size or in other appropriate circumstances, the subdivider shall pay an appropriate fee dedicated for parkland acquisition in lieu of the dedication of land upon approval by the Council. The park fee may be set by resolution or on an appropriate case-by-case basis by the Council.
- 4.16 **ADJACENT LANDS.** When an owner or subdivider owns or controls contiguous or adjacent land, to that which he proposes to subdivide under the terms of this ordinance, the Commission or Council may require that the contiguous or adjacent property be included in the subdivision or that a development plan for the entire tract be presented. Furthermore, the Commission or Council may require that the entire parcel or parcels of land be platted. Furthermore, the Commission or Council may require that access for roads, other public ways and utilities be provided as may be reasonably necessary for the provision thereof for present or future use or development of adjacent or nearby lands irrespective of ownership.
- 4.17 **AGRICULTURAL NUISANCE WAIVERS.** In all cases of a residential subdivision is proposed in areas where “agricultural use” is a permitted use under the Carey Zoning Ordinance, a recorded nuisance waiver and plat note, in a form approved by the Council, shall be required.
- 4.18 **PERFORMANCE BOND.** Prior to final plat approval the subdivider shall have constructed all required improvements and secured a certificate of completion from the city engineer. However, in

cases where the required improvements cannot be constructed due to weather conditions or other factors beyond the control of the subdivider, the City Council may accept in lieu of any or all of the required improvements a performance bond filed with the City Clerk to insure actual construction of the required improvements as submitted and approved. Said performance bond shall be issued in an amount not less than one hundred fifty percent (150%) of the estimated costs of improvements as determined by the city engineer. In the event the improvements are not constructed within the time allowed by the City Council (which shall be one year or less, depending upon individual circumstances), the Council may order the improvements installed at the expense of the subdivider and the surety. In the event the cost of installing the required improvements exceeds the amount of the bond, the subdivider shall be liable to the City for additional costs thereof and said costs shall automatically become a lien upon any and all property within the subdivision owned by the owner and/or subdivider. Upon completion of improvements, final inspection approval of same, and submission of "as-constructed" drawings, the city engineer shall certify the completion of the improvements and the acceptance thereof and shall submit a copy of said certification to the administrator who shall forward a copy of the certification to the City Clerk. Thereafter, the City Clerk may release the performance bond upon application by the subdivider.

- 4.19 **GUARANTEE REQUIRED IMPROVEMENTS.** The subdivider shall guarantee the design, the materials and workmanship of all required improvements for two (2) years from the date of final acceptance by the City. If improvements are bonded for prior to construction, then said guarantee shall commence after completion and upon the date of final acceptance of the city

## **CHAPTER 5**

### ***SHORT PLAT PROCEDURES***

- 5.1 **APPLICABILITY.** Any property owner desiring to divide land into not more than four (4) lots may submit a short plat application to the City Clerk provided that the following criteria are met:
- (a) Each lot meets all requirements of the Carey Zoning Ordinance and this ordinance.
  - (b) At least one lot shall have the required frontage on a dedicated and improved Public Street provided each lot has access to dedicated and improved Public Street that shall be shown on the fact of the plat.
  - (c) Each lot can be directly served by existing CWSD water and sewer lines or on-site well and sewer system.
  - (d) The property has not been previously subdivided.
  - (e) No streets or utilities need to be installed or improved to the boundary of each lot and no other improvements required under this ordinance need to be installed by the subdivider.
  - (f) No waivers may be requested under Article XII hereof for short plat approval.
- 5.2 **APPLICATION.** The subdivider shall file a short plat application under Sections 3.4 through 3.9 of this ordinance, which shall be deemed the final plat application under this ordinance, together with such additional information as the administrator, Commission or Council may require during the review process.
- 5.3 **COMMISSION REVIEW.** Upon receipt of the short plat application and all other required data, the application shall be submitted to the CWSD, CRFD and other agencies for review under Section 3.4, of this ordinance. Upon completion of the review period, the Commission shall hold a duly notice public hearing, review the application under the requirements, standards and criteria of this

ordinance. The Commission may approve, approve with conditions or deny the application and shall enter a written decision in accordance with this ordinance.

- 5.4 **COUNCIL REVIEW.** Upon approval or conditional approval by the Commission, the short plat application shall be placed upon a regular City Council agenda. The Council shall review the application plat, record and decision of the Commission and determine whether or not the application complies with the requirements, standards and criteria of this ordinance and all other applicable ordinances. The Council may approve or deny said application and enter a written decision in accordance with this ordinance. Approval of a short plat application by the Counsel shall be deemed approval of the final subdivision plat.

## **CHAPTER 6**

### ***ADJUSTMENT OF LOT LINES***

- 6.1 **APPLICATION.** An owner or subdivider wishing to adjust lot lines, as defined in Section 2.2, shall file a lot line adjustment application together with three (3) copies of a plat and application with the administrator for administrative review. Additional information reasonably required for thorough review of the application and plat may be required by the administrator to be provided by the applicant. No waivers may be requested under Article XII hereof for plat approval under this Article.
- 6.2 **PROCEDURES.**
- (a) The administrator shall provide written notice of said application to owners of property immediately adjacent to the subject property. Said notice shall inform adjacent property owners they may comment on the application during a period of not less than fifteen (15) days after mailing of the notice and prior to final action on said application.
  - (b) Following expiration of the said comment period, and upon a finding by the administrator that the plat conforms to the readjustment of lot line definition and is in compliance with the provision of this ordinance, the Carey Zoning Ordinance and all other applicable ordinances, the administrator shall approve same or approve with conditions necessary to find same in compliance with the provisions of the ordinance. If the administrator finds that the application does not conform to said definition or is not in compliance with this ordinance, the administrator shall deny said application and shall state the reasons therefor in writing and a copy signed by the administrator attached to one copy of the plat shall be returned to the applicant.
  - (c) If the administrator approves the application the Administrator shall forward the plat to the Mayor and City Clerk for signature, unless an adjoining property owner or other affected person objects to the application or the Administrator otherwise determines it appropriate, the Administrator shall submit the application to the City Council for its approval. If the Administrator submits the application to the City Council, the Administrator shall place the application on a regular city council agenda. If the Council approves the application and upon satisfaction by the applicant of any conditions attached thereto, the administrator shall inform the City Clerk and the City Clerk shall sign the plat. Any questions with regard to the interpretation and/or applicability of this section or other sections shall be referred to the Council by the administrator for determination.

## **CHAPTER 7**

### ***DUPLEX SUBLOT PLATS***



**7.1 APPLICABILITY.** Any property owner desiring to divide a duplex and the lot upon which it has been constructed into two (2) duplex sub-lots for the purpose of selling and conveying fee simple title to each unit of the duplex may submit a duplex subplot preliminary plat application to the City Clerk provided that the following criteria are met:

- (a) Each lot meets all requirements of the Carey Zoning Ordinance and this ordinance.
- (b) Each lot shall have the required frontage on a dedicated and improved public street.
- (c) Each lot can be separately and directly served by existing CWSD water and sewer lines or on-site well and sewer system and have separate electrical meters.
- (d) The units are separated by a one hour fire resistant party wall along at least fifty (50%) adjoining side of each unit, subject to Uniform Building Code and Uniform Fire Code requirements and all other applicable codes and ordinances. Said party wall shall extend from the basement floor to the roof along the sub-lot property line dividing the two units with no doors, windows or openings.
- (e) Each unit has its own separate exterior access and no unit, in whole or in part, is located over another unit or part thereof.
- (f) Each sub-lot shall have a minimum lot area equal to one-half of the lot area of the lot on which the duplex is located in a configuration, which creates a useable yard for each unit.

**7.2 PRELIMINARY PLAT PROCEDURES.** The subdivider shall file a preliminary duplex plat application together with the required fee, a copy of the proposed party wall agreement(s), and any proposed document(s) creating an association of owners and such other information as the administrator, Commission or Council may require during the review process. Said application shall be processed in accordance with the preliminary plat procedures of Chapter 3, of this ordinance.

**7.3 FINAL PLAT PROCEDURES.** Upon final inspection approval for the entire duplex, the subdivider may file a duplex final plat application together with the required fee, a copy of the final party wall agreement(s), and any proposed document(s) creating an association of owners. Said application shall comply with and be processed the same as the final plat application under Chapter 3 of this ordinance.

**7.4 REQUIRED FINAL PLAT NOTES.** In addition to all other notes on the face of the final plat, the following notes shall appear:

- (a) each sub-lot is subordinate to the lot on which duplex is located. No other building may be reconstructed on the sub-lots other than the unit of the duplex. Said lots shall not be buildable for any other dwelling unit.
- (b) the sub-lots are each encumbered by the party wall agreement(s) noted on the plat and said agreements shall not be removed of record without vacation of the plat having first been obtained.

## **CHAPTER 8**

### ***CONDOMINIUM PLATS***

**8.1 PURPOSE.** The purpose of this section is to set forth special provisions for property created or converted pursuant to the Condominium Property Act, Title 55, Chapter 15, Idaho Code, as amended, revised, or complied. The provisions of this section are found necessary in order to provide for the public health, safety, welfare of purchasers and residents of such condominiums and the public generally.

- 8.2 **PRELIMINARY PLAT APPLICATION.** The subdivider of the condominium project shall submit with the preliminary plat application together with a preliminary condominium plat, a copy of the proposed condominium declarations, articles of incorporation and by-laws. Said documents shall adequately provide for the control and maintenance of all common areas, recreations facilities, and open space. This application shall comply with all requirements of this ordinance and be processed in accordance with Sections 3.4 through 3.7, inclusive, of this ordinance.
- 8.3 **FINAL PLAT APPLICATION.** After the building(s) have received final framing inspection approval under the Uniform Building Code, the subdivider shall submit with the final plat application together with a final condominium plat, a copy of the final condominium declarations, articles of incorporation and by-laws which shall be filed with the Blaine County Recorder prior to the final plat approval. The plat shall state the instrument number(s) under which each document was recorded. This application shall comply with all requirements of this ordinance and be processed in accordance with Sections 3.8 and 3.9, of this ordinance.
- 8.4 **GARAGES.** All garages shall be designated on the preliminary and final plat and on all deeds as part of a particular condominium unit. No garages may be created as a separate condominium or sold separately from the designated condominium unit.
- 8.5 **STORAGE AREAS.** Adequate storage areas shall be provided for each condominium units depending on its size, location and/or potential uses.
- 8.6 **PARKING.** In addition to all other requirements, an additional parking space shall be required for each four dwellings units to accommodate visitor parking and additional family vehicles.
- 8.7 **MAINTENANCE BUILDING.** A maintenance building or room shall be provided of adequate size and location for the type and size of the condominium project for storage of maintenance equipment and supplies for common areas.
- 8.8 **OPEN SPACE.** The subdivider shall dedicate to the common use of the homeowner's adequate open space an/or recreational amenities of such shape and area useable and convenient to the residents of the condominium subdivision. Location of building sites and common area shall maximize privacy and solar access.
- 8.9 **GENERAL APPLICABILITY.** All other provisions of this ordinance and all applicable ordinances, rules and regulations of the City and all other governmental entities having jurisdiction shall be complied with by condominium subdivisions.

## **CHAPTER 9**

### ***PHASED DEVELOPMENT PROJECTS***

- 9.1 **APPLICABILITY.** Any subdivider wishing to develop in phases a subdivision over a period of time shall comply with the additional requirements and regulations set forth in this article. Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future states in a stable manner and shall comply with all applicable zoning regulations.
- 9.2 **DEVELOPMENT OR MASTER PLAN.** (a) In addition to the subdivision application and data, the subdivider shall submit to the administrator a development plan and development schedule ("Master Plan") for the entire project, containing all of the information required in Section 3.5 of this ordinance.
- (b) The Development or Master Plan, if approved, together with a phasing development agreement with the city shall be the Master Plan for the entire project, unless the development is a Planned Unit Development in which case the development plan together

with the PUD and Conditional Use Permits approved under the Carey Zoning Ordinance collectively shall be the master plan for the entire project. In either case the Master Plan shall be subject to modification by the subdivider through same procedures as required for approval of original plat and plan; and, subject to additional regulations of subsequently adopted or amended ordinances and statutes; and subject to additional requirements imposed by the Commission or Council due to changes in the development plan or as a result of subsequent subdivision or development of neighboring properties.

- (c) After approval of the master plan, the subdivider shall submit to the City a preliminary plat and final plat of each phase of the project built or to be built as evidenced by a valid building permit therefore. The time limitations set forth in Section 3.12 of this ordinance shall apply to each successive phase of the development or as otherwise set forth in a written development agreement executed by and between the subdivider and the City. The master plan may be recorded by the City with Blaine County Recorder.

**9.3 COMMISSION ACTION.** Upon receipt of the application and development plan by the Commission, Commission action shall be as directed in Section 3.6, hereinabove.

**9.4 COUNCIL ACTION.** The administrator upon receiving the findings and recommendations of the Commission shall place the subdivision application, Master Plan and development schedule on the agenda of a regular City Council meeting. The Council shall review the application, recommendations of the Commission and all information and data contained in the file and may approve, conditionally approve or deny the application and Master Plan in accordance with the procedures in Section 3.7, above.

**9.5 PRELIMINARY AND FINAL PLATS.** Upon approval of a master plan, the subdivider shall file a preliminary plat for each stage of his development in conformance with the approved master plan. Upon approval of the preliminary plat, the subdivider may commence construction of the required improvements in accordance with the approved engineered plan, drawing and specifications as required in this ordinance. Upon completion of the improvements, the subdivider may file a final plat application. Preliminary and final plat applications shall be processed and reviewed pursuant to Chapter 3 of this ordinance.

**9.6 REQUIRED IMPROVEMENTS.** The City Council may require that the subdivider install a portion of the required improvements for the entire project as set forth in the Master Plan prior to approval of the final plat for any phase of the development.

## **CHAPTER 10**

### ***IMPACT STATEMENT***

**10.1 IMPACT STATEMENT REQUIRED.** The subdivider proposing a subdivision of more than ten (10) lots or condominium units shall be required to prepare and submit an Impact Statement as part of the preliminary plat application. The statement shall discuss the potential effects of the proposed development upon the City in terms of impact upon economics, public facilities, or environment as set forth herein.

**10.2 REQUIREMENTS.** The Impact Statement shall include a study of the potential impact upon:

- (a) Sewer and water systems and facilities,

- (b) Fire services, including fire protection water supply
- (c) Police services,
- (d) Schools,
- (e) Roads, bridges, and traffic,
- (f) Other public utilities and facilities,
- (g) Noise, water (surface and ground), and air pollution,
- (h) Environmental impact, including vegetation, wildlife, wildlife habitat and soil erosion,
- (i) Public easements and recreation availability,
- (j) Avalanche hazard and flood hazard,
- (k) Drainage and grading of slopes,
- (l) Adjacent properties and the neighborhoods,
- (m) Snow removal areas and services,
- (n) Areas and buildings of historical significance,
- (o) Effects upon agriculture.

**10.3 ADDITIONAL REQUIREMENTS.** The Commission or Council may reasonably require the impact statement to be extended to include other factors and criteria not listed above due to unusual characteristics of the land or character of the proposed development or improvements thereon. Furthermore, the subdivider may be required to provide additional information and studies with regard to any of the factors or criteria required in the impact statement.

## **CHAPTER 11**

### ***PLAT VACATIONS***

- 11.1 APPLICATION.** Any property owner desiring to vacate an existing subdivision plat or portion thereof, Public Street, alley or easement right of way shall file an application with and pay the established fee to the City Clerk. Upon receipt of the completed application and other information reasonably required by the administrator, the date of the acceptance of the application shall be affixed thereon. Thereafter, said application shall be placed upon the Commission agenda for consideration of a regular meeting of the Commission. The procedures followed for such vacations shall comply with the laws of the state of Idaho, including, without limitation, Idaho Code Sections 50-1321, 50-1325, and 50-1306(A), including subsequent amendments thereto.
- 11.2 COMMISSION ACTION.** The Commission shall consider the application and testimony of the applicant, and such other information as may come before it with regard to the proposed vacation. The Commission shall consider the statutory requirements, interests of the adjacent property owners and public utilities, conformance of the proposal with the comprehensive plan, and the future development of the neighborhood, and shall make its recommendations for accepting or rejecting said application.
- 11.3 COUNCIL ACTION.** Upon receiving the recommendation from the Commission, the Council shall hold a public hearing thereon. The Council shall hear and consider the public testimony, applicant testimony, recommendations of the Commission, and any other information as may be brought before the Council. Whenever the Council vacates an existing dedicated public street, the City shall vacate same as provided by state laws and provide adjacent property owners with a quitclaim deed

for the said vacated street as prescribed by law. Said vacation shall become effective upon delivery of said deed(s).

## **CHAPTER 12**

### ***WAIVER REQUESTS***

- 12.1 **WAIVER.** Waiver of any of the requirements of this ordinance may be granted by the Council on a case-by-case basis upon the recommendation of the Commission. Application for such waiver (s) must be in writing. To grant a waiver the Council shall find that (a) there are special physical characteristics of the real property in question where literal enforcement of this ordinance would result in undue hardship not the result of actions by the subdivider; (b) not be detrimental to the public welfare, health, and safety; (c) not injurious to property owners in the immediate area; and, (d) in accordance with the Comprehensive Plan.
- 12.2 **APPLICATION FOR WAIVER.** Applications shall be made in writing as part of the preliminary plat subdivision application. Said waiver request, together with such related data and maps as are necessary to fully illustrate the relief sought, shall be filed at the time of the preliminary plat application and shall be processed and considered with said application. The applicant shall pay a waiver fee as set by resolution of the Council.

## **CHAPTER 13**

### ***ADMINISTRATION, PROCEDURES, AND APPEALS***

- 13.1 **ADMINISTRATOR.** Until such time as an Administrator is appointed or in the absence thereof, the Commission shall perform the duties set out in this ordinance for the Administrator. The Council or Commission may delegate further duties to the Administrator, as each may deem advisable.
- 13.3 **APPEALS FROM DECISIONS OF THE ADMINISTRATOR.** Any person aggrieved by a decision of the Administrator made in interpreting or enforcing this ordinance may appeal such a decision to the Commission by filing a written Notice of Appeal with the City Clerk within twenty (20) days of such decision stating the date of the appeal, the decision appealed from, the date of the decision and all the grounds for the appeal with particularity. If no Notice of Appeal is timely filed the decision becomes final and not subject to appeal. The appellant shall pay an appeal fee to cover the costs of said appeal as set by resolution of the Council.
- (a) **Hearing by Commission.** The Commission shall hold a hearing on all appeals from decisions of the Administrator within thirty five (35) days of the filing of the Notice of Appeal. The Commission may receive evidence at such an appeal hearing from the appellant and the Administrator.
- (b) **Decision by Commission.** The Commission shall, within thirty five (35) days after the hearing, enter a written order affirming, reversing, or modifying the Administrator's decision. The order shall also contain the reasons for the Commission's decision and be in the form of written findings of fact and conclusions of law. The time for entering a decision may be extended by the Commission upon a

finding that the same is appropriate due to the complexity of the issues or need for additional evidence.

**13.4 APPEALS TO THE COUNCIL.** Any person aggrieved by any final action of the Commission may appeal the Commission's decision to the Council by filing a Notice of Appeal with the City Clerk within twenty (20) days of the Commission's final action. If no Notice of Appeal is timely filed the decision shall be final and not subject to appeal. The Notice of Appeal shall state the date of the appeal, the decision appealed from, the date of the decision and all the grounds for the appeal with particularity. In addition, the appellant shall pay an appeal fee as set by resolution of the Council. Copies of the Notice of Appeal shall be transmitted to the members of the Council and the Commission.

(a) Transcript. The Administrator shall provide any such aggrieved person with a written statement of the estimated cost of preparation of the verbatim transcript of the proceeding involved in the appeal. The cost shall be calculated as the actual cost of hiring a qualified person to transcribe the record of the proceedings. The estimated cost of the transcript shall be paid by the appellant prior to beginning the transcription. The transcript of the proceedings shall be prepared at the appellant's sole expense and the actual cost of the transcript shall be paid in full before the transcript and record are forwarded to the Council.

(b) Transmission of Record. Within thirty five (35) days after the verbatim transcript is prepared and submitted to the City, the Commission shall prepare the record of the proceedings appealed from. The record shall contain the application, documents, exhibits, minutes and decisions pertinent to the appeal with a certificate signed by the Administrator listing all documents in the record in chronological order of filing together and stating that the documents listed comprise the complete record of the Commission's proceedings. The Commission shall transmit one (1) copy of the record and transcript to each Councilperson, Mayor and the appellant.

(c) Hearing by the Council. The Council shall hold a hearing on the appeal following receipt of the Commission's record and transcript. The appeal shall be placed on the agenda of and heard at a regular Council meeting. The appeal shall be based solely upon the record before the Commission. The parties to the appeal may present briefs to the Council and each party may present fifteen (15) minutes of oral argument to the Council, unless additional time is granted by the Council.

(d) Decision by the Council. The Council shall enter a written decision within thirty five (35) days after the hearing affirming, reversing, or modifying the Commission's decision. The decision shall be in the form of written findings of fact and conclusions of law. The time for entering a decision may be extended by the Council upon a finding that the same is appropriate due to the complexity of the issues.

**13.6 PUBLIC HEARING, NOTIFICATION, AND DECISION.** Unless otherwise provided, each application under this ordinance shall be reviewed at a public hearing and a decision made in accordance with the following provisions and applicable state law.

(a) A completed application will be presented to the Commission at the next regular meeting of the Commission following its receipt by the City and the Commission shall schedule a public hearing within thirty five (35) days after the agency review period.

(b) Publication of Notice. Notice of time, date, and place of the public hearing, a summary of the proposal and identification of the property under consideration shall be given by one (1) publication in a official city newspaper at least fifteen (15) days prior to the hearing.

(c) Mailing of Notice. A copy of said public hearing notice shall be mailed by United States to each property owner and purchaser of record within three hundred (300) feet of the external boundaries of the property under consideration in accordance with list of such names accompanying the application. Clerical omission by the City of the names of property owners or

- purchasers of record from the list provided or the mailing shall not affect the sufficiency or validity of said notice. Individual mailings may be waived when the aforementioned list includes the names of more than two hundred (200) property owners or purchasers of record, and in lieu of mailed notice, said notice shall be posted in five (5) public places within the City.
- (d) The presiding officer may order the public hearing to be continued up to thirty five (35) days at the same place, in which case no further notice shall be required.
- (e) All time periods for considering applications, holding public hearings, and entering decisions set forth in this ordinance may be extended by the Commission or Council for a reasonable period of time upon a finding that such extension is necessary due to the complexity of the proposal or need for additional specified information or for publication requirements or scheduling problems.
- (f) All final decisions on said applications shall be made in writing and shall contain a statement in the form of findings of fact and conclusions of law that (a) explains the criteria and standards considered relevant and used in evaluating the application, (b) states the facts relied upon, and (c) explains the justification and reasons for the decision based on the criteria, standards and facts set forth. A decision is not deemed to have been made until such written decision is adopted by vote of the Commission or Council, as the case may be. The approval or denial of any such application shall be based upon standards and criteria which are set forth in this ordinance, the comprehensive plan and other appropriate ordinances and regulations of the City. Whenever the Commission or Council denies such a permit application, it shall specify the actions, if any, that the applicant could take to obtain approval.

## **CHAPTER 14**

### ***FEES***

- 14.1 **FEE SCHEDULE.** The Council by Resolution shall establish, and may from time to time amend, a Schedule of Fees to be paid by each applicant for processing the various applications set forth in this ordinance, including, without limitation, preliminary plat application fees, final plat application fees, short plat application fees, plat amendment fee, plat vacation fee, waiver fees, pre-application meeting fee, and appeal fees. Said fees shall be in amounts reasonably calculated to reflect the cost of administering and regulating this ordinance and the review and processing of said applications and appeals.

## **CHAPTER 15**

### ***ENFORCEMENT, VIOLATIONS AND PENALTIES***

- 15.1 **MINIMUM REQUIREMENTS.** In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Whenever the requirements of any other lawfully adopted rule, regulation, ordinance, or resolution may apply, the most restrictive or imposing the higher standards shall govern. In addition, it may be determined appropriate by the Commission or the City Council to apply reasonable requirements greater than the minimum standards due to special physical characteristics of the land, or characteristics or complexity of the development.
- 15.2 **APPROVAL OF SUBDIVISIONS REQUIRED AND NO BUILDING PERMITS ISSUED.** The subdivision of any lot or of any parcel of land by the use of a metes and bounds description for the

purpose of sale, transfer, encumbrance by mortgage or deed of trust, or lease, shall not be permitted, without the filing of a final plat as herein required. All such divisions of land shall not be recognized by the City nor shall building permits be issued for any improvements thereon until such subdivisions have received final plat approval and met all requirements of this ordinance.

- 15.3 **ILLEGAL TO SELL OR OFFER FOR SALE.** No owner, or agent of the owner, shall transfer, sell, encumber by mortgage, or deed of trust, or offer to sell any portion of an unsubdivided parcel of real property before a final plat thereof has been approved by the Council and filed with the Office of the Blaine County Recorder as required by law.
- 15.4 **CRIMINAL VIOLATIONS AND PENALTIES.** Any person, firm, association, or corporation that fails to comply with or violates any of these regulations shall be subject to a fine not more than three hundred dollars (\$300) or imprisonment for a period not exceeding sixty days (60), or both. Each day that said violation continues shall constitute a separate offense. Each landowner, tenant, subdivider, builder or other person who commits, participates in, assists in or maintains such violation is guilty of such a violation.
- 15.5 **CIVIL ENFORCEMENT.** At the direction of the Mayor and Council, appropriate actions and proceedings at law or in equity may be instituted by the City Attorney to prevent or rectify illegal subdivisions, to recover damages, to restrain, correct, or abate any violation, or to prevent illegal occupancy of a building structure or premises. These remedies shall be accumulative and in addition to the penalties described herein above.
- 15.6 **INVESTIGATION:** The administrator and building inspector shall investigate compliance with these regulations and to bring to the attention of the Mayor, City Council and the City Attorney any violations of this ordinance.

## **CHAPTER 16**

### ***SAVINGS, REPEALER, AND EFFECTIVE DATE PROVISIONS***

- 16.1 **SAVING AND 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 and the remaining parts of this ordinance shall remain in full force and effect.
- 16.2 **REPEALER PROVISION.** All ordinances or parts thereof in conflict herewith are hereby repealed and particularly Carey Ordinance 97-02, as amended by Carey Ordinance 97-05 is hereby repealed.
- 16.3 **EFFECTIVE DATE.** This ordinance shall be in full force and effect after its passage, approval, and publication according to law.

PASSED AND APPROVED BY THE CAREY CITY COUNCIL AND APPROVED BY THE MAYOR OF CAREY ON THIS 6<sup>TH</sup> \_ DAY OF JUNE, 1997.

s/\_\_\_\_\_

Heber Kirkland, Mayor



ATTEST:

s/ \_\_\_\_\_  
CITY CLERK