

**ORDINANCE NO. 546**  
**CASE NO. ORA18-0003**  
**THIRD SET OF OMNIBUS AMENDMENTS TO THE**  
**KOOTENAI COUNTY LAND USE AND DEVELOPMENT CODE**

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO LAND USE REGULATION; AMENDING THE REQUIREMENT TO OBTAIN A SPECIAL NOTICE PERMIT FOR A PERSONAL STORAGE BUILDING TO BE BUILT PRIOR TO THE ESTABLISHMENT OF A PRIMARY USE IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, AND RESTRICTED RESIDENTIAL ZONES TO PROVIDE THAT SUCH PERMIT SHALL BE REQUIRED ONLY IF THE BUILDING WILL BE 200 SQUARE FEET OR GREATER AND THE PARCEL IS LESS THAN ONE ACRE IN SIZE, AND TO PROVIDE THAT SUCH PERMIT SHALL NOT BE REQUIRED IF THE BUILDING WILL BE 400 SQUARE FEET OR LESS AND THE SETBACK AREAS FROM THE STRUCTURE TO THE PROPERTY LINE WILL BE TWICE THE NORMAL SETBACK DISTANCE, PROVIDING FOR THE KEEPING OF DOMESTIC FOWL AS A USE PERMITTED OF RIGHT IN THE AGRICULTURAL, RURAL, AND AGRICULTURAL SUBURBAN ZONES, AND AS AN ACCESSORY USE PERMITTED OF RIGHT ON PARCELS OF FIVE (5.00) ACRES OR GREATER IN THE RESTRICTED RESIDENTIAL ZONE, EXPRESSLY PROHIBITING THE KEEPING OF LIVESTOCK OR DOMESTIC FOWL IN THE HIGH DENSITY RESIDENTIAL ZONE, EXPRESSLY PROHIBITING THE KEEPING OF LIVESTOCK ON PARCELS OF LESS THAN THREE-FOURTHS ( $\frac{3}{4}$ ) ACRE IN SIZE IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN AND RESTRICTED RESIDENTIAL ZONES, AND EXPRESSLY PROHIBITING THE KEEPING OF DOMESTIC FOWL ON PARCELS OF LESS THAN 8,250 SQUARE FEET IN SIZE IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN AND RESTRICTED RESIDENTIAL ZONES, PROVIDING FOR HELIPADS, HELICOPTER OPERATION, AND HELICOPTER STORAGE AS A USE PERMITTED OF RIGHT ON PARCELS OF ANY SIZE IN THE COMMERCIAL, MINING, LIGHT INDUSTRIAL, AND INDUSTRIAL ZONES, PROVIDING THAT RESIDENTIAL USES ARE A PRIMARY USE PERMITTED OF RIGHT IN THE COMMERCIAL ZONE WITH THE SAME MAXIMUM DENSITY THAT APPLIES IN THE HIGH DENSITY RESIDENTIAL ZONE, PERMITTING SOLID WASTE TRANSFER STATIONS THAT DO NOT FALL WITHIN THE DEFINITION OF "PUBLIC UTILITY COMPLEX FACILITY" UPON ISSUANCE OF A CONDITIONAL USE PERMIT IN THE COMMERCIAL, MINING, LIGHT INDUSTRIAL AND INDUSTRIAL ZONES, AND ESTABLISHING PERFORMANCE STANDARDS FOR SUCH USE, REQUIRING ORDERS OF DECISION APPROVING FINAL PLANNED UNIT DEVELOPMENTS (PUDs) AND THE APPROVED FINAL PUD PLAN TO BE RECORDED AT THE PROPERTY OWNER'S EXPENSE, REPEALING THE REQUIREMENT FOR MINOR PUD AMENDMENTS THAT THE AREA OF EACH AFFECTED LOT OR PARCEL MAY ONLY BE CHANGED LESS THAN TWENTY PERCENT (20%) FROM THE ORIGINAL BOUNDARIES, CLARIFYING LANDSCAPING STANDARDS AND PROVIDING THAT FACILITIES FOR THE DISPLAY, SERVICE AND RETAIL SALE, LEASE OR RENTAL OF NEW OR USED MOTOR VEHICLES, BOATS, RECREATIONAL VEHICLES OR TRAILERS MAY DISPLAY AND STORE THOSE ITEMS OUTDOORS WITHOUT VISUAL SCREENING AND WITHIN THE REQUIRED FRONT

YARD SETBACK, PROVIDING THAT SCHOOLS, PLACES OF WORSHIP AND PLACES OF ASSEMBLY MAY HAVE ON-PREMISE SIGNS REGARDLESS OF THE ZONE IN WHICH THEY ARE LOCATED, CLARIFYING REQUIREMENTS FOR ADDRESS NUMBERING OF PARCELS CONTAINING MULTIPLE BUILDINGS, DWELLING UNITS OR ENTRANCES AND THE INSTANCES IN WHICH COMMON DRIVEWAYS MAY BE NAMED, ADDING A DEFINITION OF “DOCK LOT” AND PROVIDING USES PERMITTED ON DOCK LOTS, ALLOWABLE ACCESS TO DOCK LOTS, AND OUTDOOR STORAGE REQUIREMENTS FOR DOCK LOTS, PROVIDING THAT INITIAL APPROVAL OF AN ASPHALT OR CONCRETE BATCH PLANT SHALL BE FOR FIVE YEARS, WITH RENEWALS THEREOF SUBJECT TO ADMINISTRATIVE APPROVAL BY THE DIRECTOR FOR ADDITIONAL SUCCESSIVE FIVE-YEAR PERIODS, AND PROVIDING THAT RENEWALS OF RESTRICTIVE SURFACE MINING OPERATIONS SHALL ALSO BE SUBJECT TO ADMINISTRATIVE APPROVAL BY THE DIRECTOR FOR ADDITIONAL SUCCESSIVE FIVE-YEAR PERIODS, REPEALING THE REQUIREMENT FOR ISSUANCE OF A CONDITIONAL USE PERMIT FOR A SCHOOL TO DEMONSTRATE COMPLIANCE WITH SITE AREA GUIDELINES, CLARIFYING LIMITATIONS ON BOUNDARY LINE ADJUSTMENTS, REPEALING A PROVISION LIMITING THE NUMBER OF PARCELS WHICH MAY BE CREATED THROUGH A DECEDENT’S ESTATE TO FOUR PARCELS, ADOPTING PROVISIONS FOR APPROVAL OF A SUBDIVISION EXEMPTION PERTAINING TO ONE OR MORE UNPLATTED PARCELS OF LAND, PROVIDING THAT ALL SUBDIVISION AND CONDOMINIUM PLAT APPLICATIONS MUST BE SUBMITTED ELECTRONICALLY UNLESS WAIVED BY THE DIRECTOR OF COMMUNITY DEVELOPMENT, AND REPEALING PROVISIONS REQUIRING SUBMITTAL OF MULTIPLE COPIES OF ELECTRONICALLY FILED DOCUMENTS, REQUIRING GROUNDWATER QUANTITY REPORTS FOR MAJOR SUBDIVISIONS, MINOR SUBDIVISIONS, AND CONDOMINIUMS TO BE PERFORMED BY A PROFESSIONAL GEOLOGIST (P.G.) AND REQUIRING A DETAILED HYDROGEOLOGICAL ANALYSIS IF THE PROPOSED SUBDIVISION IS NOT OVER THE RATHDRUM PRAIRIE AQUIFER AND THERE ARE WELLS WITHIN ONE-HALF MILE OF THE SUBDIVISION OR CONDOMINIUM SITE, OR WHENEVER NEW OR EXISTING WELLS MAY NEGATIVELY AFFECT THE QUANTITY OF WATER AVAILABLE TO NEARBY PROPERTY OWNERS, REPEALING THE REQUIREMENT THAT MAJOR SUBDIVISIONS WITH ELEVEN LOTS OR GREATER MUST BE GATED IF THE ROADS WITHIN THE SUBDIVISION WILL BE PRIVATE ROADS, PROVIDING A NEW TABLE 6-301, KOOTENAI COUNTY CODE, CONSISTING OF A TABLE SHOWING THE REQUIRED FORM AND CONTENT OF MINOR SUBDIVISION PLANS, PROPOSED PLATS AND SUPPLEMENTAL PAGES, PROVIDING THAT THE 30-DAY AGENCY COMMENT PERIOD AND THE 30-DAY PUBLIC COMMENT PERIOD FOR MINOR SUBDIVISIONS, CONDOMINIUMS AND SPECIAL NOTICE PERMITS SHALL RUN CONCURRENTLY, PROVIDING A PROCESS FOR APPROVAL OF RELOCATION OF PRIVATE ROADS, COMMON DRIVEWAYS, EASEMENTS, DRIVEWAY APPROACHES, SEPTIC SYSTEMS, BUILDING SITES OR UTILITIES WHEN ALL AFFECTED PROPERTY OWNERS HAVE CONSENTED TO THE PROPOSED CHANGES, REPEALING THE REQUIREMENT THAT SUBDIVISIONS WITH LOTS OF LESS THAN FIVE ACRES AND NATURAL SLOPES OF THIRTY-FIVE PERCENT (35%) OR MORE MUST BE DEVELOPED IN CONJUNCTION WITH AN APPROVED PUD OR AS A CONSERVATION SUBDIVISION, PROVIDING FOR ISSUANCE OF A

CERTIFICATE OF LAWFUL DIVISION TO AN OWNER OF A LAWFULLY DIVIDED PARCEL UPON REQUEST AND PAYMENT OF APPLICABLE FEES, CLARIFYING THE SITE DISTURBANCE PERMITS ARE REQUIRED FOR CONSTRUCTION OF ALL NEW COMMON DRIVEWAYS, CLARIFYING THAT SITE DISTURBANCE PLAN REQUIREMENTS SHALL APPLY TO ACTIVITIES CONDUCTED BY UTILITY PROVIDERS WHENEVER COMPLIANCE WITH SITE DISTURBANCE REGULATIONS IS REQUIRED UNDER SUBSECTION 8.7.101(D) OF THIS TITLE, CLARIFYING THE INSTANCES IN WHICH A SITE DISTURBANCE PLAN MAY BE PREPARED BY A PERSON OTHER THAN A DESIGN PROFESSIONAL, REPEALING EXISTING STORMWATER TREATMENT REGULATIONS AND ESTABLISHING NEW STORMWATER TREATMENT REGULATIONS, ESTABLISHING REQUIREMENTS FOR DOWN-GRADIENT ANALYSES AND GEOTECHNICAL ANALYSES, AND ESTABLISHING THE INSTANCES IN WHICH COMPLIANCE WITH THESE REGULATIONS SHALL BE REQUIRED, CLARIFYING THAT PERVIOUS PAVERS, WOOD OR COMPOSITE DECKING, AND SIMILAR TYPES OF CONSTRUCTION ARE ALLOWED WITHIN A SHORELINE MANAGEMENT AREA ONLY IF THEY DO NOT CAUSE MORE THAN A *DE MINIMIS* DISTURBANCE OF THE SHORELINE MANAGEMENT AREA, PROVIDING THAT NOTICE REQUIRING CORRECTION OF A HAZARD SHALL INCLUDE THE TIME PERIOD TO CORRECT THE HAZARD, AND THAT FAILURE TO CORRECT THE HAZARD WITHIN THE SPECIFIED TIME PERIOD SHALL CONSTITUTE A VIOLATION OF THIS TITLE, CLARIFYING PROVISIONS RELATED TO FINANCIAL GUARANTEES, RELEASE OF FINANCIAL GUARANTEES AND USE OF FINANCIAL GUARANTEES TO BRING A SITE INTO COMPLIANCE WITH THE STANDARDS SET FORTH IN ARTICLE 7.1 OF THIS TITLE, AMENDING THE FORMULAS FOR EROSION AND STORMWATER RISK ASSESSMENTS IN WHICH A SITE IS DETERMINED TO BE A LOW, MODERATE OR HIGH RISK SITE, REQUIRING RECORDATION OF ORDERS OF DECISION APPROVING A CONDITIONAL USE PERMIT OR SPECIAL NOTICE PERMIT AT THE OWNER'S EXPENSE, PROVIDING FOR A 30-DAY AGENCY COMMENT PERIOD ON APPLICATIONS FOR VARIANCES, PROVIDING FOR ADMINISTRATIVE APPROVALS OF VARIANCES TO SETBACKS FROM A PRIVATE ROAD, PRIVATE RIGHT-OF-WAY, OR SHORELINE, PROVIDING THAT THE COST OF REQUIRED NOTICES OF PUBLIC HEARINGS SHALL BE PAID BY THE APPLICANT OR THE PERSON REQUESTING THE HEARING, IF OTHER THAN THE APPLICANT, PROVIDING THE DIRECTOR WITH AUTHORITY TO ENTER INTO COMPLIANCE AGREEMENTS AS A MEANS TO RESOLVE VIOLATIONS OF THE PROVISIONS OF THIS TITLE, PROVIDING THE DIRECTOR WITH AUTHORITY TO FIND A PERSON TO BE A VEXATIOUS COMPLAINANT BASED ON REPEATEDLY MAKING COMPLAINTS OR ENGAGING IN RELATED CONDUCT THAT IS UNFOUNDED, UNMERITORIOUS OR FRIVOLOUS, ADOPTING NEW DEFINITIONS OF "COMPLETE DEMOLITION OR COMPLETELY DEMOLISHED," "DOCK LOT," "DOMESTIC FOWL," "FOOTPRINT" AND "HELIPAD," AMENDING THE DEFINITIONS OF "LIVESTOCK," "OUTDOOR RECREATION FACILITIES" AND "SENSITIVE AREAS," AND MAKING MISCELLANEOUS TECHNICAL CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SURVIVAL AND NON-WAIVER OF ENFORCEMENT ACTIONS UNDER PREVIOUSLY ADOPTED ORDINANCES AND CODES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF KOOTENAI COUNTY, IDAHO:

**SECTION 1.** That Section 8.2.105, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.105: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN FIVE (5.00) ACRES:** Parcels created prior to January 3, 1973 which are less than five (5.00) acres in size shall be regarded as conforming parcels for purposes of this title. However, only the following uses shall be permitted of right:

A. Primary uses.

1. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre. Domestic fowl are permitted only on parcels of 8,250 square feet or greater in size, and must be kept in a secure yard or other enclosure at all times.
2. One single-family dwelling, which may be a Class A or Class B manufactured home, with accessory buildings.
3. Public safety wireless communications facilities.
4. Utility complexes.
5. Utility services.

B. Accessory Uses.

1. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
2. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
3. Cottage industries, subject to the standards set forth in section 8.4.504 of this title, on lots or parcels that are two (2.00) acres in size or greater.
4. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title, on lots or parcels that are two (2.00) acres in size or greater.

C. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre ~~two (2.00) acres~~ in size, and such buildings shall not exceed 2,000 square feet. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. *See* section 8.2.110 of this article.

D. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

**SECTION 2.** That Section 8.2.110, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.110: USES REQUIRING A SPECIAL NOTICE PERMIT:**

One (1) railroad car or truck cargo container/trailer used for storage or any other purpose not associated with the active operation of an allowed railroad or trucking business.

Except as provided in subsection 8.2.105(C) of this article, one (1) personal storage building on a lot or parcel under one (1.00) acre ~~two (2.00) acres~~ in size where one or more of the primary uses listed in subsection 8.2.106(A) or the uses listed in section 8.2.109 of this article have not yet been established. Such buildings shall not exceed 2,000 square feet in size.

Annual special event locations, subject to the standards set forth in section 8.5.204 of this title.

Lighting for any outdoor recreational facility permitted of right.

Private resorts.

Public utility complex facilities.

**SECTION 3.** That Section 8.2.204, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.204: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN FIVE (5.00) ACRES:** Parcels created prior to September 1, 1978 which are less than five (5.00) acres in size shall be regarded as conforming parcels for purposes of this title. However, only the following uses shall be permitted of right:

A. Primary uses.

1. General farming and forestry, provided that the minimum ~~lot~~ area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre. Domestic fowl are permitted only on parcels of 8,250 square feet or greater in size, and must be kept in a secure yard or other enclosure at all times.
2. One single-family dwelling, which may be a Class A or Class B manufactured home, with accessory buildings.
3. Public safety wireless communications facilities.
4. Utility services.

B. Accessory Uses.

1. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

2. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
3. Cottage industries, subject to the standards set forth in section 8.4.504 of this title, on lots or parcels that are two (2.00) acres in size or greater.
4. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title, on lots or parcels that are two (2.00) acres in size or greater.

C. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre ~~two (2.00) acres~~ in size, and such buildings shall not exceed 2,000 square feet. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See subsection 8.2.209(B) of this article.

D. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

**SECTION 4.** That Section 8.2.209, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.209: USES REQUIRING A SPECIAL NOTICE PERMIT:**

One (1) railroad car or truck cargo container/trailer used for storage or any other purpose not associated with the active operation of an allowed railroad or trucking business.

Except as provided in subsection 8.2.204(C) of this article, one (1) personal storage building on a lot or parcel under one (1.00) acre ~~two (2.00) acres~~ in size where one or more of the primary uses listed in subsection 8.2.205(A) or the uses listed in section 8.2.208 of this article have not yet been established. Such buildings shall not exceed 2,000 square feet in size.

Annual special event locations, subject to the standards set forth in section 8.5.204 of this title.

Lighting for any outdoor recreational facility permitted of right.

Private resorts.

Utility complexes.

**SECTION 5.** That Section 8.2.304, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.304: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN 8,250 SQUARE FEET:**

A. Parcels created prior to January 3, 1973 which are less than 8,250 square feet in size shall be regarded as conforming parcels for purposes of this title.

B. Uses Permitted of Right.

1. Primary Uses. ~~However, the~~ Primary uses permitted of right shall be limited to one (1) single-family dwelling, which may be a Class A manufactured home, ~~accessory buildings,~~ utility services, and public safety facilities, ~~home occupations, subject to the standards set forth in section 8.4.501 of this title, and temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.~~

2. Other Uses Permitted.

a. Accessory buildings.

b. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

c. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

d. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in paragraph (1) of this subsection; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See section 8.2.310 of this article.

**SECTION 6.** That Section 8.2.305, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.305: USES OF RIGHT ON PARCELS OF 8,250 SQUARE FEET OR MORE BUT LESS THAN TWO (2.00) ACRES:** Parcels created prior to February 8, 2005 that are a minimum of 8,250 square feet but less than two (2.00) acres in size shall be regarded as conforming parcels for purposes of this title. On such parcels, the following uses are permitted of right, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses.

1. One (1) single-family dwelling, which may be a Class A manufactured home, or one (1) two-family dwelling.
2. Publicly-owned parks, playgrounds, or recreational facilities.
3. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.

4. Temporary office for the sale of real estate, for a period not to exceed two (2) years.
5. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre. Domestic fowl must be kept in a secure yard or other enclosure at all times.
6. Utility Services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

C. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

D. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre in size. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See section 8.2.310 of this article.

**SECTION 7.** That Section 8.2.306, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.306: USES OF RIGHT ON PARCELS OF TWO (2.00) ACRES OR MORE:** On parcels that are a minimum of two (2.00) acres in size, the following uses are permitted of right, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses:

1. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre. Domestic fowl must be kept in a secure yard or other enclosure at all times on parcels smaller than five (5.00) acres.
2. One (1) single-family dwelling, which may be a Class A manufactured home, or one (1) two-family dwelling.

3. Publicly-owned parks, playgrounds, or recreational facilities.
4. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
5. Temporary office for the sale of real estate, for a period not to exceed two (2) years.
6. Public safety wireless communications facilities.
7. Utility services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.
6. Cottage industries, subject to the standards set forth in section 8.4.504 of this title.
7. Non-commercial kennels, subject to the standards set forth in section 8.4.505 of this title.

C. One (1) personal storage building may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above. Such building shall not exceed 2,000 square feet on parcels which are two (2.00) or more acres and less than five (5.00) acres in size, and shall not exceed 5,000 square feet on parcels of five (5.00) acres or greater in size.

D. Continued operation of airports or airstrips that were in existence as of June 9, 2016.

E. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

**SECTION 8.** That Section 8.2.405, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.307: USES PROHIBITED:** Except as permitted of right or with a conditional use permit or special notice permit as set forth in this article, the following uses are prohibited:

- A. Commercial uses.
- B. Industrial uses.
- C. Manufacturing uses.

D. The keeping of livestock on parcels of less than three-fourths (¾) acre in size.

E. The keeping of domestic fowl on parcels of less than 8,250 square feet in size.

**SECTION 9.** That Section 8.2.310, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.310: USES REQUIRING A SPECIAL NOTICE PERMIT:**

One (1) Class B manufactured home.

Multiple-family dwellings.

One (1) railroad car or truck cargo container/trailer used for storage or any other purpose not associated with the active operation of an allowed railroad or trucking business.

Except as provided in subsection 8.2.304(B) or subsection 8.2.305(D) of this article, one (1) personal storage building on a lot or parcel under one (1.00) acre ~~two (2.00) acres~~ in size where one or more of the primary uses listed in sections 8.2.305 and 8.2.306 of this article, or the uses listed in section 8.2.309 of this article, have not yet been established. Such buildings shall not exceed 2,000 square feet in size.

Annual special event locations, subject to the standards set forth in section 8.5.204 of this title.

Lighting for any outdoor recreational facility permitted of right.

Private resorts.

Utility complexes.

**SECTION 10.** That Section 8.2.404, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.404: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN 8,250 SQUARE FEET:**

A. Parcels created prior to January 3, 1973 which are less than 8,250 square feet in size shall be regarded as conforming parcels for purposes of this title.

B. Uses Permitted of Right.

1. Primary Uses. ~~However, the~~ Primary uses permitted of right shall be limited to one (1) single-family dwelling, ~~which may be a including~~ Class A manufactured homes, ~~accessory buildings,~~ utility services, ~~and~~ public safety facilities, ~~home occupations,~~ subject to the standards set forth in ~~section 8.4.501 of this title, and temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.~~

2. Other Uses Permitted.

a. Accessory buildings.

b. Home occupations, subject to the standards set forth in section 8.4.501 of this title.

c. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

d. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in paragraph (1) of this subsection; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See section 8.2.411 of this article.

**SECTION 11.** That Section 8.2.405, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.405: USES OF RIGHT ON PARCELS OF 8,250 SQUARE FEET OR MORE BUT LESS THAN 9,900 SQUARE FEET:** On parcels that are a minimum of eight thousand two hundred fifty (8,250) square feet but less than nine thousand nine hundred (9,900) square feet in size, the following uses are permitted, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses:

1. One (1) single-family dwelling, which may be a Class A manufactured home.
2. Publicly-owned parks, playgrounds, or recreational facilities.
3. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
4. Temporary office for the sale of real estate for a period not to exceed two (2) years.
5. Utility Services.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.
2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.
3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.
4. Home occupations, subject to the standards set forth in section 8.4.501 of this title.
5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

3. The keeping of domestic fowl, subject to the following limitations:

a. Male chickens (roosters) shall not be kept.

b. Domestic fowl must be kept in a secure yard or other enclosure at all times.

C. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

D. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See section 8.2.411 of this article.

**SECTION 12.** That Section 8.2.406, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.406: USES OF RIGHT ON PARCELS OF 9,900 SQUARE FEET OR MORE BUT LESS THAN FIVE (5.00) ACRES:** On parcels that are a minimum of nine thousand nine hundred (9,900) square feet but less than five (5.00) acres in size, the following uses are permitted, provided that all uses shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses.

1. One (1) single-family dwelling, which may be a Class A manufactured home, or one (1) two-family dwelling.
2. Any of the other primary uses listed in section 8.2.405 of this article.

B. Accessory Uses:

1. Any of the accessory uses listed in section 8.2.405 of this article, subject to the applicable standards or limitations set forth in that section, are allowed after one or more of the primary uses of right permitted under this section have been established.
2. The keeping of livestock, subject to the following limitations:
  - a. The keeping of livestock shall be allowed only after one or more of the primary uses of right permitted under this section have been established.
  - b. The minimum area for the keeping of livestock shall be three-fourths (¾) acre.
  - c. Livestock care and animal waste management must meet all applicable regulations of agencies with jurisdiction.

C. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

D. One (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the uses listed in subsection (A) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the building will be 200 square feet or greater and the lot or parcel is less than one (1.00) acre in size. No special notice permit shall be required for a personal storage building if the building will be 400 square feet or less and the setback areas from the structure to the property lines are two (2) times the normally applicable setback distances. See section 8.2.411 of this article. ~~On lots of two (2.00) acres or greater in size, one (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above.~~

**SECTION 13.** That Section 8.2.407, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.407: USES OF RIGHT ON PARCELS OF FIVE (5.00) ACRES OR MORE:** On parcels that are a minimum of five (5.00) acres in size, the following uses are permitted of right, provided that sixty-five percent (65%) of the parcel is left as open space free from structures:

A. Primary Uses. Any of the primary uses listed in sections 8.2.405 and 8.2.406 of this article.

B. Accessory Uses:

1. Any of the accessory uses listed in section 8.2.405 and 8.2.406 of this article are allowed after one or more of the primary uses of right permitted under this section have been established.

2. Accessory uses shall be subject to the applicable standards or limitations set forth in section 8.2.405 or 8.2.406 of this article, except that the keeping of domestic fowl may include male chickens (roosters), and domestic fowl need not be kept in a secure yard or other enclosure. ~~livestock, subject to the following limitations:~~

a. ~~The keeping of livestock shall be allowed only after one or more of the primary uses of right permitted under this section have been established.~~

b. ~~The minimum lot area for the keeping of livestock shall be three fourths (¾) acre.~~

c. ~~Livestock care and animal waste management must meet all applicable regulations of agencies with jurisdiction.~~

C. Temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title.

D. One (1) personal storage building not to exceed 5,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above.

**SECTION 14.** That Section 8.2.408, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.408: USES PROHIBITED:** Except as permitted of right or with a conditional use permit or special notice permit as set forth in this article, the following uses are prohibited:

A. Commercial uses.

B. Industrial uses.

C. Manufacturing uses.

D. The keeping of livestock on parcels of less than three-fourths (¾) acre in size.

E. The keeping of domestic fowl on parcels of less than 8,250 square feet in size.

**SECTION 15.** That Section 8.2.411, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.411: USES REQUIRING A SPECIAL NOTICE PERMIT:**

One (1) Class B manufactured home.

Except as provided in subsection 8.2.404(B), subsection 8.2.405(D), or subsection 8.2.406(D) of this article, one (1) personal storage building on a lot or parcel under one (1.00 acre) ~~two (2.00)~~ acres in size where one or more of the primary uses listed in sections 8.2.405 and 8.2.406 of this article, or one or more of the uses listed in section 8.2.410 of this article, have not yet been established. Such buildings shall not exceed 2,000 square feet in size.

Annual special event locations, subject to the standards set forth in section 8.5.204 of this title.

Lighting for any outdoor recreational facility permitted of right.

Private resorts.

Utility complexes.

**SECTION 16.** That Section 8.2.505, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.505: USES PROHIBITED:** Except as permitted of right or with a conditional use permit or special notice permit as set forth in this article, the following uses are prohibited:

A. General commercial uses, except as specifically permitted in manufactured home parks under section 8.4.402 of this title.

B. Industrial uses.

C. Manufacturing uses.

D. The keeping of livestock or domestic fowl.

**SECTION 17.** That Section 8.2.603, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.603: USES PERMITTED:** Unless a conditional use permit or special notice permit is required pursuant to section 8.2.607 of this article, the following uses are permitted of right:

A. Primary Uses:

1. Any wholesale, retail or service business.
2. Public or private office buildings.
3. Any eating or drinking establishment, or other entertainment facility.
4. Hospitality businesses such as hotels, motels, condominium or vacation rental facilities, private resorts, commercial resorts, and meeting and convention facilities.
5. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.
6. Recreational vehicle parks, subject to the standards set forth in chapter 4, article 4.4 of this title.
7. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre.
8. Universities, colleges, and vocational, trade, or private instructional schools, providing a specialized or single-item curriculum.
9. Places of worship or assembly.
10. Nonprofit trade or business associations.
11. Utility complexes and utility services.
12. Recreational buildings.
13. Parks, playgrounds, golf courses, and other recreational facilities, whether publicly or privately owned.
14. Public safety wireless communication facilities.
15. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.
16. Resort lodges, retreat centers, or guest ranches.

17. Public Safety Facilities.

18. Public Service Facilities.

19. Helipads, helicopter operation, and helicopter storage.

20. Residential uses, including single-family, two-family and multiple-family dwellings. Maximum density for residential uses shall be as set forth in section 8.2.503 of this chapter.

B. Accessory Uses. The following uses are allowed after one or more of the primary uses listed in subsection (A) above have been established:

1. Accessory buildings.

~~2. Single family, two family or multi family dwellings may be located above the first floor of the primary structure, or in one or more separate accessory structures. The maximum density of residential uses shall be one (1) dwelling unit per 3,000 square feet.~~

~~23.~~ Processing and manufacturing operations which are part of, and ancillary to, the operation of a permitted use.

C. Performance Standards.

1. Performance standards generally applicable within the Commercial zone are set forth in section 8.4.1302 of this title.

2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.

3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title.

D. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of section 8.4.1302 of this title.

**SECTION 18.** That Section 8.2.606, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.606: USES REQUIRING A CONDITIONAL USE PERMIT:**

Outdoor Theaters

Special Event Locations

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Transitional Group Housing Facilities

Wireless Communication Facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right.

Zoos

**SECTION 19.** That Section 8.2.703, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.703: USES PERMITTED:**

A. The following uses are permitted of right:

1. All surface and subsurface mining operations, including the processing of materials, necessary plants and offices, equipment, storage space and other facilities directly related to the mining operation.
2. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre.
3. One (1) residential structure for use as a caretaker's quarters.
4. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in section 8.4.1410 of this title.
5. Utility complexes and utility services.
6. Railroad cars, truck cargo containers and trailers.
7. Public safety facilities.
8. Public service facilities.
9. Helipads, helicopter operation, and helicopter storage.

B. Performance Standards.

1. Performance standards generally applicable within the Mining zone are set forth in section 8.4.1303 of this title.
2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.
3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title.

C. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of section 8.4.1303 of this title.

**SECTION 20.** That Section 8.2.705, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.705: USES REQUIRING A CONDITIONAL USE PERMIT:**

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Special Event Locations

Transitional Group Housing Facilities

**SECTION 21.** That Section 8.2.803, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.803: USES PERMITTED:**

A. The following uses are permitted of right:

1. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ( $\frac{3}{4}$ ) acre.
2. Publicly-owned parks, playgrounds, or recreational facilities.
3. Any commercial, manufacturing, or industrial use that complies with the performance standards set forth in chapter 4, sections 8.4.1304 and 8.4.1305 of this title and are not prohibited under section 8.2.804 of this article.
4. Public safety wireless communications facilities.
5. Racetracks, subject to the standards set forth in section 8.5.122 of this title.
6. Wholesale, retail or service businesses.
7. Mini-storage facilities or rental warehouses.
8. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.
9. Railroad cars, truck cargo containers and trailers.
10. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.
11. Utility complexes and utility services.

- 12. Golf courses and driving ranges.
- 13. Public safety facilities.
- 14. Public service facilities.
- 15. Helipads, helicopter operation, and helicopter storage.

B. Performance Standards.

- 1. Performance standards generally applicable within the Light Industrial zone are set forth in sections 8.4.1304 and 8.4.1305 of this title.
- 2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.
- 3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title.

C. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of sections 8.4.1304 and 8.4.1305 of this title.

**SECTION 22.** That Section 8.2.807, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.807: USES REQUIRING A CONDITIONAL USE PERMIT:**

- Above-ground storage of over five thousand (5,000) gallons (per site) of petroleum products
- Automobile wrecking yards or junkyards
- Gun clubs, rifle ranges, or archery ranges
- Slaughterhouses or rendering plant
- Solid Waste Transfer Stations that are not Public Utility Complex Facilities
- Special event locations
- Transitional Group Housing Facilities
- Wireless communication facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right.

**SECTION 23.** That Section 8.2.903, Kootenai County Code, be, and the same is hereby amended as follows:

### **8.2.903: USES PERMITTED:**

#### A. The following uses are permitted of right:

1. Any trade, industry, or processing facility of any type that complies with the performance standards set forth in chapter 4, sections 8.4.1304 and 8.4.1306 of this article and are not prohibited in section 8.2.904 of this article.
2. Recreational buildings.
3. Publicly-owned parks, playgrounds, or recreational facilities.
4. Golf courses and driving ranges.
5. Oil and gas drilling and extraction operations, and exploration operations involving ground disturbances, except as prohibited in section 8.2.904 of this article.
6. Public Safety Wireless Communications Facilities.
7. Racetracks, subject to the standards set forth in section 8.5.124 of this title.
8. Sexually oriented businesses, subject to the standards set forth in section 8.4.1202 of this title.
9. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.
10. Railroad cars, truck cargo containers and trailers.
11. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.
12. Utility Complexes and Utility Services.
13. Public Safety Facilities.
14. Public Service Facilities.
15. Helipads, helicopter operation, and helicopter storage.

#### B. Performance Standards.

1. Performance standards generally applicable within the Industrial zone are set forth in sections 8.4.1304 and 8.4.1306 of this title.
2. Landscaping, screening and fencing shall comply with the standards set forth in chapter 4, article 4.6 of this title unless the parcel is located within the Airport Overlay zone or is

expressly modified via approval of an alternative method of compliance pursuant to section 8.4.606 of this title.

3. Parking shall comply with the standards set forth in chapter 4, article 4.7 of this title unless the parcel is located within the Airport Overlay zone or is expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this title.

C. Public Safety Facilities and Public Service Facilities. Public safety facilities and public service facilities may be located on a lot that is otherwise ineligible for building permits, and shall be exempt from the requirements of sections 8.4.1304 and 8.4.1306 of this title.

**SECTION 24.** That Section 8.2.906, Kootenai County Code, be, and the same is hereby amended as follows:

**8.2.906: USES REQUIRING A CONDITIONAL USE PERMIT:**

Above-ground storage of over five-thousand (5,000) gallons (per site) of petroleum products

Automobile wrecking yards or junkyards

Cement, gypsum, or asphalt plants

Explosives manufacturing or storage facilities

Gun clubs, rifle ranges, or archery ranges

Restricted surface mining operations

Slaughterhouses or rendering plants

Solid Waste Transfer Stations that are not Public Utility Complex Facilities

Special event locations

Wireless communication facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right.

**SECTION 25.** That Section 8.3.311, Kootenai County Code, be, and the same is hereby amended as follows:

**8.3.311: FINAL APPROVAL PROCEDURE:**

A. Procedure. An application for final PUD approval shall be brought before the Board for a decision in accordance with the notice requirements set forth in section 74-204, Idaho Code. The Director shall make a recommendation, and the Board shall make the final decision on the application.

B. Required Findings. For the Board to grant final approval of a PUD plan, each of the following findings must be made:

1. The final PUD plan continues to meet the approval requirements set forth in section 8.3.310 of this chapter.

2. All applicable conditions of preliminary PUD approval have been, or are being, met.

C. Order of Decision. The Order of Decision granting or denying the application shall comply with the requirements of section 67-6535, Idaho Code, and at a minimum, shall specify the following:

1. The ordinances, laws and standards used in evaluating the application;
2. The reasons for the approval or denial; and
3. If an approval, the specific conditions, restrictions, and limitations on such approval; or
4. If a denial, the actions which the applicant could take to obtain approval.

D. Final PUD Permit. The Order of Decision approving the final PUD plan shall be the PUD Permit. The Order of Decision and final PUD plan shall be recorded at the applicant's expense.

E. Procedure for Development of a PUD. Upon approval of the final PUD plan, the PUD shall be developed in accordance with the following procedure:

1. The permit holder must obtain approval of infrastructure plans from agencies with jurisdiction, and must obtain approval of necessary construction permits, including building and site disturbance permits, from the Department.
2. If additional lots are being created within the PUD, infrastructure must be completed, or financial guarantees provided, in accordance with the requirements of chapter 6 of this title. If additional lots are not being created, the Board may require an acceptable financial guarantee to assure completion of improvements within two (2) years from the date of final PUD plan approval. Upon written request by the property owner, the Director may approve an extension for good cause shown in accordance with section 8.3.313 of this article. Non-infrastructure building permits will not be issued until the essential infrastructure and improvements (e.g. roads, water, sewer, fire suppression systems, wildfire mitigation) have been completed and approved by the agencies with jurisdiction.
3. Construction of non-essential improvements, such as landscaping and recreational facilities, shall be completed in proportion to the overall progress on the project, and shall be totally completed and approved by the time building permits are issued for fifty percent (50%) of the units. If this requirement is not met, the Director may suspend the issuance of building permits until the non-essential improvements are completed.
4. Approval of individual building permits must be in accordance with the approved final PUD plan and associated conditions.

F. Duration of Approval.

1. The final PUD permit shall expire if construction on the project has not begun within two (2) years from the date of the final plan approval, unless an alternative completion schedule was approved by the Board in the Order of Decision granting final PUD approval.

2. The Director may approve an extension of the duration of approval for good cause shown in accordance with section 8.3.313 of this article.

G. Effect of Non-Compliance. Failure to comply with conditions or restrictions contained in a PUD approval shall constitute a violation pursuant to chapter 8, article 8.6 of this title. Upon such a finding, the Director may take action to suspend or revoke a PUD, which may be appealed in accordance with chapter 8, article 8.5 of this title.

**SECTION 26.** That Section 8.3.313, Kootenai County Code, be, and the same is hereby amended as follows:

**8.3.313: EXTENSIONS AND AMENDMENTS:**

A. Extensions of Approval. At any time prior to expiration of approval, the applicant may request one extension of up to one (1) additional year for final approval from the date of preliminary approval, or up to two (2) additional years for development to begin from the date of final approval, according to the procedure set forth in this section.

B. Amendments.

1. Minor amendments to a PUD, its structures or uses, may be approved by the Director. Minor amendments include, without limitation, adjustments to platted lot lines, or a combination of the boundary lines of platted and legally created, unplatted parcels. The determination of whether a proposed amendment to a PUD constitutes a minor amendment shall be within the sound discretion of the Director.

2. Significant changes in use, structures, lot or boundary lines, conditions of approval, and all other aspects of a final PUD Plan must be approved by the Board in accordance with the application, hearing and approval procedures for a new PUD. If components of the PUD are under separate ownership, the cooperative corporation or other organization established to provide oversight and control of the project may be authorized to submit the application on behalf of the property owners in the development. If an organization with such authority has not been established, then all affected persons within the PUD must be co-applicants for the request.

C. Application Requirements. The following items constitute a complete application:

1. An application form which is completed and signed by the applicant or property owner. The signature of an applicant other than the property owner must be accompanied by a signed, notarized letter from the property owner authorizing the applicant to sign and file the application. Applications for a minor amendment to a PUD may also be submitted by a cooperative corporation or other organization vested with authority to act on behalf of the property owners within the PUD. Proof of such authority shall be submitted with the application, and all signatures shall be notarized in a manner indicating the capacity of the persons signing the application.

2. Fees, as adopted by resolution of the Board.

3. A narrative explaining the reasons the final PUD plan, or if the application is for extension of final PUD plan approval, construction was not completed within the original timeline, the status of compliance with the original conditions of approval, and the anticipated schedule for completing the plan and/or beginning construction.

4. As part of a complete application, the Director may require additional information to determine compliance with conditions of approval, the provisions of this title or other provisions of this code, or the requirements of other agencies.

#### D. Approval Requirements and Procedure.

1. Extensions. The Director may grant an extension for the requested time period, or such other time period as may be deemed appropriate, upon making the following findings:

a. A complete application was submitted;

b. The project is in compliance with the requirements of the County and other agencies at the time the complete preliminary PUD application was received by the Department, and

c. The project is in compliance with its conditions of approval.

2. Minor changes to a PUD shall be approved only upon the following findings:

a. No additional lots or parcels are created;

~~b. The area of each affected lot or parcel is changed less than twenty percent (20%) from the original platted lot boundaries;~~

be. The resulting lots are in conformance with the size and design approved for the PUD and are in conformance with all applicable provisions of this title and any other applicable provisions of this code;

~~cd.~~ The adjustment does not result in lots separated by a right-of-way or road; and

de. A statement is included on the deed of conveyance indicating that the instrument is being recorded for lot line adjustment purposes, and that the property being transferred is not a separate, buildable lot.

3. Unless otherwise approved by the applicant, the Director shall make a decision within thirty-five (35) days of receipt of a completed application.

4. The decision of the Director may be appealed in accordance with chapter 8, article 8.5 of this title.

**SECTION 27.** That Section 8.4.603, Kootenai County Code, be, and the same is hereby amended as follows:

## **8.4.603: LANDSCAPE STANDARDS:**

### **A. General Requirements.**

1. Existing on-site trees and shrubs may be included in the application of these standards, provided they are depicted on the plan and retained.
2. All landscaped areas, including trees, shrubs, and ground cover, shall be permanently maintained in a healthy growing condition. Irrigation shall be available to maintain healthy growing condition. To maintain the integrity of the original design, any dead tree or shrub shall be replaced with the same or similar species originally planted unless a substitute is approved by the Director.
3. No landscape area shall include artificial trees, plants, or any carpeting designed as a vegetative substitute.
4. Unless otherwise specified, landscaping shall consist of, but not be limited to, a mix of deciduous and evergreen trees, shrubs, and planted ground cover. The use of native vegetation is encouraged. There shall be at least one tree and three shrubs for every 300 square feet of landscaped area. At the time of planting, deciduous trees shall be a minimum of two inch (2") caliper (as measured six inches (6") above grade), and evergreen trees shall be at least five feet (5') tall. At the time of maturity, all trees shall be at least twenty feet (20') tall. Where shrubs are required, they shall be a minimum of a three (3) gallon tub.
5. All required landscape areas shall be planted so as to achieve 100% ground coverage by under story plant materials within five (5) years. If this amount of ground coverage is not achieved, the area shall be planted with mature plant material immediately or as soon as the planting season permits.
6. Around primary structures, a strip of landscaped area at least twenty-five feet (25') wide shall be provided in front, and a strip at least fifteen feet (15') wide shall be provided along the sides of the structures. Walkways up to six feet (6') in width may be installed within these landscaped areas.
7. No landscaping shall be placed so as to obstruct a motorist's clear view of a street, highway, or public right-of-way within a fifty-foot (50') vision obstruction triangle. Trunks of deciduous trees are acceptable within the fifty-foot (50') vision obstruction triangle.

**B. Parking Lots.** Landscaping shall be required for all parking lots based on a percentage of the gross parking area used for parking spaces. Traffic aisles and driveways are excluded from this calculation. The area calculations are as follows:

1. 1 to 50 spaces = 10 percent of the area
2. 51 to 99 spaces = 12 percent of the area
3. 100 or more spaces = 15 percent of the area

Example: 8 parking spaces, each space is 10 feet wide and 20 feet long (200 square feet per space).

8 spaces X 200 sq. ft. = 1600 sq. ft.

1600 X 10% = 160 square feet of landscaped area

In addition, parking lots and the accompanying landscaping shall be configured so that no parking space is more than 75 feet from a landscaped area.

#### C. Areas Adjacent to Residential Zones.

1. A fifteen foot (15') wide minimum planting strip buffer in conjunction with a 50% site obscuring fence, on the street side or fence exterior, as applicable, not less than six feet in height shall also be required where the development abuts an existing residential zone or existing residential use.

2. Planting strip buffers shall consist of sight-obscuring vegetative screening on the street side or fence exterior, as applicable, and shall attain 50% sight obscurity along the entire strip within three years. (Only 50% of the site is visible from the street or from an adjacent residential property after three years of plant growth.)

3. Buffering shall provide a year-round visual screen in order to minimize adverse impacts on adjacent property. No buildings, structures, accessory structures, parking, driveways, loading areas or storage of materials shall be permitted in the buffer area.

D. Pedestrian Walkways. Pedestrian walkways shall be landscaped on the street side or fence exterior, as applicable, for their entire length. Trees shall be sized large enough so that, at maturity, a minimum vertical clearance of seven feet (7') between the sidewalk and the lowest branch is attained. Trees shall be at least two feet (2') from sidewalks and curbs at the time of planting. Root control barriers between the proposed tree planting location and the curb and sidewalks may be required to maintain the health of the tree.

E. Public Road Frontage. Frontage buffer areas shall be provided for all nonresidential uses adjacent to all public roads. The minimum depth of said buffer shall be fifteen feet (15'). Frontage buffers shall be planted on the street side or fence exterior, as applicable, with grasses or approved groundcovers, deciduous or evergreen trees, and may include berms, boulder accents, mounds or combinations thereof. Frontage buffers shall require a minimum of one (1) tree for every thirty feet (30') of street frontage. If a landscaped berm is provided, the berm shall be at least two and one half feet (2.5') higher than the finished elevation of the parking lot and planting requirements may be reduced to one (1) tree for every forty feet (40') of public road frontage. If planted berms are used, the minimum top width shall be four feet (4'), and the maximum side slope shall be 2:1. No buildings, structures, accessory structures, parking, driveways, loading areas or storage of materials shall be permitted in the buffer area.

F. Vehicle Display. Notwithstanding any other provision of this section, a facility for the display, service and retail sale, lease or rental of new or used automobiles, boats, trucks, motorcycles, motor scooters, recreational vehicles, or trailers may display and store any of these items outdoors

without visual screening, and such display and storage may occur within the required front yard setback.

**SECTION 28.** That Section 8.4.805, Kootenai County Code, be, and the same is hereby amended as follows:

**8.4.805: SIGNS PERMITTED IN SPECIFIC ZONES:**

A. In the Commercial, Light Industrial, and Industrial zones, each legally created parcel of land may have the following on-premises signs and displays:

1. One pole sign, projecting sign, or banner sign, with the size and height of the sign not to exceed the dimensions shown in Table 4-803. This sign may be illuminated in conformance with the requirements of this section, and may include an electronic message center, providing the sign and message center together to not exceed the dimensions shown in Table 4-803.
2. One monument sign for each side of the parcel adjoining a public or private road, with the size of the sign not to exceed the dimensions shown in Table 4-803, and the height of the sign not to exceed six (6) feet. Monument signs may be illuminated in conformance with the requirements of this section, and may include an electronic message center, providing the sign and message center together do not exceed the dimensions shown in Table 4-803.
3. Wall, awning, canopy or window signs, providing the signs do not cover more than thirty percent (30%) of the wall to which they are attached or inscribed. Wall, awning and canopy signs may be illuminated in conformance with the requirements of this section and may include an electronic message center. As an alternative, the size of these signs may be increased to fifty percent (50%) of the wall if a pole sign is not constructed on the parcel, and the signs are not internally lit (though indirect lighting is permitted).
4. One search light as part of an advertising display.
5. The following on-premise, unlighted, temporary signs and displays providing they are in place for no more than 28 days during one calendar year:
  - a. Banner signs.
  - b. Pennants or similar displays, individually or strung together.
  - c. Floating or blow up signs providing their height from the ground to the top of the sign does not exceed fifty feet (50').
  - d. Other portable or temporary signs, not to exceed thirty-two (32) square feet in size and a height of twelve feet (12').
6. Real property for sale or under construction. On-premise, unlighted signs may be installed as necessary to advertise the sale of, or construction on real property. These signs shall not exceed thirty-two (32) square feet in size, and a height of twelve (12) feet.

7. Illuminated Signs. If allowed, illuminated signs in the Commercial, Industrial and Light Industrial zones zoning districts must meet the following requirements:

- a. Indirect, external lighting (e.g. lights shining on a sign): the lights themselves must be concealed from view and directed or shielded so the light shines only on the sign, with minimal projection beyond the sign.
- b. Internal lighting: the sign must have a dark background with lighter lettering.

B. In the Agricultural, Rural, Agricultural Suburban, Restricted Residential, Mining, and High Density Residential zones, each legally created parcel of land may have the following on-premises signs:

- 1. One pole or monument sign, with the size and height of the sign not to exceed the dimensions shown in Table 4-804. These signs may be indirectly illuminated (e.g. by lights shining on the sign), providing the lights are concealed from view and are directed and shielded so the light shines only on the sign, with minimal projection beyond the sign.
- 2. One wall, awning, canopy, projecting or window sign providing it does not exceed 8 square feet in size. This sign may not be illuminated.
- 3. Unlighted, on-premise, portable or temporary signs providing they are displayed for no more than 28 days during one calendar year. These signs may not exceed 12 square feet in size and a height of 8 feet.
- 4. Real property for sale or under construction. On-premise, unlighted signs may be installed as necessary to advertise the sale of, or construction on real property. These signs shall not exceed twelve (12) square feet in size, and a height of eight (8) feet.

C. Schools, places of worship and places of assembly may have on-premises signs as allowed in, and which comply with the applicable provisions of, subsection (A) of this section regardless of the zone in which they are located.

D5. With the exception of schools, places of worship and places of assembly, the following are prohibited in the Agricultural, Rural, Agricultural Suburban, Restricted Residential, Mining, and High Density Residential zones zoning districts (in addition to the general prohibitions set forth in of this section):

- 1a. Internal lighting of signs.
- 2b. Electronic message centers.
- 3e. Banner signs.
- 4d. Pennants and similar displays, individually or strung together.
- 5e. Floating or blow up signs.
- 6f. Search lights.

**SECTION 29.** That Section 8.4.1004, Kootenai County Code, be, and the same is hereby amended as follows:

**8.4.1004: ADDRESS NUMBERING PROCEDURES:**

A. Address numbering along Kootenai County's roads shall be based on the quadrant grid as defined in section 8.4.1003 of this article. The County will coordinate with each city within the County in order to ensure addressing compatibility.

1. Address numbers will run consecutively to the north, south, east and west from the point of beginning.
2. From the point of beginning of the road or common driveway, one thousand six hundred (1,600) address numbers will be designated per mile along the road or common driveway. The point of beginning will be assigned a starting number based on its position on the address grid.
  - a. All addresses along a road common to a city address protection area shall be addressed on both sides of the road as if it were a city address, excluding the city address protection area for Post Falls.
  - b. All area within the city address protection area for Post Falls, bounded on the east by Huetter Road, on the north by Prairie Avenue, on the west by State Highway 53 and the Idaho/Washington state line and on the south by the Spokane River, shall be city designated addresses. All structures on both sides of Huetter Road, Prairie Avenue and Highway 53 shall be county designated addresses.
3. All addresses shall be defined with a direction (North, South, East or West), which may be abbreviated using a directional letter (N, S, E, or W), following the address number pursuant to the grid defined in section 8.4.1003 of this article. (Example: 6400 North Greensferry Road or 6400 N. Greensferry Road.)
4. Even numbers shall appear on the south and east side of roads, and odd numbers on the north and west sides.

B. Assignment of Address Numbers.

1. If a non-residential building has a number of entrances each serving a separate occupant, then the building shall be assigned an address, and each ~~the~~ individual units shall be assigned a unit numbers.
2. A multiple ~~multi~~-family dwelling structure with one main entrance shall be assigned one address number. Parcels with more than one multiple family dwelling structure may designate a named driveway providing access to all structures, with each structure assigned its own address number. ~~with~~-The owner of the parcel shall be ~~structure~~ responsible for providing designated individual numbering of each unit before an address number will be issued to any ~~the~~ structure.

3. ~~Mobile home parks shall be assigned one number with the owner of the mobile home park responsible for providing designated individual numbering of each mobile home space before an address will be issued to the park. Roads within a manufactured the mobile-home park shall be named and signed, and each manufactured home space assigned an address number, according to the provisions of this article. —Alphanumeric combinations shall not be used for numbering spaces.~~

4. A diagonal or meandering road shall be assigned numbers depending upon the quadrant and the address baseline that it most favors.

5. Circle and loop road direction designations shall be determined by the road's predominate direction.

a. For circle roads, the numbering shall start at the intersection point of the road closest to the county address origination point and shall proceed in a clockwise direction using a consecutive numerical order with the odd/even numbers based on the starting point of the circle road as if the road were straight.

b. For loop roads, the beginning of the road is designated by the closest intersection to the origination point and increased numerically to that point that is farthest from the origination point.

6. Parcels with structure(s), or bare land parcels, which are accessed by a driveway shall be assigned an address at the point where the driveway intersects a named road or named common driveway.

7. For parcels that are accessed by multiple driveways, the owner shall designate a primary access point that will be used for address assignment. Such access points are subject to review and approval of the ~~director county~~ to ensure that they are accessible to emergency service providers. If this primary access point is not designated by the property owner, the ~~planning~~ director shall make the official determination to allow the proper addressing of the property.

8. ~~If a~~ Each public and private road accesses three (3) or more properties, it shall be assigned a road name, and all the parcels which directly access the road shall be addressed in accordance with the provisions of this article chapter. Common driveways may be named at the request of all property owners served by the common driveway. All named common driveways shall be addressed in accordance with the provisions of this article.

9. ~~Each parcel~~ Parcels served by an unnamed common driveway that accesses two (2) parcels shall be assigned its own an address based on at the point at which where the common driveway access-intersects a public road, or private road, or named common driveway. Each property shall be assigned a different address. — If the county issues multiple addresses to a parcel pursuant to paragraph (B)(10) of this subsection, the county may also require that the common driveway be named in the same manner as private roads. The county will decide such matters on a case by case basis, dependent upon the number of separate addresses issued along the common driveway.

10. Parcels with multiple structures will be addressed on a case by case basis. If the Department assigns multiple addresses to a parcel pursuant to this paragraph, the director may also require naming of the driveway providing access to those structures. Decisions on such matters will depend on the number of separate addresses assigned along the driveway.

11. In no case will addresses be issued to illegal structures or uses ~~that are~~ not properly permitted under the provisions of this title zoning code.

**SECTION 30.** That Section 8.4.1402, Kootenai County Code, be, and the same is hereby amended as follows:

**8.4.1402: OUTDOOR STORAGE:**

A. No property shall be used for outdoor storage of items which are not customarily used or stored outdoors in connection with the normal operation of one or more permitted uses in the underlying zone.

B. Items customarily used or stored outdoors include, without limitation, the following:

1. Clotheslines.

2. Agricultural equipment and materials.

3. Storage of firewood for the purpose of consumption, but only by the persons residing on the premises.

4. Parking of licensed and operable motor vehicles on a designated driveway or parking area. This shall not include racing cars or trucks of any type that cannot be lawfully driven on a public highway.

5. No more than two (2) unlicensed or inoperable motor vehicles.

6. Items that are made of a material that is resistant to damage or deterioration from exposure to the outside environment.

7. Items which may be stored outdoors as provided in article 4.6 or 4.13 of this chapter.

C. Except as provided in subsection (B) of this section or in article 4.6 or 4.13 of this chapter, all materials, equipment and personal property shall be stored within a building or be fully screened so as not to be visible from adjacent properties or rights-of-way. For purposes of this subsection, an item located on a porch of a building is considered to be stored outdoors if the porch is not enclosed.

D. Property may be used for the storage of materials used in the construction of structures on the property so long as there is an active building permit for the structures or the structures are exempt from building permit requirements.

E. Major recreational equipment and utility trailers.

1. Major recreational equipment and utility trailers which are licensed and operable may be parked on designated driveways or parking areas.
2. Except as permitted in section 8.4.401, Kootenai County Code, major recreational equipment and utility trailers brought by a visitor may be parked or occupied for a period not to exceed thirty (30) days per calendar year while visiting the resident of the property. This shall be in addition to any major recreational equipment otherwise permitted to be parked or stored on the property pursuant to this title.
3. Major recreational equipment and utility trailers shall not be parked or stored on any public or private road for longer than twenty-four (24) hours.

**SECTION 31.** That a new Section 8.4.1410, Kootenai County Code, be, and the same is hereby added as follows:

**8.4.1410: DOCK LOTS:**

A. Notwithstanding any other provision of this title to the contrary, the uses permitted on dock lots shall be limited to the following:

1. One (1) personal storage building of 2,000 square feet or less in size shall be permitted of right regardless of parcel size. Such buildings may include a toilet and sink, but shall not otherwise include habitable space. Disposal of wastewater and sewage shall comply with the applicable requirements of Panhandle Health District.
2. Decks, walkways, stairways, stairway landings and trams, as permitted in section 8.4.1106 of this chapter and section 8.7.109 of this title.

B. Access to a dock lot may be from the water only, or may also be from a road, driveway or common driveway.

C. Outdoor storage shall be consistent with the recreational use of the parcel, or with ongoing construction of a structure on the parcel.

**SECTION 32.** That Section 8.5.104, Kootenai County Code, be, and the same is hereby amended as follows:

**8.5.104: ASPHALT OR CONCRETE BATCH PLANT:**

A. Zones Permitted: Rural (requires CUP), Mining (requires SNP)

B. Minimum Area: five (5) acres

C. The plant must be on property located within the Mining zone or at a site with a valid conditional use permit for a restricted surface mine. Non-conforming sites must be brought into compliance with the provisions of this title before a conditional use permit for an asphalt or concrete batch plant may be issued.

D. The plant shall not be operated in a manner which constitutes a nuisance or hazard to other property owners.

E. The plant must be located at least five hundred feet (500') from the closest residence other than the residence of the owner.

F. The plant must be set back at least seventy-five feet (75') from any road right-of-way and fifty feet (50') from any other property line.

G. The Board may approve a conditional use permit for an asphalt or concrete batch plant for a period not to exceed five (5) years. The Director may approve the renewal of a previously approved permit for successive periods of up to five (5) years each. Extension requests shall comply with the procedure for administrative approvals set forth in section 8.8.204 of this title.

HG. The Board may require the posting of a performance bond to guarantee performance of conditions of approval and to ensure that the use will not constitute a nuisance or be detrimental to the health, safety, comfort or welfare of persons in the vicinity of such use. If required, the bond will be renewable every two (2) years upon confirmation of compliance with all applicable provisions of this title and conditions of approval.

IH. Conditions of approval may include, without limitation, duration of the permit, restrictions on hours of operation, limitations on machinery or methods of operations, and approval of access requirements by the highway agency with jurisdiction.

**SECTION 33.** That Section 8.5.125, Kootenai County Code, be, and the same is hereby amended as follows:

**8.5.125: RESTRICTED SURFACE MINING OPERATIONS:**

A. Zones Permitted: Agricultural, Rural, Industrial

B. A site plan(s) shall be submitted which shows the following, as applicable:

- 1 Boundaries of the proposed site;
2. Location of proposed mining operations on the site;
3. All proposed and existing structures;
4. All watercourses, streams, ponds, or lakes on the proposed site or within one thousand feet (1,000') of the boundaries of the site;
5. All proposed and existing roads proposed to provide access to the proposed site;
6. A topographic vicinity map showing the proposed site and its relationship to the surrounding area; and
7. Approximate locations of all existing residential uses within one thousand (1,000) feet of the site's boundaries.

C. Surface mining operations shall comply with the requirements of all applicable federal and state laws and regulations.

D. ~~The Board may approve a conditional use permit for a surface mining operation may be granted for a period not to exceed five (5) years, and The Director may approve the renewal of a previously approved permit be renewed~~ for successive periods of up to five (5) years each. The quantity of excavated materials may also be limited as necessary to protect adjoining lands and natural resources. Extension requests shall comply with the procedure for administrative approvals set forth in section 8.8.204 of this title of conditional use permits.

E. The approach for the access road to the mining site shall meet the requirements of the highway agency with jurisdiction, and such additional conditions as the Board may specify.

F. A rehabilitation plan shall be submitted to the State of Idaho and to the County. In addition to the requirements for rehabilitation plans set forth by the State, the plan shall contain the following additional information:

1. A topographic map of the affected area:
  - a. Prior to excavation; and
  - b. After excavation is complete.
2. How placement of overburden will be managed for the entire duration of the permit.

G. The Board may attach such reasonable conditions as may be necessary for visual screening, control of dust, management of traffic, buffering of adjoining uses, or mitigation of effects on water and air quality.

H. The Board may require the posting of a performance bond to guarantee performance of conditions of approval and to ensure that the use will not constitute a nuisance or be detrimental to the health, safety, comfort or welfare of persons in the vicinity of such use. If required, the bond will be renewable every two (2) years upon confirmation of compliance with all applicable provisions of this title and conditions of approval.

I. Notwithstanding the approval of a permit application, no overburden removal shall begin until:

1. All required State permits have been issued; and
2. All necessary documentation required for the conditional use permit has been received and approved by the Director.

J. Mining operations permitted of right in the Mining zone shall not be subject to conditional use permitting requirements, and the standards set forth in this section shall not apply.

**SECTION 34.** That Section 8.5.127, Kootenai County Code, be, and the same is hereby amended as follows:

**8.5.127: SCHOOLS:**

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban, Restricted Residential

B. The provisions of this section shall apply to public and private schools which house any grades between kindergarten and twelfth grade, and to public and private postsecondary educational institutions. This section shall not apply to child care facilities, preschools, or Head Start facilities.

~~C. For public schools and postsecondary educational institutions, the applicant shall provide written documentation that the facility meets the minimum site area guidelines as established by the Idaho Department of Education or the Idaho State Board of Education/Board of Regents of the University of Idaho, as applicable. For private schools and postsecondary educational institutions, the applicant shall provide written documentation that the facility meets the minimum site area guidelines as established by the State of Idaho or by the applicable religious denomination, accreditation body, or similar organization.~~

~~CD.~~ The Applicant shall provide written documentation that the facility meets the minimum site area for sewage disposal.

~~DE.~~ Access to the school shall be from a public road.

~~EF.~~ No elementary, middle, or junior high school shall be located adjacent to any parcel within the Light Industrial or Industrial zone. No high school or postsecondary educational institution shall be located adjacent to any parcel within the Industrial zone.

~~FG.~~ No school shall be located in a special flood hazard area or adjacent to a hazardous land use.

~~GH.~~ Setbacks for all structures shall be forty feet (40') from any public road and thirty feet (30') from any other property line.

**SECTION 35.** That a new Section 8.5.136, Kootenai County Code, be, and the same is hereby added as follows:

**8.5.136: SOLID WASTE TRANSFER STATIONS THAT ARE NOT PUBLIC UTILITY COMPLEX FACILITIES:**

A. Zones Permitted: Commercial, Mining, Light Industrial, Industrial

B. In determining whether a permit application should be approved, the hearing body shall consider the following factors:

1. Any adverse effects that the facility may have upon properties in the vicinity; and
3. Whether reasonable restrictions, conditions of development, or protective improvements may be necessary to mitigate or eliminate any potential adverse effects of the facility.

C. Building coverage shall not exceed thirty-five percent (35%) of the total parcel area.

D. The facility shall not be operated in a manner which constitutes a nuisance or hazard to other property owners.

E. The facility shall be set back at least seventy-five feet (75') from any road right-of-way and fifty feet (50') from any other property line.

F. A conditional use permit may be granted for a period not to exceed five (5) years, and may be renewed for successive periods of up to five (5) years each. Extension requests shall comply with the procedure for administrative approvals set forth in section 8.8.204 of this title.

G. Conditions of approval may include, without limitation, duration of the permit, restrictions on hours of operation, limitations on machinery or methods of operations, and approval of access requirements by the highway agency with jurisdiction.

H. The Board may require the posting of a performance bond to guarantee performance of conditions of approval and to ensure that the use will not constitute a nuisance or be detrimental to the health, safety, comfort or welfare of persons in the vicinity of such use. If required, the bond will be renewable every two (2) years upon confirmation of compliance with all applicable provisions of this title and conditions of approval.

**SECTION 36.** That Section 8.5.202, Kootenai County Code, be, and the same is hereby amended as follows:

**8.5.202: PERSONAL STORAGE BUILDINGS:** On lots or parcels under one (1.00) acre ~~two (2.00) acres~~ in size in which a primary use has not yet been established, personal storage buildings may be constructed and used upon issuance of a special notice permit in accordance with conditions of approval set forth in the permit and the following standards:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban, Restricted Residential

B. Personal storage buildings requiring a special notice permit shall not exceed 2,000 square feet.

C. The applicant shall demonstrate the feasibility of at least one (1) primary use permitted of right, or which may be permitted upon approval of a conditional use permit or special notice permit, in the underlying zone. Such primary use need not be in addition to the personal storage building (for example, it may be feasible to construct a dwelling to replace the personal storage building).

D. The personal storage building shall not be used for any commercial purpose.

E. The personal storage building shall not be used as habitable space.

F. No outdoor storage shall be permitted.

G. A special notice permit shall not be required for a personal storage building on any parcel which is contiguous with a parcel in common ownership that is owner occupied and where a primary use has been established. Such personal storage building shall comply with subsections (B), (D), (E) and (F) of this section.

H. No special notice permit shall be required for a personal storage building in any of the following circumstances:

1. Whenever the personal storage building is not subject to special notice permitting requirements under the applicable provisions of Chapter 2 of this title.
2. Whenever the parcel on which the personal storage building is to be constructed is a dock lot as defined in section 8.9.104 of this title.

**SECTION 37.** That Section 8.6.103, Kootenai County Code, be, and the same is hereby amended as follows:

**8.6.103: EXEMPT DIVISIONS OF LAND:** The following divisions of land shall be exempt from the provisions of this chapter. A parcel of land created under an exemption set forth in this section will be recognized as a separate parcel as of the day the instrument which created the parcel is recorded.

A. Burial Plots. Divisions made for cemeteries or burial plots when used for that purpose.

B. Conveyances to Public Entities or Public Utilities. Divisions resulting from the conveyance of a parcel to a government agency, taxing district, or a public utility regulated by the Idaho Public Utilities Commission. Structures used for the purpose of housing emergency response agencies such as fire stations, police stations or EMS services may contain habitable space. No structures shall contain habitable space if such parcels are to be used for any other purpose.

C. Conveyances to Conservation Organizations. Divisions resulting from the conveyance of land to a conservation organization, providing the land is conveyed as one parcel, and a conservation easement which complies with the requirements of section 8.6.904 of this chapter is recorded on the parcel.

D. Boundary Line Adjustments. Boundary line adjustments which comply with the applicable requirements of this subsection shall be exempt from the provisions of this chapter.

1. Boundary line adjustments to legally created parcels must comply with the following requirements:
  - a. No additional or non-contiguous parcels are created;
  - b. The resulting parcels meet the minimum size for the zone and are otherwise in conformance with all applicable provisions of this title; and
  - c. The adjustment does not result in parcels separated by a public road or a public or improved private right-of-way.
2. A boundary line adjustment may add land from an unplatted parcel to an existing lot or from an existing lot to an unplatted parcel.

3. A parcel that is not eligible for development permits because it does not conform to the applicable provisions of this title, or was created improperly, cannot become eligible for development permits solely as a result of a boundary line adjustment.

4. In order to ensure that no additional parcels of land are inadvertently created, boundary line adjustments should be accomplished by recordation of a deed of conveyance for the property that is to be transferred, and then by recordation of a second deed for the receiving parcel which describes the new, exterior parcel boundaries. A statement should also be included on the deeds of conveyance which indicates that those instruments are being recorded for boundary line adjustment purposes, and that no additional parcels are being created as a result of the adjustment.

E. Large Lot Divisions. Divisions of parcels which are at least forty (40) acres in size, when each resulting parcel is at least twenty (20) acres plus or minus three percent (3%) in size. For purposes of this subsection, acreage may be based on the aliquot parts of the section of land in which the parcel is located. For example, a quarter-quarter section would be deemed to be a forty (40) acre parcel. Boundary line adjustments of parcels divided pursuant to this subsection, or any predecessor thereof, shall be exempt from the provisions of this chapter so long as all such parcels remain at least twenty (20) acres plus or minus three percent (3%) in size.

F. Decedent's Estates. Divisions made pursuant to a will, testamentary trust, testamentary provision of an *inter vivos* trust, or other similar instrument associated with a decedent's estate. The instrument must contain language providing for the division to be made. Such divisions must comply with the following requirements:

- ~~1.~~ No more than four (4) parcels are created;
- ~~2.~~ Each parcel has legal access to a public road;
- ~~3.~~ Each parcel meets the minimum size for the zone, and
- ~~4.~~ Each parcel is otherwise in conformance with all applicable provisions of this title.

G. Eminent Domain. Divisions resulting from the exercise of eminent domain by an agency of the State of Idaho or by any local agency or taxing district, including any purchase negotiated between the agency and the property owner in lieu of eminent domain proceedings.

H. Parcels Created by Court Order. Parcels of land created by court order other than one associated with a decedent's estate or exercise of eminent domain shall be considered a legally created parcel, but shall not be eligible for development permits until they are validated through approval of a major subdivision, minor subdivision, or minor land division amendment pursuant to this chapter.

I. Subdivision Exemptions.

1. The Director may grant an exemption from the application of this chapter for any subdivision of an unplatted parcel which the Director determines, pursuant to this subsection, is not within the purposes of this chapter.

2. This subdivision exemption process requires approval of the Director. Subdivision exemptions may be granted only on the basis of the required findings enumerated in paragraph (3) of this subsection.

3. Required Findings. To approve an application for a subdivision exemption, the Director must make the following findings:

a. The parcels will not enlarge or expand an existing nonconformity.

b. The parcels are not located within a floodway.

c. The parcels have legal access to a public road.

d. The parcels meet the minimum size prescribed in the underlying zone, or can be combined with a parcel that meets the minimum size prescribed in the underlying zone.

e. The proposal is not in conflict with the Comprehensive Plan.

4. The process for approval of a subdivision exemption shall be as set forth in section 8.8.204 of this title, with the exception of subsection (C) thereof. The decision of the Director may be appealed in accordance with chapter 8, article 8.5 of this title.

**SECTION 38.** That Section 8.6.203, Kootenai County Code, be, and the same is hereby amended as follows:

**8.6.203: APPLICATION REQUIREMENTS FOR PRELIMINARY SUBDIVISION APPROVAL:** Applications for preliminary subdivision approval shall comply with the requirements set forth in this section.

A. The applicant shall submit one (1) application packet to the Department in electronic format except as may be approved by the Director, in which case the applicant shall submit one complete application packet to the Department, plus additional packets for each agency which will be requested to review and comment on the proposal. ~~The applicant shall submit one complete application packet to the Department, plus additional packets for each agency which will be requested to review and comment on the proposal.~~ ~~The Director may allow the applicant to submit one (1) agency packet to the Department in electronic format in lieu of hard copy agency packets.~~ The Director will determine which agencies are to receive applications for review and comment, and the Department will forward the application packets to those agencies. An applicant may request that an incomplete application be accepted by submitting a letter stating which items are missing, and giving a detailed explanation and rationale for the incomplete submission. If the Director determines that the missing information is not necessary to establish conformance with the required findings listed in paragraph 8.6.204(C)(2) of this article, the request may be approved, in which case, the application will be deemed to be complete, will be vested under the then-current provisions of this chapter, and will be processed. If the Director denies the request, the application will not be processed or scheduled for public hearing until it is complete. A denial of this request may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

B. The following items constitute a complete application for preliminary approval of a major subdivision, with the items listed in paragraphs 1 through 4 of this subsection being the required elements of agency packets:

1. A completed application form signed by the property owner, or a notarized letter from the property owner authorizing the applicant to file the subdivision application.
2. ~~Three (3) copies of~~ A large plan, including supplemental pages, which meets the requirements outlined in Table 6-201 of this article.
3. At least six photographs of the site, taken at various angles, depicting the general character of the site, accompanied by a map showing the location and orientation of the photos.
4. A narrative listing the following:
  - a. The acreage of the subdivision;
  - b. The number of lots proposed;
  - c. The location, approximate dimensions, and intended use of any nonresidential lots (e.g., utilities, schools, places of worship or assembly, parks, or open space);
  - d. The characteristics of the site, including existing vegetation, soils and wildlife;
  - e. Proposed water, sewer service, roads, trails and other improvements;
  - f. Plans for preserving land for timber, agriculture, recreation, wildlife or other open space uses;
  - g. Proposed phasing, if applicable;
  - h. Proposed conveyances, including conservation easements, if applicable;
  - i. Special design features of the subdivision, such as clustering of lots or conservation design;
  - j. Any requested variances from, or deviations to, any otherwise applicable requirements or standards;
  - k. The proposed completion schedule for the project as a whole, and for any proposed phases of the project;
  - l. Proposed methods of ownership and maintenance of any open space, shared infrastructure and improvements; and
  - m. a written statement regarding the presence or absence of wetlands on the property and identifying any sensitive areas, as defined in section 8.9.403 of this title.
5. A completed checklist of application requirements.

6. Fees, as adopted by resolution of the Board.

7. ~~Two copies of~~ A title report or similar document containing the legal description, ownership and easements for the property.

8. ~~A small plan, which shall consist of an 11" x 17" copy of the large plan, plus all supplemental pages.~~

~~89. Three copies of~~ A map of the surrounding area and adjoining subdivisions which shows adjoining subdivisions, including a street and lot layout sufficiently distant from the project to illustrate the relationship to proposed streets and lots, neighboring land owned by the same applicant, and surrounding properties within one-quarter ( $\frac{1}{4}$ ) mile or two (2) parcels, whichever is greater, in every direction. The scale of this map shall be not less than one inch per four hundred feet ( $1" = 400'$ ).

~~940.~~ A groundwater quantity report, which must contain information sufficient to demonstrate the likelihood ~~prove~~ that new or existing wells will provide sufficient water for the subdivision without negatively affecting nearby property owners. The following information is required:

a. For subdivisions to be served by a well on each lot, documentation by an Idaho licensed professional ~~engineer (P.E.) or~~ geologist (P.G.) that the proposed water supply source has sufficient production capability to provide drinking water to all of the lots in the proposed subdivision, and that a location is available within each lot for installation of a well without conflicting with proposed sewage systems.

b. For subdivisions to be served by a new water system serving between two (2) and nine (9) lots, documentation by an Idaho licensed ~~P.E. or~~ P.G. that the sources proposed for water supply have sufficient production capability to provide drinking water to the lots in the proposed subdivision.

c. For subdivisions to be served by a new public water system, an engineering report prepared by an Idaho licensed ~~P.E. or~~ P.G. that demonstrates that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision, plus documentation of DEQ approval of the report.

d. For subdivisions to be served by connection to an existing public water system, a will-serve letter from the owner of the system which indicates that it has sufficient reserve production capacity to supply water to the lots in the proposed subdivision.

e. Unless a subdivision is to be served by connection to an existing public water system, available well logs which cover a minimum of one-half ( $\frac{1}{2}$ ) mile of the boundary of the site shall be included in the report. For residential uses, one thousand five hundred gallons per day (1,500 gpd), with a minimum flow of five gallons per minute (5 gpm) for four (4) hours, per residence, will be considered adequate if no more than one-half ( $\frac{1}{2}$ ) acre of property will be irrigated. For low flow wells, storage may be provided to meet this requirement. If approved by DEQ, other methods of estimating water demand may be used, including the *Washington State Water System Design Manual*. If conformance with these requirements is questionable, the Applicant shall secure an option for a secondary

water source that does meet the requirements. If necessary to demonstrate compliance, the Director may require additional information, such as historic and current static water levels in the area. Two copies of such information shall be submitted when required.

10. If the proposed subdivision will not be located over the Rathdrum Prairie Aquifer and there are wells within one-half (½) mile of the boundary of the proposed subdivision, a detailed hydrogeological analysis prepared by an Idaho licensed professional geologist (P.G.) with experience in hydrogeology shall be required. The hydrogeological analysis shall address, at a minimum, the factors set forth in paragraph (9) of this subsection. The Director may also require this analysis for proposed subdivision located over the Rathdrum Prairie Aquifer if the groundwater quantity report indicates that any new or existing wells proposed to provide water for the subdivision may negatively affect the quantity of water available to nearby property owners.

11. A conceptual site disturbance and stormwater plan, developed by a design professional, which proposes suitable methods and locations for stormwater treatment systems. Proposed systems must conform to the applicable provisions of chapter 7, article 7.1 of this title, associated resolutions, and approved best management practices (BMPs), such as the *State of Idaho Catalog of Storm Water Best Management Practices for Idaho Cities and Counties*. If the Director determines that it is likely that slopes, soils, groundwater or other conditions will not meet the design parameters of the proposed BMPs, the Director may require that test holes be evaluated to determine soil types in the vicinity of the stormwater systems. Test holes that have been examined by Panhandle Health District for sewage disposal suitability may be used to fulfill this requirement if they are in the vicinity of the proposed stormwater systems. Otherwise, test holes must be evaluated by a soils expert or by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering, and four (4) copies of the evaluation report must be provided to the Department.

12. When land disturbing activity is proposed in areas where the natural slope equals or exceeds fifteen percent (15%), the Director may require submittal of four (4) copies of a conceptual engineering plan as part of a subdivision application. The plan shall be developed by an Idaho licensed civil engineer, and shall depict proposed building sites, road and driveway grades, profiles and cross sections, and the slope and location of cuts and fills. The purpose of this plan is to demonstrate the feasibility of the proposed subdivision design and to illustrate the nature and extent of earth work required for site preparation and construction.

13. When requested by the Director or by a public highway agency, three (3) copies of a traffic impact study shall be submitted, which shall include the following:

- a. Existing traffic counts and level of service on adjacent and nearby streets;
- b. Vehicle trips that will be generated by the development;
- c. The effect the subdivision will have on the level of service on affected streets;
- d. The effect added traffic will have on signals, turn lanes, or other transportation infrastructure;

- e. Improvements needed to maintain adequate levels of service; and
- f. Any other information required to evaluate impacts to the transportation system.

14. Whenever the natural slope of any proposed building sites, roads, driveways or other development equals or exceeds fifteen percent (15%), there is a water table within 6 feet of ground surface at any time of year, soils are highly erodible, or there are scarps, slumps, seeps or other geologic features that may be unstable, the Director may require submittal of two (2) copies of a geotechnical analysis as part of a subdivision application. The geotechnical analysis shall:

- a. Be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering;
- b. Explain the geologic and hydrologic features of the area;
- c. Evaluate the suitability of the site for intended uses;
- d. Identify potential problems relating to the geology and hydrology
- e. Summarize the data upon which its conclusions are based; and
- f. Propose mitigation measures.

15. If National Wetlands Inventory maps show wetlands on the site, or if soil survey maps indicate the presence of hydric soils, or if the Director or a qualified professional determines that there may be wetlands on the site, a wetlands delineation and analysis shall be provided and shown as part of the supplemental pages of the plan. The wetlands delineation must be provided by a qualified professional such as a professional engineer, landscape architect, biologist or wetlands specialist in accordance with the *Corps of Engineers Wetlands Delineation Manual* and the *Classification of Wetlands and Deepwater Habitats of the United States*. In addition to classification of wetlands and delineation of wetland boundaries, the analysis must explain the likely impacts of the project on wetlands and must recommend actions to mitigate those impacts and preserve wetland-dependent plants and animals.

16. Applications for conservation subdivisions must also include an existing resource report and site analysis map which comply with the requirements of section 8.6.905 of this chapter. Both the report and map must be prepared by a landscape architect in consultation with the Idaho Department of Fish and Game or a professional wildlife or conservation biologist. The map shall be shown as a supplemental page to the plan at a scale between one inch per forty feet (1" = 40') and one inch per one hundred feet (1" = 100').

**SECTION 39.** That Section 8.6.206, Kootenai County Code, be, and the same is hereby amended as follows:

### **8.6.206: APPLICATION REQUIREMENTS FOR FINAL SUBDIVISION APPROVAL:**

A. The following items constitute a complete application for final approval of a major subdivision:

1. A completed application form signed by the property owner, or a notarized letter from the property owner authorizing the applicant to file the application.
2. A completed checklist of application requirements.
3. Fees as adopted by resolution of the Board.
4. Three (3) copies of a large plat, including the signature page and all supplemental pages, which has been prepared by an Idaho licensed surveyor and complies with the requirements set forth in table 6-201 of this article and in title 50, chapter 13, Idaho Code.
5. A small plat, which shall consist of an 11" x 17" copy of the large plat, plus all supplemental pages.
6. A narrative which contains the following information:
  - a. An explanation of how each condition of approval has been met;
  - b. The status of phasing and infrastructure improvements;
  - c. The total acres and number of lots in the final proposal;
  - d. Any modifications from the original proposal; and
  - e. Confirmation that necessary road signs and corner monuments have been installed.
7. For major subdivisions in timbered areas, a wildfire mitigation plan, prepared by a professional forester, and certification from the forester that the plan has been implemented. The plan must meet the requirements of section 8.6.901 of this chapter, and must be approved by the Director and the fire protection district with jurisdiction, or the Idaho Department of Lands, as appropriate.
8. A site disturbance permit or written confirmation of exemption issued by the Department, and if stormwater management systems are completed, as-built approval from the design professional.
9. Any documentation needed to show compliance with requirements or conditions of approval, including a written agreement for garbage collection service when required.
10. If not previously submitted, construction plans which have been approved by agencies with jurisdiction, including plans for roads, trails, water, sewer systems, dust control, etc. If improvements are completed, as-built plans and written approvals prepared by appropriate design professionals are required.

11. If noxious weeds have been identified, an approved weed mitigation plan and proof that the plan has been implemented (e.g. receipts for spraying).

12. For watersheds that drain to surface water, a copy of the NPDES Notice of Intent that has been filed with the EPA.

13. Copies of associated documents such as conservation easements, restrictive covenants, and homeowners' association bylaws and articles of incorporation that are associated with the subdivision. These must be approved by the Director and must comply with the requirements of section 8.6.902 of this chapter.

14. Financial Guarantees - draft copies of financial guarantees that will be submitted for the required warranty, or in lieu of completed, approved infrastructure improvements. Financial guarantees must be approved by the Director and agencies with jurisdiction, must comply with the requirements of section 8.6.711 of this chapter, and must be accompanied by a subdivision completion and/or warranty agreement which complies with the requirements of section 8.6.903 of this chapter. If an agency is unable or unwilling to approve a financial guarantee, the Director may assume this authority.

15. For conservation subdivisions, a land management plan approved by the agency with jurisdiction if necessary to bring the site into compliance with applicable BMPs.

16. Letters from agencies with jurisdiction and service providers, as determined by the Director, dated within six (6) months prior to submittal. The applicant shall be responsible for obtaining agency approval letters associated with applications for final subdivision approval. The letters must indicate the following:

a. Construction plans have been reviewed and approved;

b. If construction is complete, that it has been approved;

c. If construction is not complete, that the amount of proposed financial guarantees is acceptable;

d. Proposed conveyances will be accepted;

e. Any other requirements have been met; and

f. The Mylar plat will be signed and sanitary restrictions will be lifted.

g. ~~For private roads in a gate community and any private roads connecting a gated community with the nearest public road,~~ The Director must verify that all private roads comply with the *Highway Standards for the Associated Highway Districts of Kootenai County, Idaho*, or such variances from those standards as the Director or highway district may recommend.

B. The Applicant shall be required to submit one (1) application packet. Any application that is incomplete will not be processed.

**SECTION 40.** That Section 8.6.302, Kootenai County Code, be, and the same is hereby amended as follows:

**8.6.302: APPLICATION REQUIREMENTS:** Applications for approval of a minor subdivision shall comply with the requirements set forth in this section.

A. The applicant shall submit one (1) application packet to the Department in electronic format except as may be approved by the Director, in which case the applicant shall submit one complete application packet to the Department, plus additional packets for each agency which will be requested to review and comment on the proposal. ~~The applicant shall submit one complete application packet to the Department, plus additional packets for each agency which will be requested to review and comment on the proposal. The Director may allow the applicant to submit one (1) agency packet to the Department in electronic format in lieu of hard copy agency packets.~~ The Director will determine which agencies are to receive applications for review and comment, and the Department will forward the application packets to those agencies. An applicant may request that an incomplete application be accepted by submitting a letter stating which items are missing, and giving a detailed explanation and rationale for the incomplete submission. If the Director determines that the missing information is not necessary to establish conformance with the required findings listed in subsection 8.6.303(B) of this article, the request may be approved, in which case, the application will be deemed to be complete, will be vested under the then-current provisions of this chapter, and will be processed. If the Director denies the request, the application will not be processed or scheduled for public hearing until it is complete. A denial of this request may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

B. The following items constitute a complete application for approval of a minor subdivision, with the items listed in paragraphs 1 through 4 of this subsection being the required elements of agency packets:

1. A completed application form signed by the property owner, or a notarized letter from the property owner authorizing the applicant to file the subdivision application.
2. At least six photographs of the site, taken at various angles, depicting the general character of the site, accompanied by a map showing the location and orientation of the photos.
3. A narrative listing the following:
  - a. The acreage of the subdivision;
  - b. The number of lots proposed;
  - c. The location, approximate dimensions, and intended use of any nonresidential lots (e.g., utilities, schools, places of worship or assembly, parks, or open space);
  - d. The characteristics of the site, including existing vegetation, soils and wildlife;
  - e. Proposed water, sewer service, roads, trails and other improvements;

- f. Plans for preserving land for timber, agriculture, recreation, wildlife or other open space uses;
- g. Proposed conveyances, including conservation easements, if applicable;
- h. Special design features of the subdivision;
- i. Any requested variances from, or deviations to, any otherwise applicable requirements or standards;
- j. The proposed completion schedule for the project;
- k. Proposed methods of ownership and maintenance of any open space, shared infrastructure and improvements; and
- l. A written statement regarding the presence or absence of wetlands on the property and identifying any sensitive areas, as defined in section 8.9.403 of this title.

4. ~~Three (3) copies of~~ A large plat, including the signature page and all supplemental pages, which has been prepared by an Idaho licensed surveyor and complies with the requirements set forth in Table 6-301 subsection (C) of this article section and in title 50, chapter 13, Idaho Code. If hard copy submittals have been authorized, three (3) copies of the large plat shall be submitted.

~~5. A small plat, which shall consist of an 11" x 17" copy of the large plat, plus all supplemental pages.~~

~~6.~~ 6. A completed checklist of application requirements.

~~7.~~ 7. Fees, as adopted by resolution of the Board.

~~8.~~ 8. ~~Two copies of~~ A title report or similar document containing the legal description, ownership and easements for the property.

~~9.~~ 9. A groundwater quantity report, which must contain information sufficient to demonstrate the likelihood ~~prove~~ that new or existing wells will provide sufficient water for the subdivision without negatively affecting nearby property owners. The following information is required:

- a. For subdivisions to be served by a well on each lot, documentation by an Idaho licensed professional ~~engineer (P.E.) or~~ geologist (P.G.) that the proposed water supply source has sufficient production capability to provide drinking water to all of the lots in the proposed subdivision, and that a location is available within each lot for installation of a well without conflicting with proposed sewage systems.
- b. For subdivisions to be served by a new water system serving ~~between two (2) and nine (9)~~ or fewer lots, documentation by an Idaho licensed ~~P.E. or~~ P.G. that the sources proposed for water supply have sufficient production capability to provide drinking water to the lots in the proposed subdivision.

c. For subdivisions to be served by a new public water system, an engineering report prepared by an Idaho licensed ~~P.E.~~ P.G. that demonstrates that an adequate water supply is available to meet the estimated demand for water from the lots in the proposed subdivision, plus documentation of DEQ approval of the report.

d. For subdivisions to be served by connection to an existing public water system, a will-serve letter from the owner of the system which indicates that it has sufficient reserve production capacity to supply water to the lots in the proposed subdivision.

e. Unless the subdivision is to be served by connection to an existing public water system, available well logs which cover a minimum of one-half (1/2) mile of the boundary of the site shall be included in the report. For residential uses, one thousand five hundred gallons per day (1,500 gpd), with a minimum flow of five gallons per minute (5 gpm) for four (4) hours, per residence, will be considered adequate if no more than one-half (1/2) acre of property will be irrigated. For low flow wells, storage may be provided to meet this requirement. If approved by DEQ, other methods of estimating water demand may be used, including the *Washington State Water System Design Manual*. If conformance with these requirements is questionable, the Applicant shall secure an option for a secondary water source that does meet the requirements. If necessary to demonstrate compliance, the Director may require additional information, such as historic and current static water levels in the area. Two copies of such information shall be submitted when required.

9. If the proposed subdivision will not be located over the Rathdrum Prairie Aquifer and there are wells within one-half (1/2) mile of the boundary of the proposed subdivision, a detailed hydrogeological analysis prepared by an Idaho licensed professional geologist (P.G.) with experience in hydrogeology shall be required. The hydrogeological analysis shall address, at a minimum, the factors set forth in paragraph (8) of this subsection. The Director may also require this analysis for proposed subdivision located over the Rathdrum Prairie Aquifer if the groundwater quantity report indicates that any new or existing wells proposed to provide water for the subdivision may negatively affect the quantity of water available to nearby property owners.

10. When land disturbing activity is proposed in areas where the natural slope exceeds fifteen percent (15%), a conceptual site disturbance and stormwater plan must be submitted. The plan must be developed by a design professional and must propose suitable methods and locations for stormwater treatment systems. Proposed systems must conform to the applicable provisions of chapter 7, article 7.1 of this title, associated resolutions, and approved best management practices (BMPs), such as the *State of Idaho Catalog of Storm Water Best Management Practices for Idaho Cities and Counties*. If the Director determines that it is likely that slopes, soils, groundwater or other conditions will not meet the design parameters of the proposed BMPs, the Director may require that test holes be evaluated to determine soil types in the vicinity of the stormwater systems. Test holes that have been examined by Panhandle Health District for sewage disposal suitability may be used to fulfill this requirement if they are in the vicinity of the proposed stormwater systems. Otherwise, test holes must be evaluated by a soils expert or by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering, and four (4) copies of the evaluation report must be provided to the Department.

11. When land disturbing activity is proposed in areas where the natural slope equals or exceeds fifteen percent (15%), the Director may require submittal of four (4) copies of a conceptual engineering plan as part of a subdivision application. The plan shall be developed by an Idaho licensed civil engineer, and shall depict proposed building sites, road and driveway grades, profiles and cross sections, and the slope and location of cuts and fills. The purpose of this plan is to demonstrate the feasibility of the proposed subdivision design and to illustrate the nature and extent of earth work required for site preparation and construction.

12. Whenever the natural slope of any proposed building sites, roads, driveways or other development equals or exceeds fifteen percent (15%), there is a water table within 6 feet of ground surface at any time of year, soils are highly erodible, or there are scarps, slumps, seeps or other geologic features that may be unstable, the Director may require submittal of two (2) copies of a geotechnical analysis as part of a subdivision application. The geotechnical analysis shall:

- a. Be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering;
- b. Explain the geologic and hydrologic features of the area;
- c. Evaluate the suitability of the site for intended uses;
- d. Identify potential problems relating to the geology and hydrology
- e. Summarize the data upon which its conclusions are based; and
- f. Propose mitigation measures.

13. If National Wetlands Inventory maps show wetlands on the site, or if soil survey maps indicate the presence of hydric soils, or if the Director or a qualified professional determines that there may be wetlands on the site, a wetlands delineation and analysis shall be provided and shown as part of the supplemental pages of the plan. The wetlands delineation must be provided by a qualified professional such as a professional engineer, landscape architect, biologist or wetlands specialist. In addition to classification of wetlands and delineation of wetland boundaries, the analysis must explain the likely impacts of the project on wetlands and must recommend actions to mitigate those impacts and preserve wetland-dependent plants and animals.

C. The following additional application submittals shall be required prior to final plat approval and recordation:

1. A large final plat, ~~containing reflecting any required revisions required as condition of preliminary approval,~~ and including the signature page and all supplemental pages, which has been prepared by an Idaho licensed surveyor and which complies with the requirements set forth in Table 6-301 subsection (D) of this article section and in title 50, chapter 13, Idaho Code.

2. If noxious weeds have been identified, an approved weed mitigation plan and proof that the plan has been implemented (e.g. receipts for spraying).

3. Copies of associated documents such as conservation easements, restrictive covenants, and homeowners' association bylaws and articles of incorporation that are associated with the subdivision. These must be approved by the Director and must comply with the requirements of section 8.6.902 of this chapter.

4. Letters from agencies with jurisdiction and service providers, as determined by the Director, dated within six (6) months prior to submittal. The applicant shall be responsible for obtaining agency approval letters associated with applications for final subdivision approval. The letters must indicate the following:

- a. Construction plans have been reviewed and approved;
- b. If construction is complete, that it has been approved;
- c. If construction is not complete, that the amount of proposed financial guarantees is acceptable;
- d. Proposed conveyances will be accepted;
- e. Any other requirements have been met; and
- f. The Mylar plat will be signed and sanitary restrictions will be lifted.
- g. For private roads within the subdivision and new private roads connecting the subdivision with the nearest public or private road, the Director must verify that the roads comply with the *Highway Standards for the Associated Highway Districts of Kootenai County, Idaho*, or such variances from those standards as the highway district may recommend.

**SECTION 41.** That a new Table 6-301, shall be, and the same is hereby added to Title 8, Chapter 6, Article 6.3, Kootenai County Code as follows:

**Table 6-301  
Form and Content of Minor Subdivision Plans,  
Proposed Plats and Supplemental Pages**

The items with an \* must be shown on supplemental pages. All other items must be included on the plat/plan.

PLAT COMPONENT	INITIAL PLAT	FINAL PLAT
1. Size and Format: Must be 18" x 27" and must comply with section 50-1304, Idaho Code. The plat must encompass all land involved in the subdivision, including open space that will not be used for building lots, and must also include north arrow, date, legend, vicinity map and scale. Scale must be suitable to ensure clarity.	X	X

PLAT COMPONENT	INITIAL PLAT	FINAL PLAT
2. Name: Subdivision names must comply with section 50-1307, Idaho Code. Conservation subdivisions must be identified as such.	X	X
3. Location: Section, quarter section, township, range, meridian, county and state.	X	X
4. Proposed lot lines, or estimated number of lots for each area: All lots must be numbered consecutively in each block and each block must be lettered or numbered. Adjacent parcels must be shown with dashed lines. Approximate gross and net acreage of each lot must also be shown.	X	
5. Boundaries: Final lot lines and the exterior boundary of the plat must be shown by distance and bearing, and must include: A description of lot corner and centerline monuments, including material, size, and length. Initial points and basis of bearings. Ties to two public land surveys or other monuments recognized by the County Surveyor. Curve data, including radius, length, delta, tangent length, chord bearings and distances. Reference to records of survey. Net lot sizes in square feet, or acreage to three decimal places.		X
6. Roads and trails within and adjacent to the subdivision: Existing and proposed rights-of-way and easements, with centerlines, widths, and location clearly shown and instrument numbers noted. Easements and rights-of-way not dedicated to a highway jurisdiction must be dedicated or conveyed to the entities responsible for maintenance. Road names must comply with the requirements set forth in chapter 4, article 4.10 of this title, and must be approved by the Department. Privately maintained roads must be designated as such.	X	X
7. Other Easements: The location, dimensions, and purpose of other existing or proposed easements, with instrument numbers noted. Required easements must be shown for protection buffer areas along streams and wetlands, for components of shared infrastructure and improvements, and for individual sewage lines and drainfields that will not be located on the same parcel as residences.	X	X
8. *Topographic Elevations: Contours shown at vertical intervals of not more than 5 ft., at a scale between 1 in.= 40 ft. and 1 in.= 100 ft., and identifying slope zones of $\geq 0$ and $< 15\%$ , $\geq 15\%$ and $< 35\%$ , and $\geq 35\%$ . Contours shall be generated from field survey or aerial photography, and may not be interpolated from USGS maps. Contours are not required for lots designated as open space that will not be used for roads or structures.	X	
9. *Hydrography: Drainages, water courses, water bodies, and wetlands, including stream and wetland protection buffers.	X	X
10. *Physical Features: The location of significant physical features such as ridges, rock outcrops and wooded areas.	X	
11. *Flood Plain: The location of any special flood hazard areas, and language required in chapter 7, article 7.2 of this title.	X	X
12. *Existing built features, including structures, wells and sewage systems.	X	
13. *Building envelopes, if required by the Director or hearing body.		X
14. Purpose for which lots, other than building lots, are delineated or reserved.	X	X

PLAT COMPONENT	INITIAL PLAT	FINAL PLAT
15. A line for referencing the Book, Page, Instrument Number and Recordation Date of CC&Rs that will be recorded simultaneously with the final plat.		X
16. Any conditions of approval intended to run with the land in perpetuity.		X
17. *Existing Resource Report and Site Analysis Map in compliance with the requirements of section 8.6.905 of this chapter (conservation subdivisions only).	X	
18. All other items required by Title 50, Chapter 13, Idaho Code, or by the County Surveyor.		X
19. *If requested by PHD or DEQ for areas off the Rathdrum Aquifer, approved drainfield locations.		X
20. *Sensitive areas, as defined in section 8.9.403 of this title or as referenced in chapter 7, article 7.1 of this title, if their location is known and they can be shown on the plan.	X	
21. For subdivisions recorded prior to as-built approval of required infrastructure, a statement must be included on the plat that no non-infrastructure building or location permits will be issued until the infrastructure is completed and approved by the agencies with jurisdiction.		X
22. If required by the Board for subdivisions with common driveways, a statement must be included on the plat that common driveways may not provide legal or physical access to more than four lots or parcels of land, and that further subdivision of the lots, or additional access to the driveway, is prohibited until the driveway is constructed in accordance with this chapter and the <i>Highway Standards for the Associated Highway Districts, Kootenai County, Idaho</i> (with or without variances).		X
<p>23. The signature page for the plat, with the following unsigned certificates:</p> <ul style="list-style-type: none"> <li>a. A notarized owner’s certification containing the legal description of the land, a statement as to the intent of the owners to include the property in the subdivision, a statement regarding the domestic water source, and, if applicable, statements of conveyance (e.g., conveyance of easements or rights-of-way for public streets, common areas, water or stormwater systems, etc.). The plat must be signed by all owners of the property within the subdivision.</li> <li>b. Certification of acceptance of rights-of-way or property conveyances.</li> <li>c. Certification by an Idaho licensed surveyor that the plat is accurate and conforms to the provisions of Idaho Code and this chapter. The signature must be dated and must include the surveyor’s seal.</li> <li>d. Certification by Panhandle Health District that the plat meets the requirements for the lifting of sanitary restrictions under sections 50-1326 through 50-1329, Idaho Code.</li> <li>e. Certification of acceptance by the commissioners of the highway district with jurisdiction. If any roads or rights-of-way will be dedicated to the public, the Certification must include acceptance of the conveyance.</li> <li>f. In Areas of City Impact, certification of approval by the city council, with signatures of the city clerk and city engineer, or as specified in the applicable provisions of chapter 10 of this title.</li> </ul>		X

<p>g. Certification, within 30 days prior to recording, by the County Treasurer that the taxes on the described property are current.</p> <p>h. Certification by the County Surveyor that the plat conforms to the requirements of Title 50, Chapter 13, <i>Idaho Code</i>.</p> <p>i. Certifications by the chairman of the Board, or chairman <i>pro tem</i>, that the plat has been accepted and approved.</p> <p>j. Certification by the County Recorder that the plat has been accepted for recording, with the date of recordation.</p>		
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**SECTION 42.** That Section 8.6.303, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.303: APPROVAL PROCEDURE:**

A. Procedure for Processing of Applications.

1. Site Inspection and Sketch Plan Review. The applicant must provide a sketch plan, consisting of simple, conceptual drawings which show the layout of proposed streets, lots or areas for lots, and conservation areas. A Department planner will review the approval process with the applicant and will confer with the applicant as to the design and feasibility of the proposal.

2. Existing Site Disturbances and Code Violations. If any unpermitted site disturbance or subdivision development has previously occurred (e.g., construction of roads, driveways, building pads, etc.), a County site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems which comply with the applicable standards of chapter 7, article 7.1 of this title, and associated resolutions and BMPs, must be installed and approved before a subdivision application will be accepted as complete for purposes of vesting and processing. The Director may require placement or replacement of trees or other vegetation needed for screening and buffering of the subdivision as a condition of preliminary subdivision approval. Any other violations of this title or of title 7, chapter 1 of this code must also be corrected prior to application, except to the extent that approval of the application will remedy any such violation.

3. Subdivision Design. The applicant and design consultant will then lay out the proposed subdivision, and the project surveyor will draw a proposed plat. Subdivisions which will result in the creation of lots of less than five (5) acres, and those containing natural slopes that equal or exceed thirty-five percent (35%), must be designed to fit the houses and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, will not result in soil erosion, and is compatible with the natural characteristics of the area.

4. Neighborhood Meeting. Prior to submitting an application, the applicant is encouraged to meet with neighbors to discuss the proposed project.

5. Application. The applicant must then submit a complete application packet to the Department, including a sufficient number of complete agency review packets as determined by the Director. The application and proposed plat must meet the requirements of section

8.6.302 of this article. Incomplete applications will not be processed except as provided in this article.

## 6. Agency Review.

a. If the application is complete, the Department will forward it to other agencies with relevant jurisdiction or expertise with a request for review and comment within thirty (30) days of receipt. After the packets have been sent, the applicant should contact each agency to determine whether there are additional requirements which will apply to the proposed subdivision. Agency responses should explain whether the proposal appears feasible and will meet the agency's requirements, any negative effects that may result from the subdivision and any actions which may be needed to mitigate those effects and ensure that the development does not compromise the quality, or increase the cost, of public services and facilities, any additional information that may be needed, and what is required or recommended prior to final approval.

b. Agencies that may be asked to comment include, but are not limited to, the fire protection and highway districts with jurisdiction, the Idaho Transportation Department, the school district serving the area, Panhandle Health District, the Idaho Department of Environmental Quality, the Idaho Department of Water Resources, water and sewer service providers, utility providers, the U.S. Army Corps of Engineers, Kootenai County Noxious Weeds Department, Idaho Department of Lands, Idaho Department of Fish and Game, Kootenai-Shoshone Soil Conservation District, and the Coeur d'Alene Tribe. Projects located within an Area of City Impact will also be forwarded to the appropriate city or cities for review and comment. In addition to providing general comments, the Department will request that the following agencies address these specific items:

i. Panhandle Health District: The requirements for the lifting of sanitary restrictions, as required prior to recordation.

ii. Water Purveyor: A will-serve letter, any actions required to secure water connections, and confirmation that the water system is adequate for both domestic and fire flow, particularly if hydrants are proposed or required.

iii. Sewer District: A will-serve letter, and any actions required to secure sewer connections.

c. Requests by an agency for actions to be taken, or fees to be paid, to mitigate impacts of a subdivision should be roughly proportional, both in nature and extent, to the impact of the proposed development.

7. Comment Period. ~~After all required agency letters are received, The Department will also schedule review the application and schedule it for a thirty (30) day public comment period, which shall run concurrently with the agency comment period.~~ The Department shall cause publish a Notice of Public Comment Period to be published in the *Coeur d'Alene Press* at the applicant's expense. The Department ~~applicant~~ shall also cause notice to be mailed ~~notice~~ to all property owners required to be noticed under Table 8-401 of this title ~~within three hundred feet (300') of the site~~, including any contiguous lots or parcels under the same ownership, at

~~the applicant's expense, on or before the first day of the comment period in accordance with instructions provided by the Department.~~ Information submitted prior to the close of the comment period shall be entered into the record on the application.

## B. Order of Decision and Required Findings.

1. After the close of the comment period, the Director shall review the relevant evidence in the record and the standards for approval, and shall issue an Order of Decision. The applicant shall bear the burden of proof (including both the burden of going forward with evidence and the burden of persuasion) that the application complies with the applicable requirements of this article. To approve a minor subdivision, the Director must make all of the following findings:

a. The applicant has provided information sufficient to determine whether the application complies with the relevant requirements of this chapter.

b. The plat meets the requirements of subsection 8.6.302(D) of this article and Title 50, Chapter 13, *Idaho Code*.

c. The project and the lots comply with the requirements of this chapter.

d. The plat, the project and the lots are in compliance with other applicable provisions of this code without variances, or with such variances to, or deviations from, requirements or standards as may be approved by the Director.

e. The plat, the project and the lots meet the requirements of all agencies with jurisdiction and those providing services.

f. The subdivision design and proposed uses are compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area. The subdivision creates lots of reasonable utility and livability, capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development have been designated as open space.

g. Negative environmental, social and economic impacts have been or will be mitigated. Driveway construction and disturbance of terrain, vegetation and drainageways will be minimized and will not result in soil erosion. The design has adequately addressed site constraints or hazards.

h. Services and facilities which will serve the subdivision are available and adequate. On- and off-site improvements, or payments in lieu of such improvements, that are roughly proportional, both in nature and extent, to the impact of the proposed development have been made in order to mitigate the impacts of the subdivision so that it does not compromise the quality or increase the cost of services.

i. Any trails or sidewalks included on the plat have been designed in a manner which establishes or adequately contributes to a transportation system for bicycles and pedestrians that is safe, efficient and minimizes traffic congestion.

- j. The sanitary restrictions will be lifted prior to recordation.
  - k. If any land, shared infrastructure, or improvements will be privately maintained, documents establishing the maintenance organization have been approved by the Director and are ready to be recorded with the plat.
  - l. Any required conservation easements or other documents have been approved by the Director and are ready to be recorded with the plat.
  - m. Public notice and an opportunity for interested parties to comment on the application have been given in accordance with the applicable provisions of Idaho Code and this title.
2. Any requested variance or deviation from standards which would otherwise apply to the proposed subdivision shall not be approved except upon the following findings:
- a. An undue hardship exists because of characteristics of the site;
  - b. The granting of the variance or deviation will not be in conflict with the public interest; and
  - c. The variance or deviation is the minimum necessary to make possible the use associated with the request.
3. If the application and the subdivision comply with all of the requirements of paragraph (1) of this subsection, the Director shall approve the application. If the application and the subdivision do not comply with one or more of these requirements, or if insufficient information was provided to make that determination, the Director shall deny the application.
4. To grant approval of any requested variance or deviation from standards which would otherwise apply to the proposed subdivision, the Director must make all of the findings set forth in paragraph (2) of this subsection.
5. The order of decision of the Director shall comply with section 67-6535, Idaho Code, and shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, and explain any relevant contested facts and its evaluation of these facts. Decisions of approval shall include any conditions of approval. Decisions of denial shall identify any actions which the applicant may be able to take to gain approval. The order of decision shall be issued within thirty-five (35) days of the close of the comment period unless otherwise agreed to by the applicant.
6. The decision of the Director may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

**SECTION 43.** That Section 8.6.401, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.401: DESCRIPTION AND APPLICABILITY:** This article outlines the instances in which a minor amendment to a previously recorded subdivision or condominium plat, or portion of a plat,

may be made when the amendment cannot be accomplished under any of the exemptions set forth in section 8.6.102 of this chapter.

A. Minor amendments include corrections and changes in wording which do not affect vested rights of any owners of property, or of any legal interest in property, located within the subdivision. Boundary line adjustments that ~~affect no more than four (4) lots and~~ do not create additional lots may also be approved as a minor amendment. Unplatted land may be added to existing subdivision lots as part of a minor amendment involving a boundary line adjustment.

B. Substantial changes to a plat must be approved via the major subdivision, minor subdivision, or condominium plat approval process, as appropriate. Substantial changes include the following:

1. Changes that would affect the location of private roads, common driveways, driveway approaches, septic systems, building sites, easements or utilities, unless all affected property owners have consented to the changes proposed, in which case the provisions of section 8.6.405 of this article shall apply;

2. Changes that would affect the location of public roads;

3. Changes that would create additional lots; or

~~3. Changes that would affect more than four (4) lots; or~~

4. Other significant changes in wording that may affect vested rights of any owners of property, or of any legal interest in property, located within the subdivision.

**SECTION 44.** That Section 8.6.402, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.402: APPLICATION REQUIREMENTS:** Applications for approval of a minor amendment must comply with the requirements set forth in this section.

A. The applicant shall electronically submit one complete application packet to the Department consisting of all of the materials set forth in subsection (B) of this section, except as may be waived by the Director. Additional packets for each agency which will be requested to review and comment on the proposal shall also be submitted if unless the application was not submitted electronically. The Director will determine which agencies are to receive applications for review and comment, and the Department will forward the application packets to those agencies. Incomplete applications will not be processed.

B. The following items constitute a complete application for approval of a minor amendment:

1. A completed application form signed by the property owner, or a notarized letter from the property owner authorizing the applicant to file the application.

2. Fees, as adopted by resolution of the Board.

3. A title report or similar document containing the legal description, ownership and easements for the affected lots or parcels.

4. A large plat, including the signature page and any supplemental pages, which has been prepared by an Idaho licensed surveyor and complies with the requirements set forth in subsection 8.6.302(D) of this chapter and in title 50, chapter 13, Idaho Code. The title of the plat shall state that it is a minor amendment to the subdivision, or to the particular lots within the subdivision.

~~5. A small plat, which shall consist of an 11" x 17" copy of the large plat, plus any supplemental pages.~~

6. A narrative which explains the proposed changes and responds to any questions from the Department.

7. The large plat ~~and small plat~~ shall be submitted electronically unless submittal of hard copies is approved by the Director. When hard copy submittals are authorized, three (3) copies of the large plat, ~~and one (1) copy of the small plat or survey,~~ shall be submitted.

**SECTION 45.** That Section 8.6.403, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.403: APPROVAL PROCEDURE:**

A. Determination of Completeness. The applicant shall submit one complete application packet to the Department consisting of a completed application form signed by the property owner, or a notarized letter from the property owner authorizing the applicant to file the application, plus any necessary supporting materials, as listed in subsection 8.6.405(B) of this article. Additional packets for each agency which will be requested to review and comment on the proposal shall also be submitted if unless the application was not submitted electronically. The Director will determine completeness of the application and the agencies which are to receive applications for review and comment, and the Department will forward the application packets to those agencies. Incomplete applications will not be processed.

B. Agency Review. If the application is complete, the Department will forward application packets to affected agencies for their review and approval. If the number of lots will be reduced, approval letters shall be required from any water purveyors and sewage treatment providers that serve the subdivision. After the packets have been sent, the applicant should contact each agency to determine whether there are additional requirements which will apply to the proposal.

C. Order of Decision. After agency letters are received, the Director shall review the relevant evidence in the record and the standards for approval, and shall issue an Order of Decision.

1. To approve a minor amendment, the Director must make the following findings:

a. The proposed changes and the plat are in compliance with Title 50, Chapter 13, Idaho Code and with the applicable requirements of the County and other agencies;

b. The proposed changes are not among the types of substantial changes described in subsection 8.6.404(B) of this article; and

c. There will be no negative effects on public agencies or private entities that provide services and facilities for the subdivision.

2. The order of decision of the Director shall comply with section 67-6535, Idaho Code, and shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, and explain any relevant contested facts and its evaluation of these facts. Decisions of approval shall include any conditions of approval. Decisions of denial shall identify any actions which the applicant may be able to take to gain approval. The order of decision shall be issued within thirty-five (35) days of the close of the comment period unless otherwise agreed to by the applicant.

3. The decision of the Director may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

**SECTION 46.** That Section 8.6.404, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.404: RECORDATION:**

A. Within six (6) months of approval of a minor amendment, the applicant must submit the Mylar plat and any associated documents to the Department in a form ready to record. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink.

B. Requirements of Plats. All plats shall comply with the requirements of Title 50, Chapter 13, Idaho Code. All property owners whose land is included in the approved plat must sign the Owners' Certificate on the plat. The applicant must obtain all signatures on the plat and associated documents, except County signatures, before submittal to the Department. The Department will obtain signatures on the plat from the chairman of the Board, or chairman *pro tem*, before the plat and any associated documents are recorded. No plat shall be signed unless it is accompanied by written confirmation from the Department that the plat complies with all County requirements.

C. Requests for Extension of Time. An extension of the six (6) month period for recordation may be requested prior to the expiration of the then-current period, and such requests may be granted by the Director for good cause shown. If the plat is not submitted within six (6) months, and a request for extension is not timely made and granted by the Director, the approval shall be null and void.

**SECTION 47.** That a new Section 8.6.405, Kootenai County Code, shall be, and the same is hereby added as follows:

**8.6.405: RELOCATIONS:**

A. Applicability. The procedure set forth in this section shall apply to any changes to a previously recorded plat that would affect the location of private roads, common driveways, driveway

approaches, septic systems, building sites, easements or utilities, in which all affected property owners have consented to the changes proposed.

**B. Submittal Requirements.**

1. A completed application form signed by the property owner, or a notarized letter from the property owner authorizing the applicant to file the application.
2. Fees, as adopted by resolution of the Board.
3. A narrative which explains the proposed changes and responds to any questions from the Department.
4. An unmarked copy of the recorded plat.
5. A record of survey which complies with the provisions of Title 55, Chapter 19, Idaho Code and depicts all proposed changes.
6. A copy of any other documents which are proposed to be recorded to effectuate the proposed changes.

C. If the application is complete, the Department will review the application, and may sent a copy to affected agencies for their review.

D. Approval. Upon a determination that the application is complete, and after any requested agency responses are received, the Director shall review the application and the standards for approval, and shall make a written determination of approval or denial.

1. To approve a relocation, the Director must make the following findings:
  - a. The proposed changes are in compliance with the applicable requirements of the County and other agencies.
  - b. The record of survey complies with the provisions of Title 55, Chapter 19, Idaho Code.
  - c. There will be no negative effects on public agencies or private entities that provide services and facilities for the subdivision.
2. Determinations of approval shall include any conditions of approval. Determinations of denial shall identify any actions which the applicant may be able to take to gain approval.
3. The determination shall be issued within seven (7) days after the application has been determined to be complete, or after any necessary agency responses are received, whichever is later, provided that the determination shall be made within fourteen (14) days after the application has been determined to be complete even if no requested agency response has been received.
4. The decision of the Director may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

E. Recordation.

1. Within six (6) months of approval of a relocation, the applicant must submit the record of survey and any associated documents to the Kootenai County Recorder's Office for recordation.
2. An extension of the six (6) month period for recordation may be requested prior to the expiration of the then-current period, and such requests may be granted by the Director for good cause shown. If the plat is not submitted within six (6) months, and a request for extension is not timely made and granted by the Director, the approval shall be null and void.

**SECTION 48.** That Section 8.6.502, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.502: APPLICATION REQUIREMENTS:**

A. The applicant shall submit one (1) application packet to the Department in electronic format except as may be approved by the Director, in which case the applicant shall submit one complete application packet to the Department, plus additional packets for each agency which will be requested to review and comment on the proposal. ~~The applicant shall submit one complete application packet to the Department, plus additional packets for each agency which will be requested to review and comment on the proposal. The Director may allow the applicant to submit one (1) agency packet to the Department in electronic format in lieu of hard copy agency packets.~~ The Director will determine which agencies are to receive applications for review and comment, and the Department will forward the application packets to those agencies. The application shall include the proposed declaration of condominium, proposed condominium plat, and all materials required for approval of a minor subdivision as set forth in section 8.6.302 and Table 6-301 of this chapter, except as may be waived by the director.

B. At the time of filing a condominium plat application, the applicant shall pay an application fee to the department as provided in the fee schedule approved by resolution of the board.

C. An applicant may request that an incomplete application be accepted by submitting a letter stating which items are missing, and giving a detailed explanation and rationale for the incomplete submission. If the Director determines that the missing information is not necessary to establish conformance with the required findings listed in subsection 8.6.503(B) of this article, the request may be approved, in which case, the application will be deemed to be complete, will be vested under the then-current provisions of this chapter, and will be processed. If the Director denies the request, the application will not be processed or scheduled for public hearing until it is complete. A denial of this request may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

D. A proposed condominium plat and declaration of condominium shall include all information required under Title 50, Chapter 13, Idaho Code and Title 55, Chapter 15, Idaho Code. The form and content of the proposed condominium plat and supplemental pages shall also comply with the requirements of Table 6-301 ~~subsection 8.6.302(D)~~ of this chapter, with the exception of final lot lines.

E. Compliance with Zoning Regulations.

1. The proposed condominium plat shall comply with all applicable requirements of the underlying zone as set forth in chapter 2 and, if applicable, chapter 3 of this title.
2. If the applicant is also applying for approval of a planned unit development in conjunction with the proposed condominium plat, the standards for planned unit developments shall apply, as set forth in chapter 3, article 3.3 of this title, including any modifications of other zoning standards allowed therein. Applications for approval of a condominium plat associated with a planned unit development shall be submitted concurrently with the PUD application.

F. Except as provided in subsection (C) of this section, no condominium plat application shall be processed until all maps and information required by this section have been filed, checked and accepted by the department, and the required fees have been paid.

G. Additional Requirements for Phased Condominiums:

1. If the condominium project will contain more than one phase, the condominium plat for the first phase and each subsequent phase must also include the following information:
  - a. All future buildings or structures planned for the site, showing appropriate dimensions and locations;
  - b. Identification of the order in which subsequent buildings or structures will be constructed;
  - c. A statement that each phase will be superseded by the subsequent phase.
2. If the initial condominium plat was required to be approved through the major subdivision, minor subdivision or planned unit development approval process, subsequent phases may be approved under the provisions of this section so long as the plat does not further divide land and the director determines that the condominium plat does not significantly deviate from the plat of any previous phase or any conditions of approval for the initial phase.

**SECTION 49.** That Section 8.6.503, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.503: APPROVAL PROCEDURE:**

A. Procedure for Processing of Applications.

1. Site Inspection and Plan Review. The applicant must provide a draft declaration of condominium and conceptual condominium plat drawing. The planner and applicant will review the approval process with the applicant and will confer with the applicant as to the design and feasibility of the proposal.
2. Existing Site Disturbances and Code Violations. If any unpermitted site disturbance or development has previously occurred (e.g. construction of roads, driveways, building pads), a

County site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems which comply with the applicable standards of chapter 7, article 7.1 of this title, and associated resolutions and BMPs, must be installed and approved before an application for approval of a condominium plat will be accepted as complete for purposes of vesting and processing. The Director may require placement or replacement of trees or other vegetation needed for screening and buffering of the condominium as a condition of condominium plat approval. Any other violations of this title or of title 7, chapter 1 of this code must also be corrected prior to application, except to the extent that approval of the application will remedy any such violation.

3. Condominium Design. The applicant and design consultant will then lay out the design of the project and, if necessary, will revise the proposed declaration of condominium, and the project surveyor will draw a proposed condominium plat. Any parcel where a condominium plat is proposed which is less than five (5) acres in size and has natural slopes that equal or exceed thirty-five percent (35%) must be designed to fit the houses and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, that will not result in soil erosion, and that is compatible with the natural characteristics of the area. Otherwise, the requirements for design, improvements and maintenance for condominium plats shall be as set forth in article 6.7 of this chapter.

4. Neighborhood Meeting. Prior to submitting an application, the Applicant is encouraged to meet with neighbors to discuss the proposed project.

5. Application. The applicant must then submit a complete application packet to the Department, including a sufficient number of complete agency review packets as determined by the Director. The application, the proposed declaration and proposed plat must meet the requirements of section 8.6.502 of this article. Incomplete applications will not be processed except as provided in this article.

6. Agency Review.

a. If the application is complete, the Department shall review the application and will forward it to other agencies with relevant jurisdiction or expertise with a request for review and comment within thirty (30) days of receipt. After the packets have been sent, the applicant should contact each agency to determine whether there are additional requirements which will apply to the proposed subdivision. Agency responses should explain whether the proposal appears feasible and will meet the agency's requirements, any negative effects that may result from the subdivision and any actions which may be needed to mitigate those effects and ensure that the development does not compromise the quality, or increase the cost, of public services and facilities, any additional information that may be needed, and what is required or recommended prior to final approval.

b. Agencies that may be asked to comment include, but are not limited to, the fire protection and highway districts with jurisdiction, the Idaho Transportation Department, the school district serving the area, Panhandle Health District, the Idaho Department of Environmental Quality, the Idaho Department of Water Resources, water and sewer service providers, utility providers, the U.S. Army Corps of Engineers, Kootenai County Noxious Weeds

Department, Idaho Department of Lands, Idaho Department of Fish and Game, Kootenai-Shoshone Soil Conservation District, and the Coeur d'Alene Tribe. Projects located within an Area of City Impact will also be forwarded to the appropriate city or cities for review and comment. In addition to providing general comments, the Department will request that the following agencies address these specific items:

- i. Panhandle Health District: The requirements for the lifting of sanitary restrictions, as required prior to recordation.
  - ii. Water Purveyor: A will-serve letter, any actions required to secure water connections, and confirmation that the water system is adequate for both domestic and fire flow, particularly if hydrants are proposed or required.
  - iii. Sewer District: A will-serve letter, and any actions required to secure sewer connections.
- c. Requests by an agency for actions to be taken, or fees to be paid, to mitigate impacts of a subdivision should be roughly proportional, both in nature and extent, to the impact of the proposed development.

7. Comment Period. ~~After all required agency letters are received, The Department shall also schedule will review the application and schedule it for a thirty (30) day public comment period, which shall run concurrently with the agency comment period. The Department shall cause publishes a Notice of Comment Period to be published in the Coeur d'Alene Press at the applicant's expense. The Department-applicant shall also cause notice to be mailed-notice to all property owners required to be noticed under Table 8-401 of this title within three hundred feet (300') of the site, including any contiguous lots or parcels under the same ownership, at the applicant's expense, on or before the first day of the comment period-in accordance with instructions provided by the Department.~~ Information submitted prior to the close of the comment period shall be entered into the record on the application.

## B. Order of Decision and Required Findings.

1. After the close of the comment period, the Director shall review the relevant evidence in the record and the standards for approval, and shall issue an Order of Decision. The applicant shall bear the burden of proof (including both the burden of going forward with evidence and the burden of persuasion) that the application complies with the applicable requirements of this article. To approve a condominium plat, the Director must make the following findings:

- a. The applicant has provided information sufficient to determine whether the application complies with the relevant requirements of this chapter.
- b. The declaration of condominium meets the relevant requirements of Title 55, Chapter 15, Idaho Code.
- c. The condominium plat meets the relevant requirements of subsection 8.6.302(C) of this chapter, Title 50, Chapter 13, Idaho Code, and Title 55, Chapter 15, Idaho Code.

d. The condominium plat and the project are in compliance with other applicable provisions of this code without variances, or with such variances to, or deviations from, requirements or standards as may be approved by the Director.

e. The condominium plat and the project meet the requirements of all agencies with jurisdiction and those providing services.

f. The design and proposed uses are compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area. The condominium creates individual units and common areas of reasonable utility and livability, capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development are designated as common areas of the condominium and as open space.

g. Negative environmental, social and economic impacts have been, or will be mitigated. Driveway construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion. The design adequately addressed site constraints or hazards.

h. Services and facilities which will serve the subdivision are available and adequate. On- and off-site improvements, or payments in lieu of such improvements, that are roughly proportional, both in nature and extent, to the impact of the proposed development have been made in order to mitigate the impacts of the subdivision so that it does not compromise the quality or increase the cost of services.

i. The sanitary restrictions will be lifted prior to recordation.

j. Appropriate documents which establish a condominium owners' association which will bear responsibility for maintenance of commonly owned land, infrastructure, or other improvements, have been approved by the Director and are ready to be recorded with the condominium plat.

k. Any required conservation easements or other documents have been approved by the Director and are ready to be recorded with the condominium plat.

l. Public notice and an opportunity for interested parties to comment on the application have been given in accordance with the applicable provisions of Idaho Code and this title.

2. Any requested variance or deviation from standards which would otherwise apply to the proposed subdivision shall not be approved except upon the following findings:

a. An undue hardship exists because of characteristics of the site;

b. The granting of the variance or deviation will not be in conflict with the public interest; and

c. The variance or deviation is the minimum necessary to make possible the use associated with the request.

3. If the application and the condominium comply with all of the requirements of paragraph (1) of this subsection, the Director shall approve the application. If the application and the condominium do not comply with one or more of these requirements, or if insufficient information was provided to make that determination, the Director shall deny the application.

4. To grant approval of any requested variance or deviation from standards which would otherwise apply to the proposed condominium, the Director must make all of the findings set forth in paragraph (2) of this subsection.

5. The order of decision of the Director shall comply with section 67-6535, Idaho Code, and shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, and explain any relevant contested facts and its evaluation of these facts. Decisions of approval shall include any conditions of approval. Decisions of denial shall identify any actions which the applicant may be able to take to gain approval. The order of decision shall be issued within thirty-five (35) days of the close of the comment period unless otherwise agreed to by the applicant.

6. The decision of the Director may be appealed in accordance with the provisions of chapter 8, article 8.5 of this title.

**SECTION 50.** That Section 8.6.707, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.707: ROADS AND TRAILS:**

A. Public and Private Roads.

1. Roads Within Subdivisions.

a. Roads in major subdivisions shall comply with the *Highway Standards for the Associated Highway Districts of Kootenai County, Idaho* (“the *Standards*”). Such roads may be dedicated as public roads ~~All roads within a major subdivision which will not create a gated community shall be dedicated~~ to the highway district with jurisdiction. Otherwise ~~In gated communities,~~ the director shall verify that all private roads comply with the *Standards*, and those roads shall be dedicated to the maintenance entity.

b. Roads in minor subdivisions or condominiums which provide legal and physical access to five (5) or more parcels shall comply with the *Standards*. Such roads may be dedicated as public roads to the highway district with jurisdiction. Otherwise, the director shall verify that those roads comply with the *Standards*, and those roads shall be dedicated to the maintenance entity.

c. When future access may be needed to adjacent parcels of land, roads within a major subdivision, minor subdivision, or condominium shall extend to the property line of the subdivision or condominium unless topography or other factors make continuation of the road impossible or impracticable.

2. Roads Connecting Subdivisions to Public Roads.

a. If a new road is to be constructed between a major subdivision and the nearest existing public road, the road shall comply with the *Standards*. If an existing private road will connect a major subdivision to the nearest existing public road, the road must be brought into compliance with the *Standards*. The road ~~may~~ shall be dedicated as a public road to the highway district with jurisdiction. ~~Otherwise, unless the subdivision will create a gated community, in which case~~ the director shall verify that the road complies with the *Standards*, and the road shall be dedicated to the maintenance entity.

b. If a new road is to be constructed between a minor subdivision or condominium and the nearest existing public or private road, the road shall comply with the *Standards*. If the road will connect to an existing public road, it may be dedicated as a public road to the highway district with jurisdiction. Otherwise, the director shall verify that the road complies with the *Standards*, and the road shall be dedicated to the maintenance entity.

c. If an existing private road will connect a minor subdivision or condominium to the nearest existing public road, the road must meet, or must be brought into compliance with, the standards set forth in the then current international fire code as adopted pursuant to title 7, chapter 1 of this code.

### 3. Verification of Compliance with Highway District Standards.

a. If the director finds that the road complies with the *Standards* and that it complies with the requirements of this section, the director shall approve the road and shall give final approval to any associated permits.

b. The director may seek a recommendation from the highway district in which the road is located as to whether a newly constructed private road complies with the *Standards*.

c. If the director, upon recommendation of the highway district, determines that a road should be approved with a variance, exception or deviation from the *Standards*, the road will be deemed to comply with the *Standards* for purposes of this chapter and section 8.4.201 of this title.

4. Private Roads. Subdivision and condominium plats which depict private roads shall include a notation stating that the private roads depicted on the plat will not be maintained by any highway district, and that there are no guarantees, warranties or promises that the highway district with jurisdiction will ever assume maintenance of such roads.

### B. Common Driveways.

1. The board, or the director in the case of a minor subdivision or condominium, may approve a privately maintained common driveway as the means of access to new lots upon the following findings:

a. The common driveway will provide legal and physical access to four (4) or fewer parcels;

b. A road through the land proposed for subdivision is not appropriate or necessary to provide access to private lands lying adjacent to or beyond the subdivision;

c. Access through the land is not now necessary, nor will it be necessary in the future, to provide continuity of public roads with functional grades and design; and

d. The lots being created will not be further subdivided, and no additional access to the driveway will be allowed, until it is constructed in accordance with this chapter and with the *Standards* or any variance, exception or deviation from the *Standards* which has been approved by the highway district with jurisdiction. The board may require a restriction on the plat, or the recordation of a public covenant in favor of the county and the highway district, to ensure compliance with this requirement.

2. Common driveways are a required infrastructure improvement, and shall be constructed prior to final approval of a major subdivision, or recordation of a minor subdivision or condominium plat, unless a financial guarantee which complies with the requirements set forth in section 8.6.711 of this article and section 8.6.903 of this chapter is provided, in which case they shall be constructed prior to issuance of non-infrastructure building permits. Common driveways shall be constructed in accordance with section 8.4.201 of this title.

C. Connectivity. Roads, trails and sidewalks in subdivisions shall be designed to complement and enhance existing transportation systems so as to create an integrated network that allows for the safe and efficient movement of people within the subdivision, to adjacent subdivisions, and to nearby commercial areas, schools, places of worship, and other community facilities. Roads shall be designed with as many connections as possible, and with relatively direct routes in and out of the subdivision, without running traffic through previously established neighborhoods. Cul-de-sacs are discouraged, but may be approved where natural or built features preclude connection to existing or future roads. A newly developed dead end road shall not serve more than twenty five (25) parcels. Where feasible, subdivisions shall have at least two (2) means of emergency access which comply with the standards set forth in section 8.4.201 of this title, or alternatively, those of the fire protection district with jurisdiction. When future access may be needed to adjacent parcels of land, road and trail rights of way shall extend to the property lines of the subdivision. Roads and trails shall be designed to minimize conflict between vehicles and pedestrians.

D. Stream and Wetland Protection Buffers. Roads shall not be constructed within stream and wetland protection buffers, except for crossings which comply with the standards set forth in section 8.6.708 of this article.

E. Road Names, Signing, and Addressing. All road names, identification signs, and addressing shall comply with the provisions of chapter 4, article 4.10 of this title, and the applicable requirements of the highway district with jurisdiction.

F. Pedestrian and Bicycle Access.

1. Off-road trails, lanes or walkways may be required:

a. If shown on a bicycle facilities plan adopted by the public highway agency with jurisdiction;

b. Along through streets in subdivisions within one and one-half (1<sup>1/2</sup>) miles of a school, park, bicycle trail, recreational area, or community facility; or

c. When necessary to ensure the safety of pedestrians and bicyclists.

2. The trail shall be designed to serve the intended use, and except for bicycle lanes, shall be separated from the road by a vegetation strip at least five ~~(5)~~-feet (5') wide. If there is no direct route through a subdivision, or if cul-de-sacs are proposed, one or more trails may be required to provide short, direct routes for pedestrians. For safety, trails should be located in close proximity to and visible from homes and streets. If a trail or walkway is required, an easement or right of way must be dedicated or conveyed in conformance with section 8.6.705 of this article.

**SECTION 51.** That Section 8.6.708, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.6.708: SENSITIVE AREA REQUIREMENTS:**

A. Flood Zones. If any portion of the subdivision, or any infrastructure which will serve the subdivision, is located within a special flood hazard area, the plat and development plans shall comply with the standards set forth in chapter 7, article 7.2 of this title.

B. Subdivisions in Viewsheds. Mountain and water views and vistas are an important part of the character of Kootenai County, contributing to the visual quality of the area, increasing property values, attracting visitors, and enhancing the desirability and livability of the community. As such, it is in the public interest that land be developed in a manner that is visually unobtrusive, environmentally responsible, and is compatible with the character of the area.

1. Subdivisions with lots of less than five (5) acres and natural slopes of thirty-five percent (35%) or greater must be ~~developed in conjunction with an approved PUD or conservation subdivision, and must be~~ designed to fit the houses, structures and roads into and around the hillside in a manner that minimizes disturbance of the terrain, vegetation and drainageways, that will not result in soil erosion, and that is compatible with the natural characteristics of the area.

2. If the vertical height of any cut or fill slope, or any combination thereof, will exceed thirty feet (30'), effective measures must be taken to mitigate the visibility of the slope.

C. Stream and Wetland Protection Buffers. When a subdivision abuts a stream or wetland, a stream or wetland protection buffer must be reserved and shown on supplemental pages to the plat. The purpose of this area is to protect downstream property owners and water resources from increased or decreased flows, to prevent sedimentation, to promote good water quality, and to protect fish and wildlife habitat. Stream and Wetland Protection Buffers shall comply with the following requirements:

1. Depiction of Buffers.

a. The width of stream and wetland protection buffers shall be as set forth in Table 6-701 of this article.

b. The area shall be labeled “Stream (or Wetland, as applicable) Protection Buffer,” and within this area native vegetation and large organic debris shall be protected or replanted to leave the area in the most natural condition possible.

2. Road and Utility Crossings.

a. Proposed road and utility crossings through a stream or wetland protection buffer must be shown on the plat, must be kept to a minimum, and must take the shortest possible route across the area.

b. Roads and utilities shall not be constructed within stream and wetland protection buffers except at approved crossings.

3. Any necessary maintenance shall comply with the standards set forth in chapter 7, article 7.1 of this title, and with applicable best management practices.

4. Fences, walkways which do not exceed four feet (4') in width, stairway landings which do not exceed six feet (6') in length or width, and trams may be constructed in such protection buffers, providing there is minimal disturbance of the ground and vegetation.

5. The Board may require that this area be shown as an easement or a conservation easement.

D. Shoreline Management Areas. When a subdivision abuts a shoreline, the shoreline management area must be reserved and shown on the plan. Activities within the shoreline management area shall be limited to those set forth in chapter 7, article 7.1 of this title, and shall also be in conformance with applicable best management practices.

**SECTION 52.** That a new Section 8.6.808, Kootenai County Code, shall be, and the same is hereby added as follows:

**8.6.808: CERTIFICATE OF LAWFUL DIVISION:** Upon request, and payment of applicable fees, the Department shall issue a certificate of lawful division to the owner of any parcel which the Department confirms has been lawfully divided in accordance with the provisions of this title or any predecessor thereto.

**SECTION 53.** That Section 8.7.101, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.7.101: APPLICABILITY:**

A. Permit Required. Except as exempted under subsection (B) of this section, a site disturbance permit shall be required for the following activities:

1. Construction of all new driveways, common driveways, private roads, or infrastructure authorized through the subdivision or conditional use permit process;

2. Conversion of roads from one use to another (such as a logging road to a private road, etc.) regardless of the level of improvement required on the road;

3. Excavation for the construction of structures;
4. Creation of a new commercial or industrial access or parking lot, or grading and paving of an existing commercial or industrial access or parking lot;
5. All other excavation and grading activity.

B. Exemptions. The following activities are exempt from the requirements of this article:

1. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate, or clay, to the extent approved for operation under applicable federal, state, Panhandle Health District, and County regulations.
2. Agricultural practices in common local usage.
3. Activities governed by and subject to the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code (IFPA) which are solely for the purpose of enabling or engaging in a “forest practice,” as defined in subsection 38-1303(1), Idaho Code.
4. Cemetery graves.
5. Emergency situations involving immediate danger to life or property, substantial fire hazards, or other public safety hazards as subsequently determined by the County, or during the period covered by an emergency declaration by the County.
6. Operation of a refuse disposal or landfill site which is constructed and operated under permits from appropriate federal, state and local agencies.
7. In any 12-month period, excavation or placement of fill less than 50 cubic yards in volume which is outside of any stream protection buffer or shoreline management area.
8. Private road or driveway maintenance where work is limited to the travelway, no cut or fill slopes are created, and no drainage features are created or modified.
9. Excavation of test holes for soil testing activities, provided that no access road will be created for test hole excavation, and the total excavation is less than fifty (50) cubic yards.
10. Grading, excavating and placement of fill on a site that has less than ten percent (10%) slope, and is more than five hundred feet (500’) from surface water as defined by this article, and that results in disturbance of less than one-third ( $\frac{1}{3}$ ) of the parcel, or sites over the Rathdrum Prairie Aquifer which are greater than five hundred feet (500’) from surface water. This exemption shall not apply to commercial or industrial developments or for subdivision infrastructure development.
11. Grading, excavating, or placement of fill which is subject to the regulations and permitting authority of the U.S. Army Corps of Engineers, the Federal Energy Regulatory Commission, the Idaho Department of Lands, the Idaho Department of Environmental Quality, and/or the Idaho Department of Water Resources. Grading activities that are related to such projects, but

which are not subject to the aforementioned agencies' regulations or permitting authority, are not exempt.

12. Abatement of noxious weeds.

C. Activities exempted pursuant to subsection (B) of this section shall employ BMPs to prevent sediment from leaving the site.

D. Utility Providers. Site disturbing activities conducted by utility providers shall be regulated as follows:

1. Major installation projects where utility service is regional in nature, e.g., intending to serve more than one subdivision or intending to upgrade existing service to multiple subdivisions, or commercial or industrial projects, shall comply with all applicable requirements of this article, unless otherwise exempt.

2. All other work conducted by utility providers shall be exempt from the requirements of this article, but shall use BMPs to prevent sediment from leaving the site.

**SECTION 54.** That Section 8.7.102, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.7.102: APPLICATION AND INFORMATION REQUIREMENTS:**

A. Applications. All applications for a site disturbance permit shall be submitted to the Department on a form provided by the Department. At a minimum, the following information shall be required:

1. Property owner's name and applicant's name if different from the owner;
2. Legal description of property including parcel number;
3. A written description of the work to be done, including an estimate of the amount of earth to be moved;
4. A site plan, drawn to scale, including property boundaries, north arrow, adjacent roads, location of proposed work, and distances to property lines or prominent features of the land.

B. Upon receipt of a completed application, the Department may perform a site inspection to determine the risk categories as outlined in section 8.7.115 of this article. Using the outcome of risk assessment and the nature, location, and time of year of the project, the Director shall determine whether the project is high, moderate or low risk.

C. Site Disturbance Plans. A site disturbance plan shall be required for all high and moderate risk sites. The required elements of site disturbance plans shall be outlined in the plan criteria manual adopted by the Director.

1. Plans prepared by a design professional shall be required in the following circumstances:
  - a. Site disturbing activities governed by this article on high risk sites.

b. All commercial and industrial development except development by utility providers when not required under subsection 8.7.101(D) of this article.

c. Site disturbing activities conducted by utility providers, when required under subsection 8.7.101(D) of this article.

d. Subdivision infrastructure development.

2. Plans for Moderate risk sites. The following provisions shall apply to site disturbance plans in which preparation by a design professional is not required under paragraph (1) of this subsection:

a. Plans may be prepared by a design professional, contractor, or property owner.

b. Plans are not required to comply with the requirements of section 8.7.106 of this article.

3. The Director may waive the submission of plans for minor improvements if the standards set forth in this article can be met by existing site conditions.

D. Interagency Coordination. The Director may request comment from affected agencies where appropriate. Where coordinated permits are necessary, signoffs from permitting agencies or copies of other permits may be required. Permit authorities may include, but are not limited to:

1. Public highway agencies for work within public rights-of-way, including approach permits;

2. U.S. Army Corps of Engineers;

3. Idaho Department of Lands for encroachments into navigable waters, logging activity under the IFPA, and surface mining activity;

4. U.S. Environmental Protection Agency for site disturbing activity where an NPDES permit is required;

5. Coeur d'Alene Tribe for site disturbing activity within the boundaries of the Coeur d'Alene Indian reservation; and

6. Idaho Department of Water Resources for work within stream channels.

**SECTION 55.** That Section 8.7.106, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.7.106: STORMWATER TREATMENT:**

A. Treatment of the first one-half inch (1/2") of stormwater runoff from the all-impervious surfaces set forth in this section shall be required prior to discharge of the stormwater overland or to ground or surface waters. Stormwater shall be mitigated utilizing bioinfiltration swales, as referenced in DEQ's catalog of best management practices, or treated on site with existing natural vegetation if the characteristics of the parcel provide treatment.

~~1A. Subdivisions. Site disturbance Stormwater-management plans will be required developed for subdivisions infrastructure-utilizing calculations for detention and conveyance that include the runoff from the proposed improvements, future developed portions of each lot. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce an anticipated treatment efficiency of:~~

<b>Pollutant</b>	<b>Treatment Efficiency</b>
Total Phosphorus (P)	70%
Total Nitrogen (N)	70%
Metals	70%
Suspended Solids	90%

~~2B. Commercial or Industrial Development. Site disturbance plans are required for commercial or industrial development utilizing calculations for detention and conveyance that includes runoff from the proposed improvements. Stormwater treatment of the first one-half (1/2") inch of runoff from all access and parking lot impervious surfaces shall be required prior to discharge of the stormwater overland or to ground or surface waters. Stormwater runoff from rooftops and other similar impervious surfaces is not required to be mitigated with treatment BMPs, but shall be properly managed to infiltrate on the property or to otherwise comply with the detention requirements of this article. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce an anticipated treatment efficiency of:~~

~~1. Areas over the Rathdrum Prairie Aquifer:~~

<b>Pollutant</b>	<b>Treatment Efficiency</b>
Total P	85%
Total N, Metals	80%
Suspended Solids	95%
Dissolved Solids	50%
Organic Chemicals	60%
Bacteria	99%

~~2. Areas not over the Rathdrum Prairie Aquifer: Same anticipated treatment efficiency as listed in subsection (A) of this section.~~

~~3C. Common driveways Development of public and private roads. Whenever a site disturbance plan is required for common driveway or private road development, calculations for detention and conveyance must be utilized that include the runoff from the proposed improvements. Stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce the same anticipated treatment efficiency as listed in subsection (A) of this section.~~

~~4D. Residential Development on Individual Parcels.~~

a. Whenever a site disturbance plan is required for residential development on an individual parcel, calculations must be utilized for detention and conveyance that include runoff from the proposed improvements. Stormwater treatment of the first one-half (1/2") inch of runoff from all access, parking areas, and other similar impervious surfaces shall be required prior to discharge of the stormwater overland or to ground or surface waters. Stormwater runoff from rooftops and other similar impervious surfaces is not required to be mitigated with treatment BMPs, but shall be properly managed to infiltrate on the property or to otherwise comply with the detention requirements of this article.

~~1. For non-waterfront parcels of record which were lawfully created prior to January 1, 1997, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce the following anticipated treatment efficiencies based on the ratio of total impervious area to total parcel size:~~

<b>Impervious Area</b>	<b>Pollutant</b>	<b>Treatment Efficiency</b>
0-4%	Stormwater treatment not required	
4-8%	Total P, Total N, and Metals	40%
	Suspended Solids	90%
9-15%	Total P, Total N, and Metals	60%
	Suspended Solids	90%
16-35%	Total P, Total N, and Metals	80%
	Suspended Solids	90%

~~Impervious area ratios greater than 35% shall be prohibited except on residential parcels which are 16,000 square feet or less. Such parcels shall meet the same anticipated treatment efficiency standard for an impervious area of 16 to 35%.~~

~~2. Lots created after January 1, 1997 shall comply with the anticipated treatment efficiency standards listed in subsection (A) of this section, or in the case of waterfront lots, paragraph (3) of this subsection.~~

~~3. Waterfront parcels. For residential development on parcels with frontage on a recognized lake or the Coeur d'Alene or Spokane Rivers, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce the following anticipated treatment efficiency:~~

<b>Pollutant</b>	<b>Treatment Efficiency</b>
Total P, Total N, and Metals	80%
Suspended Solids	90%

~~b4. For replacement, or additions or alterations to existing site improvements where no stormwater system has previously been required, stormwater shall be managed utilizing a combination of stormwater treatment and erosion control BMPs to produce no net increase in the pollutant export from the site's previously existing conditions. For additions or alterations to existing improvements on a site with a previously approved and implemented~~

~~stormwater system, the stormwater treatment level shall be based on the total impervious area on the site as outlined in paragraph (1) of this subsection.~~

BE. BMP Efficiency Testing Not Required. On-site post-construction testing of BMP treatment efficiency will not be required by the County. The stormwater management plans must show that the proposed BMPs are anticipated to meet or exceed the treatment efficiencies listed above. Expected treatment efficiencies shall be included in the County's Manual of Best Management Practices or the Plan Criteria manual. The development of the BMP list and required range of removal effectiveness is not intended to limit the use of new or innovative treatment procedures that may be developed through the creativity of the design professional preparing the stormwater management plan. New approaches and procedures will be considered and approved with the submittal of the appropriate support data that confirms the effectiveness of the proposed new treatment method, its use related to site constraints, and the maintenance burden it will produce if adopted and utilized.

**SECTION 56.** That Section 8.7.108, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.110, Kootenai County Code.

**SECTION 57.** That a new Section 8.7.108, Kootenai County Code, shall be, and the same is hereby added as follows:

**8.7.108: DOWN-GRADIENT ANALYSIS:**

A. A down-gradient analysis shall be required for all high risk sites unless waived by the Director. The analysis is meant to identify and evaluate down-gradient adverse impacts that could result from the proposed development. Common adverse impacts of land development may include erosion, flooding, slope failures, altered runoff patterns, increased presence of groundwater, or reduced groundwater recharge (to springs, streams, wetlands, and wells, etc.) Site disturbance plans shall be designed to mitigate adverse impacts identified in the down-gradient analysis. Typically, the analysis should extend 500 feet down gradient and may be limited in scope by lack of access to adjacent properties.

B. If there are existing or potential off-site drainage problems down-gradient of the development, it shall be demonstrated that the proposed stormwater disposal system has been designed to meet all of the following conditions:

1. The stormwater runoff leaves the site in the same manner as that of the pre-developed condition;
2. Reduced or increased groundwater recharge has been considered with respect to potential adverse impacts on the down-gradient features; and
3. The proposed design does not aggravate an existing drainage problem or create a new drainage problem.

**SECTION 58.** That a new Section 8.7.109, Kootenai County Code, shall be, and the same is hereby added as follows:

### **8.7.109: GEOTECHNICAL ANALYSIS:**

A. When Required. A geotechnical analysis shall be required for proposed building sites, roads, driveways or other development in locations where:

1. Soils classified as colluviums are present on the parcel proposed for development in locations proposed for construction activities;
2. The locations proposed for construction activities include slopes of 15 percent or more;
3. The locations proposed for construction activities include high water table soils;
4. There are scarps; slumps, seeps; boulder piles, fresh deposit of rock, soil, or debris; ponds in irregular depressions above the valley floor; cracks; bare soils; indications of earth movement based on its impact on vegetation; or other geologic features that may be unstable, or that are indicators of unstable conditions, as determined by the Director.

B. Geotechnical Analysis Requirements.

1. The geotechnical analysis shall be stamped and signed by an Idaho licensed civil or geological engineer having sufficient education and experience to prove competency in the field of geotechnical engineering.
2. The geotechnical analysis shall explain the geologic and hydrologic features of the area, shall evaluate the suitability of the site for intended building, structures, and uses, shall identify potential problems relating to the geology and hydrology, shall summarize the data upon which conclusions are based, and shall propose mitigation measures.

**SECTION 59.** That Section 8.7.109, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.111, Kootenai County Code, and shall be, and the same is hereby amended as follows:

### **8.7.111409: SHORELINE MANAGEMENT AREA:**

A. Purpose. The shoreline management area is an area of concern for Kootenai County because certain activities within this area have the potential to impact water quality of adjacent water bodies due to their proximity. Therefore, special consideration of this area is provided herein to ensure that prior to, during, and after construction operations, water quality, aquatic habitat, and property are protected, while recognizing the rights of property owners to have appropriate use of their property and to be able to protect their property from erosion.

B. Applicability and Dimensions. A shoreline management area of twenty-five feet (25') in slope distance landward of the ordinary high water mark of all recognized lakes, the Coeur d'Alene River, and the Spokane River, is hereby established. The shoreline management area shall be maintained as set forth in this section.

C. Ordinary High Water Marks.

1. For purposes of this article, ordinary high water marks shall be considered to be the following elevations according to the North American Vertical Datum of 1988 (NAVD88):

<b>Lake</b>	<b>Elevation</b>
Coeur d'Alene Lake	2128.7*
Fernan Lake	2135.1
Hauser Lake	2190.9
Hayden Lake	2242.9
Pend Oreille Lake	2066.5
Spirit Lake	2446.0
Twin Lakes	2315.8

\* Equivalent to 2128.0 per Avista (WWP) datum.

2. The ordinary high water marks for all other water bodies shall be determined by on-site inspection of evidence of historical water levels.

**D. Prohibited Activities.**

1. Application of fertilizer to turf grass and storage of chemicals which may adversely affect water quality, such as petroleum products, pesticides, fertilizers and similar liquids or compounds.
2. Mechanical ground disturbances, except as permitted in this section.

**E. Permitted Activities.** The following improvements and activities, including associated mechanical ground disturbances, are permitted within the shoreline management area:

1. Construction of stairways, walkways, stairway landings, and trams.
  - a. Except as permitted in subparagraph (b) of this paragraph, one stairway or walkway, associated stairway landings, and a tram shall be allowed to encroach within a parcel's shoreline management area. One additional stairway or walkway, associated stairway landings, and a tram shall be permitted whenever a parcel exceeds two hundred fifty feet (250') of shoreline frontage as determined by the Kootenai County Assessor or an Idaho licensed surveyor. One more additional stairway or walkway, associated stairway landings, and a tram shall be permitted for each two hundred fifty feet (250') of shoreline frontage thereafter.
  - b. Stairways, walkways, stairway landings and trams associated with a commercial marina or community dock, as those terms are defined in the Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho, IDAPA 20.03.04, or other commercial use permitted through the Idaho Department of Lands, shall be permitted to enable access to dock facilities as approved by IDL.

c. Stairways and walkways within the shoreline management area shall not exceed four feet (4') in width. Stairway landings within the shoreline management area shall not exceed six feet (6') in width or length. Stairways, walkways and stairway landings within the shoreline management area which are associated with a commercial marina, community dock, or other IDL-permitted commercial use may exceed these dimensions only to the extent necessary to comply with accessibility standards under applicable federal, state or local laws, rules, regulations or building codes.

d. Such structures shall not be constructed in a manner that is substantially parallel to the shoreline, except that switchback designs that provide access from higher elevations to lower elevations are permitted whenever such designs are necessary due to steep slopes or to comply with accessibility standards under applicable federal, state or local laws, rules, regulations or building codes.

2. The repair, replacement, alteration, and relocation of existing site improvements, including, without limitation, landscaping, retaining walls, and shoreline protection revetments. If a site disturbance plan is not otherwise required, the owner shall submit a site plan showing all activities to be performed within the shoreline management area. The site plan shall be approved if it demonstrates that the proposed activities will not create significantly new impervious areas or other significant water quality impacts.

3. Installation of water intake lines, pump houses, power lines, and similar linear infrastructure.

4. Removal of structures or debris created or deposited by wildfire, flooding, or other acts of nature.

5. Vegetation modification to implement an approved wildfire mitigation plan or in conjunction with noxious weed abatement.

6. The use of mechanical and other equipment for removal of dead or dying trees, shoreline debris, and other similar activities related to routine maintenance.

7. Seating, picnic and barbeque areas, and recreational equipment which do not cause more than a *de minimis* disturbance of the shoreline management area.

8. Shoreline erosion control measures, including, without limitation, the following:

- a. willow wall construction;
- b. willow walls with a brush layer base;
- c. live cribwall construction;
- d. cordon construction;
- e. live fascine construction;
- f. cedar bender board fencing;

g. the use of coir fiber rolls (a natural fiber extracted from the husk of coconut) and native or non-invasive plant materials; or

h. the use of 6-12 inch cobble and angular stone along with overhanging native or non-invasive plant materials to keep the sun from heating rocks and water.

If a site disturbance plan is not otherwise required, the owner shall submit a site plan showing all activities to be performed within the shoreline management area. The site plan shall be approved if it demonstrates that the proposed activities will not create significantly new impervious areas or other significant water quality impacts.

9. Routine pruning, trimming, and other well-recognized horticultural and silvicultural practices.

10. The trimming of shrubs and removal of branches from trees for the purpose of creating a view corridor. Such activities may occur no lower than three feet (3') above ground level for shrubs, and no higher than one-third ( $\frac{1}{3}$ ) of the height of each individual tree then existing within the parcel's shoreline management area. Such activities may encompass no more than one third ( $\frac{1}{3}$ ) of the linear footage of a parcel's shoreline management area.

11. Pervious pavers, wood or composite decking, and similar types of construction which do not concentrate runoff and do not cause more than a *de minimis* disturbance of the Shoreline Management Area.

12. Planting of native vegetation in conjunction with any remediation or vegetation modification activity permitted pursuant to this section is encouraged.

#### F. Development Exceptions within the Shoreline Management Area.

1. Mechanical ground disturbances not associated with development and not otherwise permitted in subsection (E) of this section may be permitted within the shoreline management area, so long as the applicant can adequately demonstrate the necessity of such activity through the submittal of a shoreline management plan prepared by a design professional. To approve an exception, the Director must find that the risk to water quality will be less than or equal to the risk if the work were performed by hand.

2. Development and associated mechanical ground disturbances may be permitted within the shoreline management area for maintenance, repair or replacement of existing structures or improvements, or to remedy significant erosion, structural integrity, or shoreline stabilization problems, so long as the applicant can adequately demonstrate the necessity of such activities through the submittal of a shoreline management plan prepared by a design professional. To approve an exception, the Director must make the following findings:

a. The risk to water quality will be less than or equal to the risk if the work were performed by hand; and

b. The work proposed is the minimum necessary to control or remediate the erosion, structural integrity, or shoreline stabilization problem, or to complete the necessary maintenance, repair or replacement; and

c. Agencies with jurisdiction have been provided the opportunity to review and comment.

**SECTION 60.** That Section 8.7.110, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.112, Kootenai County Code, and shall be, and the same is hereby amended as follows:

**8.7.112110: HAZARDS:** Whenever the Director determines that an existing excavation, embankment, fill, or roadway on private property has become a hazard to life and limb; endangers other property, adversely affects the safety, use, or stability of a public or private access, drainage channel, or adjacent or contiguous properties, the Director may require the property owner to ~~correct-eliminate~~ the hazard. The Director shall give notice in writing to the owner specifying the period in which the hazard is to be corrected ~~or other person or agent in control of the property.~~ The hazard shall be corrected within the period specified in the notice, the owner or their agent shall have the hazard corrected. Failure to correct the hazard within the period specified in the notice shall constitute a violation subject to the provisions of chapter 8, article 8.6 of this title.

**SECTION 61.** That Section 8.7.111, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.113, Kootenai County Code, and shall be, and the same is hereby amended as follows:

**8.7.113111: INSPECTION:**

A. General. All activities subject to the permitting requirements of this article shall be subject to inspection by the Department. An approved set of plans must be available for review on-site whenever work is in progress. It shall be the permittee's responsibility to keep the Department notified of the progress of the project and call for all required inspections.

B. High Risk Sites.

1. At a minimum, two (2) inspections shall be required for high risk sites:

a. After erosion and sedimentation controls have been installed, prior to ground disturbance; and

b. After the project has been completed, including revegetation.

2. For sites which are active during the winter, two (2) additional inspections shall be required:

a. After the site has been prepared for the winter (typically in September or October); and

b. Sometime in January or February to ensure that the erosion and sedimentation control measures are adequate and maintained.

3. The permittee's design professional shall perform the inspections and submit inspection reports to the Director.

C. Moderate and Low Risk Sites. For moderate and low risk sites, the Director shall determine what inspections are necessary. The Director, or their designee, shall conduct the inspections for moderate risk sites.

~~D. Other sites where risk has not been determined. For sites where notification is required or other situations where the site risk has not been evaluated, the Director shall determine what inspections are necessary, if any.~~

**SECTION 62.** That Section 8.7.112, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.114, Kootenai County Code.

**SECTION 63.** That Section 8.7.113, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.115, Kootenai County Code.

**SECTION 64.** That Section 8.7.114, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.116, Kootenai County Code, and shall be, and the same is hereby amended as follows:

**8.7.~~116~~114: ADMINISTRATION:**

A. General. The Director shall administer the provisions of this article in a manner consistent with other provisions of this code. The Board of County Commissioners may, by resolution, adopt design standards, plan criteria, best management practices, administrative procedures, fee schedules, etc., intended to implement the requirements and standards set forth in this article. Changes in the supporting documents may be accomplished by subsequently adopted resolution.

B. Outside Review Assistance. The Director may request a second opinion from a design professional regarding any permitted or proposed work under this article at any time. The cost of such a second opinion shall be borne by the County.

C. Duration of Permit. Permits shall expire if the work authorized by the permit is not started within one hundred eighty (180) days of issuance of the permit, or if work is suspended or abandoned at any time after the work has started for a period of one hundred eighty (180) days. The Director may grant one time extension for an additional one hundred eighty (180) days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work authorized by the permit. The Director may set specific time limits to the permit for project initiation and completion for environmental reasons or for coordination with other permitted site work.

D. Financial Guarantees.

1. The owner of any parcel where work will be performed pursuant to an approved site disturbance plan shall provide a financial guarantee to ensure that erosion, sediment control, and stormwater management improvements will be completed, as set forth in this subsection.

a. The owner shall provide a financial guarantee to the Department before a site disturbance permit may be issued for development of subdivision infrastructure, commercial and industrial development, or development within a high risk site.

b. For all other work to be completed in accordance with an approved site disturbance plan, the Director may require the owner to provide a financial guarantee for any work not completed at the time of final inspection.

2. The design professional shall provide an estimate of the cost to implement the improvements to be covered by the financial guarantee based on then-current local construction costs, including, without limitation, labor and materials. The amount of the financial guarantee shall be as determined by the Director, but shall not exceed one hundred fifty percent (150%) of the estimated cost.

3. ~~Before a financial guarantee can be released,~~ The design professional must submit a letter to the Department approving the construction and certifying that the permitted development is complete and is compliant with the requirements of this article before a financial guarantee can be released. If the ownership of the property has changed since the financial guarantee was provided, the financial guarantee shall be released to the current property owner of record at its completion.

4. If the required improvements have not been completed by the specified date, the Department may contract to have the site brought into compliance with the applicable requirements of this article work completed with the money from the associated appropriate financial guarantee. The Department may also take additional enforcement measures as provided by law.

**SECTION 65.** That Section 8.7.115, Kootenai County Code, shall be, and the same is hereby redesignated as section 8.7.117, Kootenai County Code, and shall be, and the same is hereby amended as follows:

**8.7.117115: RISK ASSESSMENTS:**

A. Erosion Risk Assessment. Erosion risk shall be determined as follows:

1. Slope, measured in percent, as an average across the area to be disturbed.

<b>Gradient</b>	<b>Point Value</b>
≤ 10%	1
> 10% and ≤ 25%	5
> 25%	10

2. Soil K factor, for water erosion susceptibility, as indicated in the *Soil Survey of Kootenai County Area, Idaho*, or other supplementary study. The highest K factor within the proposed disturbed soil profile will be used. Soil type from the *Soil Survey* will be verified on-site by physical description.

<b>K Factor</b>	<b>Point Value</b>
≤ 0.2	1
> 0.2 and ≤ 0.4	3
> 0.4	5

3. Proximity to surface water or any feature which conveys water to surface water. Surface water includes all lakes, rivers, streams, wetlands, and similar features. Conveyance features may include natural or man-made ditches. Ponds, springs, or similar features that are contained within the property shall not be considered surface water features. Distance is measured along the slope from the closest boundary of the proposed disturbance to the conveyance or surface water feature.

<b>Distance</b>	<b>Point Value</b>
> 500'	1
> 200' and ≤ 500'	5
≤ 200'	10

4. Amount of disturbed area, expressed as a percentage of the parcel area. Areas to be disturbed during installation of utilities must be included.

<b>Disturbed Portion</b>	<b>Point Value</b>
≤ 33%	1
> 33% and ≤ 66%	5
> 66%	10

5. Buffer strip. If the project has a useable buffer strip which provides the appropriate level of treatment for the type of project proposed, subtract 10 points.

6. The points for each factor shall be added and the risk category shall be determined from the point total as follows:

<b>Point Total</b>	<b>Risk Category</b>
0 – <del>10</del> 9	Low risk
<del>10</del> – 20	Moderate or high risk <sup>*</sup>
> 20	High risk

~~\*The Director will make this determination based on experience in the area.~~

B. Stormwater Risk Assessment. Stormwater risk shall be determined as follows:

1. Slope, measured in percent, as an average across the area to be disturbed.

<b>Gradient</b>	<b>Point Value</b>
≤ 5%	0
> 5% and ≤ 10%	3
> 10% and ≤ 15%	6
> 15% and ≤ 25%	10
> 25%	15

2. Soil permeability, measured in inches per hour as indicated in the *Soil Survey of Kootenai County Area, Idaho*, or other supplementary study. The lowest permeability in the soil horizon shall be used. Soil type from the *Soil Survey* will be verified on-site by physical description.

<b>Permeability</b>	<b>Point Value</b>
≥ 0.5	0
< 0.5	5

3. Proximity to surface water or any feature which conveys water to surface water. Surface water includes all lakes, rivers, streams, wetlands, and similar features. Conveyance features may include natural or man-made ditches. Ponds, springs, or similar features that are contained within the property shall not be considered surface water features. Distance is measured along the slope from the closest boundary of the proposed disturbance to the conveyance or surface water feature.

<b>Distance</b>	<b>Point Value</b>
> 500'	0
> 200' and ≤ 500'	<del>7</del> 5
≤ 200'	<del>15</del> 10

4. Impervious area ratio, expressed as a percentage of the parcel area covered with impervious surfaces.

<b>Coverage</b>	<b>Point Value</b>
< 20%	0
≥ 20% and < 40%	5
≥ 40%	10

5. Total impervious area, expressed in square feet.

<b>Coverage</b>	<b>Point Value</b>
≥ 20,000 sq. ft.	5
< 20,000 sq. ft	0

6. Drainage crossing proposed. If the project requires crossing a conveyance channel or drainage, add 5 points.

7. Buffer strip. If the project has a useable buffer strip which provides the appropriate level of treatment for the type of project proposed, subtract 10 points.

8. The points for each factor shall be added and the risk category shall be determined from the point total as follows:

<b>Point Total</b>	<b>Risk Category</b>
0-10+4	Low to moderate risk
11-20 ≥ 15	Moderate High risk
≥ 20	High risk

**SECTION 66.** That Section 8.8.202, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.8.201: CONDITIONAL USE PERMITS:**

A. Application Requirements. The following items constitute a complete application for a conditional use permit:

1. Application Form. A completed application form must be submitted with the property owner's signature, or with the applicant's signature together with a notarized letter from the property owner authorizing the applicant to file the permit application.

2. Fees as adopted by resolution of the Board.

3. Site Plan. A site plan must be submitted which is drawn to scale showing a North arrow, lot boundaries, location of all structures and utilities, the location, dimension and purpose of existing easements, the location of future structures, and other relevant information regarding the site and the request. When required, site plans shall also contain the specific information required for the proposed use as set forth in chapter 5, article 5.1 of this title.

4. Photographs. At least four (4) pictures of the site, taken at various angles, must be submitted which depict the general character of the site. Photographs must be accompanied by a map showing the location and orientation of the photographs.

5. Narrative. A narrative must be submitted which describes in detail the existing conditions of the property and the nature of the proposal. The narrative should also explain why the request should be approved, including how the proposal meets the applicable provisions of this title, why it would be in the public interest and how it would affect the surrounding property owners and the public.

6. Variances or Deviations from Standards. An application for a conditional use permit may include a request for one or more variances or deviations from the standards which would otherwise apply to the use for which the permit is sought. Any such request must be specifically identified and addressed in detail in the narrative. The narrative should also explain why the variance or deviation should be approved, including why an undue hardship exists because of characteristics of the site, why the requested variance or deviation is the

minimum variance that will make possible the use associated with the applied-for permit, and why the variance or deviation would not be in conflict with the public interest.

#### B. Approval Process and Requirements.

1. The Applicant shall schedule a pre-application meeting with a Department planner to discuss the feasibility of the request and the application requirements.
2. The Applicant shall submit a complete application meeting the application requirements set forth in subsection (A) of this section. Incomplete applications will not be processed.
3. If the application is complete, the County will forward it to other reviewing agencies and organizations with relevant expertise or jurisdiction, requesting their comment within thirty (30) days. Agency comments should explain whether the proposal appears feasible and will meet the agency's requirements. All such comments shall become a part of the record of the application.
4. After all required agency letters are received, the Department will review the application and schedule it for a public hearing. Notice shall be provided in accordance with article 8.4 of this chapter.
5. Any person may submit written comments on the proposed application through mail, electronic mail, or in person. All such comments shall become a part of the record of the application.

#### C. Required Findings:

1. The Hearing Body shall not recommend for approval, and the Board shall not approve, a conditional use permit except upon the following findings:
  - a. The applicable procedural requirements have been met.
  - b. The proposal is in compliance with the applicable standards for the proposed use without variances, or with such variances as may be approved by the Board.
  - c. The proposal is compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area.
  - d. The proposal adequately addresses site constraints or hazards, and adequately mitigates any negative environmental, social and economic impacts.
  - e. Services and facilities for the proposal are available and adequate.
  - f. The proposal will meet the duly adopted requirements of other agencies with jurisdiction.
  - g. The proposal is not in conflict with the Comprehensive Plan.
2. Any requested variance or deviation from standards which would otherwise apply to the use for which the permit is sought shall not be approved except upon the following findings:

- a. An undue hardship exists because of characteristics of the site;
- b. The granting of the variance or deviation will not be in conflict with the public interest; and
- c. The variance is the minimum variance that will make possible the use approved in the permit.

3. If the decision is a denial, the Board must state the actions, if any, the Applicant could take to gain approval.

#### D. Permit Conditions and Modifications.

1. Permits for conditional uses shall stipulate restrictions or conditions which uphold the spirit and intent of this title and are roughly proportional, both in nature and extent, to the reasonably expected impacts of the approved use, including, without limitation, a definite time limit, hours of operation, provisions for front, side, and rear yard setbacks less than or greater than the normally applicable standards, suitable landscaping, sight restrictions, or other conditions or safeguards which address reasonably expected impacts of the approved use. Permit approval may be conditioned on approval of other agencies with jurisdiction. Violation of any such conditions, when made a part of the terms under which the permit is granted, shall be deemed a violation governed under article 8.6 of this chapter.

2. Conditional use permits approved without a time deadline shall expire after two (2) years from the date of signing the Order of Decision approving the permit if the use authorized by the permit has not been established through, at a minimum, development activity apparent upon a view of the site or submittal of an application for one or more development permits.

3. A minor modification to a previously approved conditional use permit may be granted by the Director if it is determined that the requested modification would not constitute a substantial change to the findings and conclusions in the original approval, and that the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The Director shall deny the requested modification upon a finding that the request constitutes a substantial change to the permit. In such cases, the Applicant may apply for approval of a use or condition modification, as appropriate, in accordance with the procedures set forth in this section.

E. Recordation. The Order of Decision approving a conditional use permit application shall be recorded at the owner's expense.

**SECTION 67.** That Section 8.8.202, Kootenai County Code, shall be, and the same is hereby amended as follows:

### **8.8.202: SPECIAL NOTICE PERMITS:**

A. Application Requirements. The following items constitute a complete application for a special notice permit:

1. Application Form. A completed application form must be submitted with the property owner's signature, or with the applicant's signature together with a notarized letter from the property owner authorizing the applicant to file the permit application.
2. Fees, as adopted by resolution of the Board.
3. Site Plan. A site plan must be submitted which is drawn to scale showing a North arrow, lot boundaries, location of all structures and utilities, the location, dimension and purpose of existing easements, the location of future structures, and other relevant information regarding the site and the request. When required, site plans shall also contain the specific information required for the proposed use as set forth in chapter 5, article 5.2 of this title.
4. Photographs. At least four (4) pictures of the site, taken at various angles, must be submitted which depict the general character of the site. Photographs must be accompanied by a map showing the location and orientation of the photographs.
5. Narrative. A narrative must be submitted which describes in detail the existing conditions of the property and the nature of the proposal. The narrative should also explain why the request should be approved, including how the proposal meets the applicable provisions of this title, why it would be in the public interest and how it would affect the surrounding property owners and the public.
6. Variances or Deviations from Standards. An application for a special notice permit may include a request for one or more variances or deviations from the standards which would otherwise apply to the use for which the permit is sought. Any such request must be specifically identified and addressed in detail in the narrative. The narrative should also explain why the variance or deviation should be approved, including why an undue hardship exists because of characteristics of the site, why the requested variance or deviation is the minimum variance that will make possible the use associated with the applied-for permit, and why the variance or deviation would not be in conflict with the public interest.

B. Approval Process and Requirements.

1. The Applicant shall schedule a pre-application meeting with a Department planner to discuss the feasibility of the request and the application requirements.
2. The Applicant shall submit a complete application meeting the application requirements set forth in subsection (A) of this section. Incomplete applications will not be processed.
3. If the application is complete, the Department shall review the application and ~~will~~ forward it to other reviewing agencies and organizations with relevant expertise or jurisdiction, requesting their comment within thirty (30) days. Agency comments should explain whether

the proposal appears feasible and will meet the agency's requirements. All such comments shall become a part of the record of the application.

4. ~~After all required agency letters are received, The Department shall also will review schedule the application and schedule it for a thirty (30) day public comment period, which shall run concurrently with the agency comment period.~~ Notice of the public comment period shall be provided in accordance with article 8.4 of this chapter.

5. Any person may submit written comments on the proposed application through mail, electronic mail, or in person. All such comments received prior to the close of the public comment period will become a part of the record on the application.

6. After the close of the public comment period, the Director shall review the relevant evidence in the record and issue an Order of Decision.

### C. Required Findings.

1. To approve an application, the Director must make the following findings:

- a. The applicable procedural requirements have been met.
- b. The proposal is in compliance with the applicable standards for the proposed use without variances, or with such variances as may be approved by the Board.
- c. The proposal is compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area.
- d. The proposal adequately addresses site constraints or hazards, and adequately mitigates any negative environmental, social and economic impacts.
- e. Services and facilities for the proposal are available and adequate.
- f. The proposal will meet the duly adopted requirements of other agencies with jurisdiction.

2. Any requested variance or deviation from standards which would otherwise apply to the use for which the permit is sought shall not be approved except upon the following findings:

- a. An undue hardship exists because of characteristics of the site;
- b. The granting of the variance or deviation will not be in conflict with the public interest; and
- c. The variance is the minimum variance that will make possible the use approved in the permit.

3. If the decision is a denial, the Director must state the actions, if any, the Applicant could take to gain approval.

### D. Permit Conditions and Modifications.

1. Special notice permits may stipulate restrictions or conditions which uphold the spirit and intent of this title and are roughly proportional, both in nature and extent, to the reasonably expected impacts of the approved use, including, without limitation, a definite time limit, hours of operation, provisions for front, side, and rear yard setbacks less than or greater than the normally applicable standards, suitable landscaping, sight restrictions, or other conditions or safeguards which address reasonably expected impacts of the approved use. Permit approval may be made specifically contingent on approval of other agencies with jurisdiction. Violation of any such conditions, when made a part of the terms under which the permit is granted, shall be deemed a violation governed under article 8.6 of this chapter.

2. Special notice permits approved without a time deadline shall expire after two (2) years from the date of signing the Order of Decision approving the permit if the use authorized by the permit has not been established through, at a minimum, development activity apparent upon a view of the site or submittal of an application for one or more development permits.

3. A minor modification to a previously approved special notice permit may be granted by the Director if it is determined that the requested modification would not constitute a substantial change to the findings and conclusions in the original approval, and that the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained would not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The Director shall deny the requested modification upon a finding that the request constitutes a substantial change to the permit. In such cases, the Applicant may apply for approval of a use or condition modification, as appropriate, in accordance with the procedures set forth in this section.

E. Recordation. The Order of Decision approving a special notice permit application shall be recorded at the owner's expense.

FE. Appeals. Decisions made by the Director may be appealed to the Board in accordance with article 8.5 of this chapter.

**SECTION 68.** That Section 8.8.203, Kootenai County Code, be, and the same is hereby amended as follows:

**8.8.203: VARIANCES:**

A. General Provisions.

1. Purpose. The purpose of this section is to authorize such variances from the provisions of this title in specific cases as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship.

2. Description. A variance is a modification of the bulk and placement requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other provision of this title affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a

showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

3. No nonconforming use of neighboring land, structures, or buildings in the same zone, and no permitted or nonconforming use of lands, structures, or buildings, in other zones shall be considered grounds for the issuance of a variance.

B. Application Requirements. The following items constitute a complete application:

1. A completed application form signed by the property owner;
2. The appropriate application fee;
3. Photographs of the site, including the area that pertains to the variance ~~or appeal~~ (if applicable);
4. A map of the vicinity of the property for which the variance is sought;
5. A narrative that includes:
  - a. a written explanation of the variance ~~or appeal~~ that is requested;
  - b. the applicable sections of this title, and
  - c. an explanation of how the request meets the approval standards and conditions outlined in this section.
6. A site plan for the property, drawn to scale, showing a north arrow, property lines, structures, driveways, surface water, retaining walls, easements, rights-of-way, wells, sewage systems, slopes, stormwater systems and other items as may be required by the County. The maximum allowable size of the site plan is 11" x 17".

C. Procedures for Granting Variances.

1. The Applicant shall submit a complete application meeting the application requirements set forth in subsection (B) of this section. Incomplete applications will not be processed.

2. If the application is complete, the Department will forward it to other reviewing agencies and organizations with relevant expertise or jurisdiction, requesting their comment within thirty (30) days. Agency comments should include any agency requirements and whether the requested variance would be in conflict with the public interest. All such comments shall become a part of the record of the application.

32. After all required agency letters are received, notice of public hearing shall be given, and a public hearing held, in accordance with article 8.4 of this chapter.

43. The Hearing Body shall not recommend for approval, and the Board shall not approve, a variance except upon the following findings:

- a. The applicable procedural requirements have been met;
- b. An undue hardship exists because of characteristics of the site;
- c. The granting of the variance will not be in conflict with the public interest; and
- d. The variance is the minimum variance that will make possible the use associated with the request.

54. In conjunction with the granting of any variance request, the hearing body may recommend, and the Board may impose, conditions of approval which further the purposes of this title and are roughly proportional, both in nature and extent, to the impacts of the variance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation governed under article 8.6 of this chapter.

#### D. Specific Approval Standards and Conditions for Flood Variances.

1. The issuance of variances to flood damage prevention standards contained in chapter 7, article 7.2 of this title shall be for flood plain management purposes only. The granting of a variance to such standards will not reduce, and may increase, flood insurance premiums, which are determined on the basis of actuarial risk in accordance with federal law.
2. The granting of variances will generally be limited to new construction and substantial improvements on lots of one-half (½) acre or less, contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance will increase.
3. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed work will not preclude the structure's continued designation as an historic structure, and that the variance is the minimum necessary to preserve the historic character and design of the structure.
4. Variances shall not be issued within a designated floodway.
5. Variances shall be issued only upon the findings set forth in paragraph (C)(3) of this section, and the following additional findings:
  - a. The granting of the variance will not result in increased flood heights, will not harm other properties, will not result in additional threats to public safety or result in extraordinary public expense, and will not create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances
  - b. Adequate measures will be taken to minimize flood damage; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
6. In reviewing applications, the following factors shall be considered:

- a. The danger that materials may be swept onto other lands to the injury of others;
- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;
- l. Any technical evaluations in the record;
- m. Any applicable standards specified in other sections of this title; and
- n. All other factors relevant to the request.

7. Any applicant to whom a variance is granted shall be given written notice, signed by the chairman of the Board and maintained with the record of the variance action, of the following:

- a. That the issuance of a variance is for flood plain management purposes only and that it will not reduce, and may increase, flood insurance premiums, which are determined on the basis of actuarial risk in accordance with federal law;
- b. That the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for every \$100 of insurance coverage;
- c. That such construction below the base flood level increases risks to life and property; and

d. That the County shall not be liable for any flood damages that result.

8. In approving a variance, the Board may attach conditions which further the purposes of this title and are roughly proportional, both in nature and extent, to the impacts of the variance. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and shall render the variance null and void.

9. The County shall maintain the records of all variance and appeal actions, including justification for their issuance, and report any variances issued in its annual report to the Federal Insurance and Mitigation Administration.

E. Administrative Approvals ~~Exceptions~~.

1. An administrative exception, not to exceed one (1) foot (1') of any dimensional requirement pertinent to front, side, rear, and flanking streets setbacks may be granted by administrative action of the Director without public notice and without public hearing.

2. A variance to a front, side, rear, or flanking street setback from a private road, private right-of-way, or shoreline may be granted by administrative approval of the Director pursuant to the procedure and approval standards set forth in this section, except that no public hearing shall be required.

3. Variances to setbacks from shorelines granted pursuant to this subsection shall not authorize the construction of structures or mechanical ground disturbances in a shoreline management area except as permitted in section 8.7.109 of this title.

4. Decisions made by the Director pursuant to this subsection may be appealed in accordance with article 8.5 of this chapter.

**SECTION 69.** That Section 8.8.402, Kootenai County Code, shall be, and the same is hereby amended as follows:

**8.8.402: NOTICE:**

A. Public Hearings. Notice of public hearings shall be provided as follows:

1. Notice of Meetings. In addition to the public notice provisions set forth in this title ~~of this Ordinance~~, notice of regular and special meetings, including the posting of agendas, shall be given in accordance with section 74-204, Idaho Code.

2. Content. The content of notices for public hearings shall conform to the requirements of Title 67, Chapter 65, Idaho Code, and shall include the time and place of the hearing, a summary of the application or request, and a statement that written comments on an application must be submitted at least ten (10) days prior to the hearing, or at the hearing. Written comments are not accepted during the ten (10) days preceding a hearing. If a County hearing body has issued recommendations on the application, or made significant changes to a proposal, the notice shall also include a summary of those recommendations and/or changes.

3. Newspaper, other media, political subdivisions. At least twenty-eight (28) days prior to a public hearing, the Department shall cause a copy of the notice to~~shall~~ be published in a newspaper of general circulation in Kootenai County, and shall ensure that the notice is~~be~~ made available to other newspapers, radio and television stations. At least twenty-eight (28) days prior to the hearing, the Department shall also cause the notice to~~shall also~~ be mailed to all political subdivisions providing services within Kootenai County, including school districts. The cost of all required public hearing notices shall be borne by the applicant or the person requesting the hearing, if other than the applicant.

#### 4. Property Owners.

a. When notice of adjacent and nearby property owners is required by law, the Department shall ensure that hearing notices are~~shall be~~ mailed, at the expense of the applicant or the person requesting the hearing, if other than the applicant, at least twenty-eight (28) days prior to the hearing. The notice shall be mailed to property owners or purchasers of record of all parcels located within the applicable distance set forth in Table 8-801 of this article from the exterior boundaries of the parcels under consideration, including any contiguous parcels under the same ownership.

#### b. For purposes of this subsection:

i. The size of the parcels under consideration shall be determined according to the aggregate size of all lots or parcels that are the subject of the application. For example, if the parcels under consideration consist of three parcels that are three (3) acres, one (1) acre, and two (2) acres in size, the applicable notice distance would be five hundred feet (500') because the aggregate size of all of the parcels that are the subject of the application is six (6) acres.

ii. High intensity uses shall consist of the following: airports, airstrips, racetracks, asphalt, cement, concrete or gypsum batch plants, any use involving mining, blasting or crushing of rock or minerals, explosive manufacturing, storage of explosive products, transitional group housing facilities, or gun clubs (but not archery ranges).

c. The Director, hearing body, or Board may also require that notice be provided to other areas that may be affected by the proposed change. Additional procedures for notification of property owners may be established by the Department.

5. Site Posting. Where on-site posting of a hearing notice is required by law, the notice shall be posted on the premises that is the subject of the application, at least twenty-one (21) days prior to the hearing. If the site is inaccessible, the access driveway to the site shall be posted where it adjoins a public or private road.

6. Alternate Forms of Notice in Lieu of Mailing. When notice is required to two hundred (200) or more property owners or purchasers of record, notice may be provided through a display advertisement at least four (~~4~~) inches (4") by two (2) columns in size, in the official newspaper of Kootenai County, published at least twenty-eight (28) days prior to the hearing. Notices of the hearing must also be posted at the external boundaries of the site adjoining public or private

roads. If the site is not located on a road, the access driveways to the site shall be posted where they adjoin public or private roads.

**Table 8-401  
Notice Distances**

Size of Parcels/Type of Use	Distance from Site
Sites consisting of fewer than five (5.00) acres (unless otherwise specified)	300'
Sites consisting of five (5.00) or more acres (unless otherwise specified)	500'
All major subdivisions, and condominium plats consisting of five (5) or more units	500'
All minor subdivisions, and condominium plats consisting of four (4) or fewer units	300'
<del>Minor amendments</del>	<del>300'</del>
High intensity uses	1,000'

B. Changes or Additions to Applications. Once hearing notices have been mailed and/or published, the applicant may not modify the content of the application, or submit additional items, until the hearing. The applicant may, however, withdraw the application and resubmit it after the new or modified items are submitted. If withdrawn, the application shall not be rescheduled for a public hearing until the additional items have been received.

C. Agency and Public Comments. Written comments from agencies and the public must be received at least ten (10) days prior to the hearing, or must be submitted at the hearing. Written information shall not be accepted during the ten (10) days preceding a hearing.

**SECTION 70.** That a new Section 8.8.605, Kootenai County Code, be, and the same is hereby added as follows:

**8.8.605: COMPLIANCE AGREEMENTS:** The Director may enter into compliance agreements on a case by case basis, subject to the following provisions or conditions:

A. The Director finds that the violations that are the subject of the compliance agreement do not pose an imminent threat to people or property.

B. The party responsible for compliance agrees to remedy the violation(s) in an expeditious manner by a certain date.

C. The Director may require the responsible party to:

1. Agree to hold the Director and Kootenai County harmless and to defend against any claims arising through operation of the compliance agreement; and/or

2. Provide evidence of general liability coverage for personal injury and property damage for the premises subject to the compliance agreement, with Kootenai County named as an additional insured.

D. The responsible party shall pay any costs and/or attorney fees incurred to enforce a compliance agreement.

**SECTION 71.** That a new Section 8.8.606, Kootenai County Code, be, and the same is hereby added as follows:

**8.8.606: VEXATIOUS COMPLAINANTS:**

A. The Director may find a person to be a vexatious complainant based on a finding that a person has done any of the following:

1. In the immediately preceding three (3) year period, the person has made at least three (3) complaints regarding alleged violations of this title that have been determined to be unfounded.
2. After a complaint has been finally determined to be unfounded, the person has repeatedly complained or attempted to complain about either:
  - a. the validity of the determination that the original complaint was unfounded; or
  - b. the original complaint or the reasons therefor, or any related issues of fact or law, which had been previously determined to be unfounded.
3. The person has repeatedly submitted unmeritorious complaints or other papers or engages in tactics that are frivolous or solely intended to cause unnecessary delay.

B. The Director may issue an order stating that County code enforcement staff will not investigate or take action on any complaint submitted by a vexatious complainant without first obtaining authorization for such investigation or action from the Board. A copy of such order shall be mailed to both the complainant and to the record owner of any property that is or has been the subject of complaints submitted by the complainant. Any such order may be appealed to the Board in accordance with article 8.5 of this chapter.

C. The provisions of this section shall not preclude any other legal remedy available to the Board, the Director, or the Prosecuting Attorney.

**SECTION 72.** That the following new definitions be, and the same are hereby added to Section 8.9.103, Kootenai County Code, as follows:

**COMPLETE DEMOLITION** or **COMPLETELY DEMOLISHED:** Any act or process that destroys or removes seventy-five percent (75%) or more of the exterior walls of a structure, improvement, or object.

**SECTION 73.** That the following new definitions be, and the same are hereby added to Section 8.9.104, Kootenai County Code, as follows:

DOCK LOT: A parcel on the shoreline of a lake or river which derives its value primarily from its appurtenant riparian rights, including, without limitation, eligibility for a dock permit issued by the Idaho Department of Lands. Standards and limitations regarding access to and use of dock lots shall be as set forth in section 8.4.1410 of this title.

DOMESTIC FOWL: Any domestic bird, including chickens, turkeys, ducks, geese, pigeons, peacocks, and guineas.

**SECTION 74.** That the following new definition be, and the same is hereby added to Section 8.9.202, Kootenai County Code, as follows:

FOOTPRINT: The outline of the total area covered by a building's perimeter at ground level.

**SECTION 75.** That the following new definition be, and the same is hereby added to Section 8.9.204, Kootenai County Code, as follows:

HELIPAD: A landing area or platform for helicopters. While helicopters are able to operate on a variety of relatively flat surfaces, a fabricated helipad provides a clearly marked hard surface away from obstacles where helicopters can land safely.

**SECTION 76.** That the following definition in Section 8.9.301, Kootenai County Code, be, and the same is hereby amended as follows:

LIVESTOCK: Any large domestic or farm- or ranch-raised animal, without limitation, horses, cattle, pigs, sheep, goats, llamas, elk, bison, and other similar domestic animals. ~~chickens, turkeys, etc.~~ This definition does not include domestic fowl or potbellied pigs kept as pets.

**SECTION 77.** That the following definition in Section 8.9.304, Kootenai County Code, be, and the same is hereby amended as follows:

OUTDOOR RECREATIONAL FACILITIES: Areas designed for active recreation, whether publicly or privately owned, which may include, without limitation, baseball diamonds, soccer and football fields, golf courses, tennis courts, swimming pools, outdoor riding arenas, and similar places of assembly for outdoor recreational activities. ~~This definition shall also include private recreational facilities accessory to single or multiple family dwelling properties.~~

**SECTION 78.** That the following definition in Section 8.9.403, Kootenai County Code, be, and the same is hereby amended as follows:

SENSITIVE AREAS: Any of the following areas:

1. Land in, or within three hundred feet (300') of wetlands, streams, lakes, or other surface water bodies; or
2. Areas where the water table is within six feet (6') of ground surface at any time of the year; or

3. Areas with slopes of twenty-five percent (25%) or greater, or that exhibit signs of instability;  
or

4. Soils identified by the Idaho Geological Survey as colluviums or residuum; or

~~5. Habitat for rare, threatened or endangered plants or animals, as determined by the Idaho Department of Fish and Game or the U.S. Fish and Wildlife Service; or~~

~~56.~~ Areas where the ground surface is within fifty feet (50') of an unconsolidated sand or gravel aquifer; or

~~67.~~ Special flood hazard areas; or

~~78.~~ Historic or archaeological resources identified as such by the Historic Preservation Commission, or by any federal, state, tribal or local agency with jurisdiction.

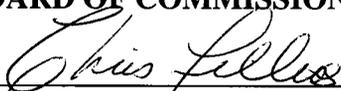
**SECTION 79.** If any section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 80.** Neither the adoption of this Ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the Kootenai County Board of Commissioners or the validity of any such action to be taken upon matters pending before the Kootenai County Board of Commissioners on the effective date of this Ordinance.

**SECTION 81.** This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the *Coeur d'Alene Press*.

ADOPTED this 17<sup>th</sup> day of OCTOBER, 2019.

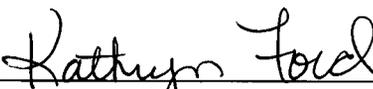
**KOOTENAI COUNTY  
BOARD OF COMMISSIONERS**

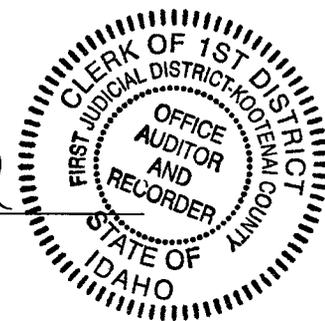
  
Chris Fillios, Chairman

Excused  
Leslie Duncan, Commissioner

  
Bill Brooks, Commissioner

**ATTEST:**  
JIM BRANNON, CLERK

By:   
Deputy Clerk



Publication Date: OCTOBER 22, 2019