KOOTENAI COUNTY
LAND USE AND DEVELOPMENT CODE

TITLE 8
KOOTENAI COUNTY CODE

Ordinance No. 493, as amended

October 22, 2019

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TABLE OF AMENDMENTS

KOOTENAI COUNTY LAND USE AND DEVELOPMENT CODE
TITLE 8, KOOTENAI COUNTY CODE

Ord. No.	Case No.	Description	Sections Affected	Effective Date
493	ORA14-0004	Original Enactment of Land Use and Development Code	All	June 14, 2016
513	ORA17-0001	Zoning Map Amendment Standards	8.1.405	Oct. 4, 2017
514	ORA17-0003	Omnibus Amendments	8.1.404, 8.2.105, 8.2.106, 8.2.109, 8.2.204, 8.2.205, 8.2.208, 8.2.304, 8.2.305, 8.2.306, 8.2.308, 8.2.309, 8.2.404, 8.2.405, 8.2.407, 8.2.410, 8.2.504, 8.2.603, 8.2.703, 8.2.706, 8.2.803, 8.2.807, 8.2.808, 8.2.903, 8.2.907, 8.4.301, 8.4.403 (new), 8.4.603, 8.4.703, 8.4.1106, 8.5.134 (new), 8.5.206, 8.6.103, 8.6.503, 8.8.703, 8.9.101, 8.9.102, 8.9.301, 8.9.401, 8.9.402, 8.9.403, 8.9.502; Tables 2-1101, 2-1103, 2-1105, 2-1106, 2-1107	Oct. 4, 2017
517	ORA17-0004	Second Set of Omnibus Amendments	8.2.105, 8.2.106, 8.2.109, 8.2.203, 8.2.204, 8.2.205, 8.2.208, 8.2.304, 8.2.305, 8.2.306, 8.2.309, 8.2.404, 8.2.405, 8.2.406, 8.2.407, 8.2.410, 8.2.504, 8.2.507, 8.2.606, 8.2.705, 8.4.1303, 8.4.1106, 8.5.134, 8.5.135 (new), 8.8.402, 8.9.501, 8.9.502; Tables 2-1102, 2-1106	Jan. 31, 2018

Ord. No.	Case No.	Description	Sections Affected	Effective Date
518	ORA17-0006	Conservation Subdivision Density	8.2.303, 8.6.602	Feb. 27, 2018
519	ORA18-0001	Expansion of Allowed Zones for Transitional Group Housing Facilities	8.2.705, 8.2.807, 8.5.135; Table 2-1102	Feb. 27, 2018
545	ORA17-0002	Flood Damage Prevention	8.1.103, 8.7.201, 8.7.202, 8.7.203, 8.7.204, 8.7.205, Renumbering of 8.7.206 as 8.7.207, 8.7.206 (new), 8.8.203, 8.9.102, 8.9.104, 8.9.201, 8.9.202, 8.9.204, 8.9.301, 8.9.303, 8.9.401, 8.9.402, 8.9.403	Oct. 9, 2019
546	ORA18-0003	Third Set of Omnibus Amendments	8.2.105, 8.2.110, 8.2.204, 8.2.209, 8.2.304, 8.2.305, 8.2.306, 8.2.307, 8.2.310, 8.2.404, 8.2.405, 8.2.406, 8.2.407, 8.2.408, 8.2.411, 8.2.505, 8.2.603, 8.2.606, 8.2.703, 8.2.705, 8.2.803, 8.2.807, 8.2.903, 8.2.906, 8.3.311, 8.3.313, 8.4.603, 8.4.805, 8.4.1004, 8.4.1402, 8.4.1410 (new), 8.5.104, 8.5.125, 8.5.127, 8.5.136 (new), 8.5.202, 8.6.103, 8.6.203, 8.6.206, 8.6.302, 8.6.303, 8.6.401, 8.6.402, 8.6.403, 8.6.404, 8.6.405 (new), 8.6.502, 8.6.503, 8.6.707, 8.6.708, 8.6.808 (new), 8.7.101, 8.7.102, 8.7.106, Renumbering of 8.7.108 as 8.7.110, 8.7.108 (new), 8.7.109 (new), 8.7.109 (renumbered as 8.7.111), 8.7.110 (renumbered as 8.7.112), 8.7.111 (renumbered as 8.7.113), Renumbering of 8.7.112 as 8.7.114 (*continued on next page*)	Oct. 22, 2019

Ord. No.	Case No.	Description	Sections Affected	Effective Date
546	ORA18-0003	Third Set of Omnibus Amendments (*continued*)	Renumbering of 8.7.113 as 8.7.115 8.7.114 (renumbered as 8.7.116), 8.7.115 (renumbered as 8.7.117), 8.8.201, 8.8.202, 8.8.203, 8.8.402, 8.8.605 (new), 8.8.606 (new), 8.9.103, 8.9.104, 8.9.202, 8.9.204, 8.9.301, 8.9.304, 8.9.403; Table 6-301 (new), Table 8-401	Oct. 22, 2019

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CHAPTER 1
GENERAL PROVISIONS

Article 1.1 Title, Authority, Purpose, and Applicability

8.1.101: TITLE: This title shall be known as the Kootenai County Land Use and Development Code.

8.1.102: AUTHORITY: In addition to the general authorities set out in section 1-1-2 of this code, the provisions of this title are authorized under Title 31, Chapter 7, Idaho Code, Title 46, Chapter 10, Idaho Code, Title 50, Chapter 13, Idaho Code, and Title 67, Chapter 65, Idaho Code, as amended or subsequently codified. This title is adopted for the purpose of promoting the health, safety, and general welfare of the citizens of Kootenai County, Idaho in accordance with Article XII, Section 2 of the Idaho Constitution.

8.1.103: PURPOSE: The purposes of this title are as follows:

A. To promote the health, safety and the general welfare of the citizens of Kootenai County;

B. To protect and promote property rights and enhance property values, while also ensuring that the use of property does not unduly interfere with the lawful use and enjoyment of other properties;

C. To comply with the requirements of the Local Land Use Planning Act, Title 67, Chapter 65, Idaho Code, and to carry out its intent and purposes;

D. To carry out the goals and policies of the Kootenai County Comprehensive Plan;

E. To establish zoning districts within Kootenai County in conformance with section 67-6511, Idaho Code, and in accordance with the goals and policies of the Kootenai County Comprehensive Plan;

F. To provide standards for the orderly growth and development of Kootenai County and to avoid undue concentration of population and overcrowding of land;

G. To ensure that development:

1. Is performed in conformance with Idaho Code, the requirements of this title, and the requirements of other agencies with jurisdiction;

2. Mitigates negative environmental, social and economic impacts;

3. Creates buildable lots of reasonable utility and livability;

4. Aids in the establishment of a transportation system that is safe, efficient, cost effective, and minimizes congestion;

5. Provides for adequate and affordable fire, water, sewer, stormwater and other services;

6. Encourages the conservation of open space and environmentally sensitive areas.

H. To protect property, surface water, and ground water against significant adverse effects from excavation, filling, clearing, unstable earthworks, soil erosion, sedimentation, and stormwater collection and runoff;

I. To provide maximum safety in the development and design of building sites, roads, and other service amenities.

J. To minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;

2. To minimize expenditure of public money and costly flood control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;

6. To help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future flood blight areas;

7. To ensure that potential buyers are notified that property is in a special flood hazard area;

8. To ensure that those who occupy special flood hazard areas assume responsibility for their actions; and

9. To meet Federal requirements so Kootenai County may participate in the National Flood Insurance Program.

K. To provide a method of administration and enforcement of the provisions of this title.

L. To ensure that all property owners and affected persons are afforded due process of law. (Ord. 545, 10-9-19)

8.1.104: APPLICABILITY: The provisions of this title shall apply to all property located within the unincorporated areas of Kootenai County, Idaho, with the following exceptions:

A. Lands owned by the federal government or any agency thereof;

B. Lands located within the exterior boundaries of the Coeur d'Alene Indian Reservation which are owned by the Coeur d'Alene Tribe, or any enrolled member thereof, or by the federal government in trust for the Tribe or any enrolled member thereof; and

C. Lands owned by the State of Idaho that are:

1. School endowment lands;

2. Transportation systems of statewide importance, as determined by the Idaho Transportation Board; or

3. Submerged lands under the jurisdiction of the Idaho Department of Lands.

8.1.105: DISCRETIONARY FUNCTION: The regulation of land use and the enforcement thereof, as set forth in the provisions of this title, are hereby declared to be discretionary functions and duties of county government within the meaning of section 6-904, Idaho Code.

8.1.106: VESTING: All applications for permits or approvals made pursuant to the provisions of this title shall be governed by the rules and policies in effect as of the day on which a complete application is submitted to the Department. Vesting may be waived in writing by the applicant, but in executing such waiver, the applicant must agree that the application will be subject to all of the then-current provisions of this title as of the date on which the waiver was submitted to the Department.

Article 1.2 Rules of Interpretation

8.1.201: INTERPRETATION: Except when the context clearly indicates otherwise, the provisions of this title shall be observed and applied as follows:

A. Words used in the present tense shall include the future tense.

B. Words used in the singular number shall include the plural number and the plural the singular.

C. The words "shall" and "must" are mandatory.

D. The word "may" is permissive, and indicates the ability to exercise sound discretion. "Sound discretion" involves the following:

1. Recognizing a matter as discretionary;

2. Acting within the outer boundaries of that discretion and consistently with any legal standards applicable to specific choices; and

3. Reaching a decision through an exercise of reason.

E. The phrase "used for" shall include the phrases "arranged for," "designed for," "maintained for," and "occupied for."

8.1.202: MINIMUM AND UNIFORM:

A. The requirements of this title will be held to be minimum requirements, in that whenever the provisions of any other duly adopted statute, ordinance, or regulation require more restrictive standards than those contained in this title, the provisions of such standards shall govern and, in any event, the applicant or proponent may voluntarily elect to incorporate more restrictive standards than might otherwise apply.

B. The provisions of this title shall be applied in a uniform manner. Provisions which apply to a particular zone shall apply uniformly within that zone.

C. The provisions of this title shall be interpreted:

1. In a manner that best carries out the purpose and intent of the zones adopted herein, as shown on the Official Zoning Map of Kootenai County;

2. In accordance with the Kootenai County Comprehensive Plan; and

3. In a manner consistent with applicable federal and state law.

8.1.203: COMPLIANCE WITH ZONING REGULATIONS REQUIRED: Subject to the provisions of chapter 8, article 8.7 of this title, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the provisions of this title which apply in the zone in which it is located, except to the extent that such provisions may be preempted under applicable Federal or State law, or fully covered by other applicable laws or regulations (where, in the case of a conflict, such laws or regulations shall apply).

8.1.204: COORDINATION WITH OTHER ORDINANCES: The provisions of the Kootenai County Building Code Ordinance, Title 7, Chapter 1 of this code, and all codes adopted by reference therein, shall remain in effect under the administration of the Director to the extent that they regulate the construction of buildings or other structures. If any conflict occurs between provisions of this title, or between a provision of this title and a provision of Title 7, Chapter 1 of this code, the more restrictive provision shall take precedence.

Article 1.3 Official Zoning Map

8.1.301: OFFICIAL ZONING MAP:

A. The County shall be divided into zones as established herein, with the zones applying to individual properties being as shown on the Official Zoning Map of Kootenai County, Idaho ("Official Zoning Map"). The then-current Official Zoning Map, together with all explanatory matter thereon, is hereby adopted and incorporated into this title by reference herein.

B. The Official Zoning Map shall be identified by the physical or electronic signature of the Chairman of the Board, attested by the County Clerk:

> "This is to verify that this is the Official Zoning Map of Kootenai County, Idaho referred to in Title 8 of the Kootenai County Code last adopted on [date of last adoption or amendment]."

C. Changes in boundaries of zones shall be made by ordinance after duly noticed public hearing as prescribed by Idaho Code and Chapter 8, Article 8.4 of this title. Upon adoption and publication of such amendment ordinance, said changes shall be made on the Official Zoning Map, along with a notation of the date, file number(s), and initials of the person making the changes.

D. The Official Zoning Map shall be in electronic format available for public viewing on the County website. The Official Zoning Map shall be continuously updated as changes in zoning are approved by the Board. The Official Zoning Map, as updated, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County. One or more physical reproductions of the Official Zoning Map shall be located in the Office of Kootenai County Community Development. Any reproductions of the Official Zoning Map shall be true and correct reproductions of the Official Zoning Map to the greatest extent possible (with the exception of signatures), but any such reproductions shall not be considered official.

8.1.302: REPLACEMENT OF OFFICIAL ZONING MAP:

A. In the event that the Official Zoning Map is destroyed, lost, or becomes irreparably damaged, compromised, or difficult to interpret, the Board may, by ordinance, adopt a new Official Zoning Map which shall supersede all previously adopted Official Zoning Maps. The new Official Zoning Map may correct drafting or other errors or omissions contained in any previously adopted Official Zoning Map. The new Official Zoning Map shall be identified by the physical or electronic signature of the Chairman of the Board, attested by the County Clerk, as follows:

> "This is to verify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of Adoption of map being replaced) as part of Title 8 of the County Code of Kootenai County, Idaho."

B. Except in the event of total loss or destruction, all previously adopted versions of the Official Zoning Map, or any remaining significant parts thereof, shall be preserved together with all available records pertaining to its adoption or amendment.

8.1.303: RULES AND INTERPRETATION: Where uncertainty exists as to the boundaries of zone, as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines;

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

C. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

D. Boundaries indicated as following railroad lines shall be construed to follow the centerline of the railroad right-of-way;

E. Boundaries indicated as following a shoreline of a lake or reservoir shall be construed to follow the ordinary high water mark of that lake or reservoir. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;

F. Boundaries indicated as parallel to or extensions of features indicated in Subsections "A" through "E" above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map;

G. Boundaries indicated as following Section or Township lines shall be construed as following such Section or Township lines;

H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections "A" through "G" above, the Director shall provide an interpretation regarding the location of the zone boundary upon written request of an affected person.

I. If a zone boundary line divides a parcel, the Director may permit the entire parcel to be included in one of the zones that then apply to that parcel so that only one zone and its associated regulations will apply to that parcel.

Article 1.4 Amendments

8.1.401: AMENDMENTS TO TEXT:

A. Amendments to any provision of the text of this title may be proposed by any person at any time. Text amendments may also be initiated by Department staff, the Planning Commission, or the Board. An application for a text amendment other than one initiated by Department staff, the Planning Commission, or the Board, must be in writing on a form approved by the Department, must include the appropriate application fee, and must also include a narrative addressing the following:

1. The nature of the proposed amendment, clearly showing the language to be added, amended, or repealed, and the conditions supporting the proposed amendment.

2. Facts to justify the proposed amendment on the basis of advancing public health, safety, and general welfare.

3. The effect the proposed amendment will have on property rights, hazardous or sensitive areas, community design, neighborhood character, delivery of public services and utilities, etc. with respect to properties potentially affected by the proposed amendment.

4. The potential effects of denial of the proposed amendment.

5. How the proposed amendment would be in accordance with the Comprehensive Plan.

B. For text amendments initiated by Department staff, the Planning Commission, or the Board, Department staff shall prepare a report detailing the above-listed considerations.

C. The Department shall schedule a public hearing on a proposed text amendment before the Commission for its consideration and recommendation. In the event the Commission finds that it is inclined to recommend a material change to the proposed text amendment, it may include that material change in its recommendation to the Board, or may direct the Department to schedule a second public hearing before the Commission on the proposed change. The notice for the second public hearing shall include both the proposed text amendment and the proposed change.

D. Upon receipt of the Commission's recommendation, the Department shall schedule a public hearing before the Board for consideration of the proposed amendment and the recommendation of the Commission. In the event the Board finds that it is inclined to make a material change to the recommendation of the Commission, the Department shall schedule a second public hearing before the Board on the proposed change. The notice for the second public hearing shall include both the recommendation of the Commission and the proposed change.

8.1.402: AMENDMENTS TO OFFICIAL ZONING MAP:

A. An application for an amendment to the Official Zoning Map may be made by any owner or person with a *bona fide* interest in the property that is the subject of the proposed amendment. The application must be in writing on a form approved by the Department, must include the appropriate application fee, and must also include a narrative addressing the following:

1. The existing zoning of the property, and the date on which that zoning became effective.

2. The nature of the proposed amendment.

3. The circumstances which justify the proposed amendment. These may include, without limitation, changes in conditions or changes to the Comprehensive Plan or this title since the existing zoning was adopted, or that the existing zoning was made in error.

4. Why the proposed amendment promotes the public health, safety, and general welfare.

5. The effect the proposed amendment will have on the property that is the subject of the proposed amendment, and on the property rights, value and character of neighboring properties.

6. The effect on the property owner if the proposed amendment is not granted.

7. Why the proposed amendment would not be in conflict with the Comprehensive Plan.

8. Authorization for application by the owner of record of the affected property, if not the applicant.

B. Amendments to the Official Zoning Map may also be initiated by Department staff, the Planning Commission, or the Board.

C. A proposed amendment to the Official Zoning Map which is county-wide or area-wide in scope, or involves the potential rezoning of multiple parcels, shall initially be heard before the Commission, and proceedings on such amendments shall be deemed to be legislative in nature. A proposed amendment to the Official Zoning Map which is site specific and has been proposed by one or more individual property owners shall initially be heard before a hearing examiner, and proceedings on such amendments shall be deemed to be quasi-judicial in nature.

D. The Department shall schedule a public hearing on a proposed amendment to the Official Zoning Map before the appropriate hearing body for its consideration and recommendation. In the event the hearing body finds that it is inclined to recommend a material change to the proposed amendment, it may include that material change in its recommendation to the Board, or may direct the Department to schedule a second public hearing before the hearing body on the proposed change. The notice for the second public hearing shall include both the proposed amendment and the proposed change.

E. Upon receipt of the hearing body's recommendation, the Department shall schedule a public hearing before the Board for consideration of the proposed amendment and the recommendation of the hearing body. In the event the Board finds that it is inclined to make a material change to the recommendation of the hearing body, the Department shall schedule a second public hearing before the Board on the proposed change. The notice for the second public hearing shall include both the recommendation of the Commission and the proposed change.

8.1.403: REQUIRED NOTICE AND PUBLIC HEARING PROCEDURES: The notice requirements and procedures for legislative public hearings, as set forth in section 67-6509, Idaho Code and in Chapter 8, Article 8.4 of this title, shall apply to all public hearings to consider a proposed amendment to the text of this title or to the Official Zoning Map.

8.1.404: REQUIRED FINDINGS FOR TEXT AMENDMENTS:

A. Before a proposed amendment to the text of this title can be approved, the Board must find that the proposed amendment is not in conflict with the policies set forth in the Comprehensive Plan.

B. Standards pertaining to overlay zoning districts shall not be approved unless they are clear and objective, and can be applied in a manner which does not constitute a regulatory taking pursuant to Idaho or federal law. (Ord. 514, 10-4-17)

8.1.405: REQUIRED FINDINGS FOR AMENDMENTS TO THE OFFICIAL ZONING MAP:

A. Before a proposed change to the Official Zoning Map can be approved, the Board must make the following findings:

1. The applicant has demonstrated sufficient justification for the proposed change based on the requirements of subsection 8.1.402(A) of this article.

2. The proposed change is generally consistent with the land use designation in the Comprehensive Plan which applies to the subject property.

3. The proposed change is generally compatible with the present and reasonably expected future land uses within the vicinity of the subject property.

4. The proposed change is supported by adequate infrastructure for the range of uses allowed in the proposed zone, or will be supported by infrastructure reasonably expected to be adequate to support such uses in the near future.

5. After giving particular consideration to the effects of the proposed zone change upon the delivery of public services provided by political subdivisions, including school districts, within the County, the proposed zone change will not result in demonstrably adverse impacts upon the delivery of those services.

6. The proposed change will not have a materially adverse effect on the value, character, or use and enjoyment of neighboring properties.

7. Denial of the proposed change would have a materially adverse effect on the use and enjoyment of the property which is the subject of the application.

8. The proposed change is not in conflict with the policies set forth in the Comprehensive Plan.

9. The subject property is suitable for the proposed zoning.

10. The proposed zone change will not be materially detrimental to or endanger the public health, safety or general welfare.

11. The proposed change will not result in undue traffic congestion or traffic hazards.

B. For purposes of this section, "vicinity" shall mean the neighborhood, district, or area surrounding or in close proximity to the subject property. "Vicinity" does not imply a definite distance, but would generally be expected to increase in proportion to the size of the subject property or the intensity of the uses permitted in the proposed zone as compared to the existing zone.

C. If the proposed change to the Official Zoning Map is not approved, the Board may remand the matter to the Planning Commission to consider a proposal to amend the Comprehensive Plan pertaining to that property under the notice and hearing procedures provided in section 67-6509, Idaho Code and in Chapter 8, Article 8.4 of this title. If the Comprehensive Plan amendment is approved, the Board shall then hold a public hearing and make a decision on the proposed change to the Official Zoning Map. (Ord. 513, 10-4-17)

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CHAPTER 2
GENERAL ZONING DESIGNATIONS AND USES

Article 2.1 Agricultural Zone

8.2.101: GENERAL DESCRIPTION: The Agricultural zone is a zoning district in which the land has been found to be suitable for uses related to farming, agriculture, forestry, silviculture, aquaculture, and other similar uses.

8.2.102: RESTRICTIONS:

A. In the Agricultural zone, no building or premises shall be used, nor shall any building or structure hereafter erected or altered (unless provided in this title), except for one or more of the following uses in accordance with the standards set forth or referenced in this article; provided, however, that those standards shall not be in conflict with section 67-6529, Idaho Code, which reads in part: "No power granted hereby shall be construed to empower a board of county commissioners to enact any ordinance or resolution which deprives any owner of full and complete use of agricultural land for production of any agricultural product." For purposes of this title, agricultural land is defined as a tract of land containing not less than five (5.00) acres, including canal and railroad rights-of-way, used exclusively for agricultural purposes.

B. Subdivisions are prohibited in the Agricultural zone. This prohibition shall not apply to divisions of land exempted from the requirements of chapter 6 of this title pursuant to section 8.6.103 of this title.

8.2.103: LOT SIZE REQUIREMENTS: The minimum size for lots or parcels in the Agricultural zone created on or after January 3, 1973 shall be five (5.00) acres.

8.2.104: EXISTING CEMETERIES: Any cemetery existing as of June 9, 2016 shall be regarded as a conforming use; provided, however, that expansion of any such cemetery shall comply with the applicable provisions of Idaho Code.

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 lot area for the keeping of livestock shall be three-fourths (¾) 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 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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

8.2.106: 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 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.

2. Sales of agricultural products produced on the premises or on parcels under common ownership. The amount of space dedicated to such use shall not exceed three hundred (300) square feet of building area.

3. One (1) single-family dwelling, which may be a Class A or Class B manufactured home, or one (1) two-family dwelling.

4. Publicly-owned parks, playgrounds, and recreational facilities.

5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.

6. Processing plants, feed mills, packing plants, and warehouses for the purpose of processing, packing, and storage of agricultural products, employing regularly not more than ten (10) persons, but excluding meat, poultry, slaughterhouses, and commercial fertilizer manufacturing.

7. Dairy product manufacturing facilities.

8. Cemeteries, provided that they meet all standards of the Idaho Code and are approved by the Panhandle Health District.

9. Public safety wireless communications facilities.

10. Utility Complexes.

11. 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 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.

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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

8.2.107: 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.

8.2.108: SETBACKS: The following setbacks shall apply to all structures in the Agricultural zone:

Structure Type	Setback Type	Distance
Residential structures	Front yard	25 feet
	Side yard	10 feet
	Side yard, with an alley	6 feet
	Rear yard	25 feet
	Flanking Street	15 feet
Accessory buildings and personal storage buildings	Front yard	25 feet
	Side yard	10 feet
	Side yard, with an alley	6 feet
	Rear yard	15 feet
	Flanking Street	15 feet
All other allowed structures	Front yard	30 feet
	Side yard	30 feet
	Rear yard	30 feet
	Flanking Street	25 feet

8.2.109: USES REQUIRING A CONDITIONAL USE PERMIT:

Agricultural Products Sales Stores

Airports or Airstrips

Automobile Wrecking Yards or Junkyards

Child Care Centers, Preschools, or Head Start Facilities

Commercial Fur Farms

Commercial Kennels

Commercial Resorts

Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities

Feedlots

Fish Hatcheries or Fish Farms (Aquacultural facilities)

Golf Courses or Driving Ranges

Gun Clubs, Rifle Ranges, or Archery Ranges

Hospitals

Mini-Storage Facilities or Rental Warehouses

Nonprofit Trade or Business Associations

Places of Worship or Assembly

Privately Owned Recreational Facilities which are open to public use

Public Safety Facilities or Public Service Facilities

Racetracks

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches.

Restricted Surface Mining Operations

Schools

Sawmills, Shingle or Planing Mills, or Woodworking Plants

Slaughterhouses or Rendering Plants

Special Event Locations

Veterinary Hospitals or Clinics

Wholesale Greenhouses

Wireless Communication Facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

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 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. (Ord. 546, 10-22-19)

Article 2.2 Rural Zone

8.2.201: GENERAL DESCRIPTION: The Rural zone is a zoning district in which the land has been found to be suitable for rural residential uses and uses related to agricultural pursuits, including farming and forestry.

8.2.202: RESTRICTIONS: In the Rural zone, no building or premises shall be used, nor shall any building or structure hereafter be erected or altered (unless provided in this title) except for the following uses in accordance with the standards set forth or referenced in this article.

8.2.203: LOT SIZE, DENSITY AND SITE AREA: The minimum lot size in the Rural zone, except in conservation subdivisions, shall be five (5.00) acres. (Ord. 517, 1-31-18)

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 (¾) 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 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 8.2.209 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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

8.2.205: 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 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.

2. Sales of agricultural products produced on the premises or on parcels under common ownership. The amount of space dedicated to such use shall not exceed three hundred (300) square feet of building area.

3. One (1) single-family dwelling, which may be a Class A or Class B manufactured home, or one (1) two-family dwelling.

4. Publicly-owned parks, playgrounds, and recreational facilities.

5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.

6. Cemeteries, provided that they meet all standards of the Idaho Code and are approved by Panhandle Health District.

7. Public safety wireless communications facilities.

8. 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 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.

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.

E. Continued operation of airports or airstrips that were in existence on June 9, 2016. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

8.2.206: 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.

8.2.207: SETBACKS: The following setbacks shall apply to all structures in the Rural zone:

Setback Type	Distance
Front yard	25 feet
Side yard	10 feet
Rear yard	15 feet
Flanking Street	15 feet

8.2.208: USES REQUIRING A CONDITIONAL USE PERMIT:

Agricultural Products Sales Stores

Airports or Airstrips

Asphalt or Concrete Batch Plants

Automobile Wrecking Yards or Junkyards

Child Care Centers, Preschools, or Head Start Facilities

Commercial Fur Farms

Commercial Kennels

Commercial Resorts

Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities

Explosive Manufacturing or Storage Facilities

Golf Courses or Driving Ranges

Gun Clubs, Rifle Ranges, or Archery Ranges

Hospitals

Mini-Storage Facilities or Rental Warehouses

Nonprofit Trade or Business Associations

Outdoor Theaters

Places of Worship or Assembly

Privately Owned Recreational Facilities which are open to public use

Public Utility Complex Facilities

Public Safety Facilities or Public Service Facilities

Racetracks

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches.

Restricted Surface Mining Operations

Sawmills, Shingle or Planing Mills, or Woodworking Plants

Schools

Special Event Locations

Veterinary Hospitals or Clinics

Wholesale Greenhouses

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

Zoos (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

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 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. (Ord. 546, 10-22-19)

Article 2.3 Agricultural Suburban Zone

8.2.301: GENERAL DESCRIPTION: The Agricultural Suburban zone is a zoning district in which the land has been found to be suitable for residential and small-scale agricultural uses.

8.2.302: RESTRICTIONS: In the Agricultural Suburban zone, no building or premises shall be used, nor shall any building or structure hereafter be erected or altered (unless provided in this title), except for the following uses in accordance with the standards set forth in this article.

8.2.303: LOT SIZE, DENSITY AND SITE AREA: The minimum lot size in the Agricultural Suburban zone, except in conservation subdivisions, shall be two (2.00) acres. (Ord. 518, 2-27-18)

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. Primary uses permitted of right shall be limited to one (1) single-family dwelling, which may be a Class A manufactured home, utility services, and public safety facilities.

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. (Ord. 546, 10-22-19)

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 (¾) 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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

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 (¾) 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 of 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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

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. (Ord. 546, 10-22-19)

8.2.308: SETBACKS AND OFF-STREET PARKING:

A. The following setbacks shall apply to all structures in the Agricultural Suburban zone:

Structure Type	Setback Type	Distance
Residential structures	Front yard	25 feet
	Side yard	10 feet
	Side yard, with an alley	6 feet
	Rear yard	25 feet
	Flanking Street	15 feet
Accessory buildings and personal storage buildings	Front yard	25 feet
	Side yard	10 feet
	Side yard, with an alley	6 feet
	Rear yard	15 feet
	Flanking Street	15 feet
All other allowed structures	Front yard	30 feet
	Side yard	30 feet
	Rear yard	30 feet
	Flanking Street	25 feet

B. Off-Street Parking. Standards for off-street parking are set forth in section 8.4.1301 of this title. (Ord. 514, 10-4-17)

8.2.309: USES REQUIRING A CONDITIONAL USE PERMIT:

Cemeteries

Child Care Centers, Preschools, or Head Start Facilities

Commercial Kennels

Commercial Resorts

Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities

Golf Courses or Driving Ranges

Hospitals

Medical or Dental Clinics

Mini-Storage Facilities or Rental Warehouses

Places of Worship or Assembly

Privately-Owned Recreational Facilities which are open to public use

Public Safety Facilities or Public Service Facilities

Public Utility Complex Facilities

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches.

Schools

Veterinary Hospitals or Clinics

Wholesale Greenhouses

Wireless Communication Facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right. The minimum lot size for Wireless Communication Facilities in the Agricultural Suburban zone, including Public Safety Wireless Communication Facilities, shall be two (2) acres. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

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 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. (Ord. 546, 10-22-19)

Article 2.4 Restricted Residential Zone

8.2.401: GENERAL DESCRIPTION: The Restricted Residential zone is a zoning district in which the land has been found to be suitable for residential use which is, or is expected to become, a one- or two-family unit living area. Uses are generally limited to residential uses.

8.2.402: RESTRICTIONS: In the Restricted Residential zone, no building or premises shall be used nor shall any building or structure hereafter be erected or altered (unless provided in this title) except for the following uses in accordance with the standards set forth in this article.

8.2.403: LOT SIZE AND SITE AREA: The minimum lot size in the Restricted Residential Zone shall be 8,250 square feet. The maximum density within the boundaries of Area of City Impact of the City of Hayden Lake shall be one (1) single family dwelling per acre.

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. Primary uses permitted of right shall be limited to one (1) single-family dwelling, which may be a Class A manufactured home, utility services, and public safety facilities.

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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

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.

6. 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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

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. (Ord. 517, 1-31-18; Ord. 546, 10-22-19)

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 all uses shall leave sixty-five percent (65%) of the parcel 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.

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. (Ord. 514, 10-4-17; Ord. 517, 1-31-18; Ord. 546, 10-22-19)

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. (Ord. 546, 10-22-19)

8.2.409: SETBACKS AND OFF-STREET PARKING:

A. The following setbacks shall apply to all structures in the Restricted Residential zone:

Setback Type	Distance
Front yard	25 feet
Side yard	10 feet
Side yard, with an alley	6 feet
Rear yard	25 feet
Flanking Street	15 feet

B. Off-Street Parking. Standards for off-street parking are set forth in section 8.4.1301 of this title.

8.2.410: USES REQUIRING A CONDITIONAL USE PERMIT:

Child Care Centers, Preschools, or Head Start Facilities

Commercial Resorts

Golf Courses or Driving Ranges

Places of Worship or Assembly

Privately Owned Recreational Facilities which are open to public use

Public Safety Facilities or Public Service Facilities

Public Utility Complex Facilities

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches

Schools (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

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) 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. (Ord. 546, 10-22-19)

Article 2.5 High Density Residential Zone

8.2.501: GENERAL DESCRIPTION: The High Density Residential zone is a zoning district in which the land has been found to be suitable for high-density residential uses, including multiple family dwellings, manufactured home units used as single-family residences on individual lots, or manufactured home parks permitted through the issuance of a conditional use permit. The predominant housing type in this zone will be manufactured homes and apartments.

8.2.502: RESTRICTIONS: In the High Density Residential zone, no building or premises shall be used, nor shall any building or structure hereafter be erected or altered (unless provided in this title), except for the following uses in accordance with the standards set forth in this article.

8.2.503: DENSITY: Except as otherwise provided in this section, the maximum density in the High Density Residential zone shall be one (1) dwelling unit per 3,000 square feet.

8.2.504: USES PERMITTED: The following uses are permitted of right, provided that all uses except public safety facilities shall leave sixty-five percent (65%) of the parcel as open space free from structures:

A. Primary Uses:

1. One (1) single-family dwelling or one (1) two-family dwelling. On parcels of not less than six thousand (6,000) square feet with frontage on a public road, one (1) Class A or Class B manufactured home may be used as a single-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. Multiple-family dwellings are permitted of right on parcels of not less than twelve thousand square feet (12,000 sq. ft.) in size with frontage on a public road. There shall be a ratio of not less than three thousand square feet (3,000 sq. ft.) of land per dwelling unit.

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 one (1) recreational vehicle, subject to the standards set forth in section 8.4.401 of this title. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

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. (Ord. 546, 10-22-19)

8.2.506: SETBACKS AND OFF-STREET PARKING:

A. The following setbacks shall apply to all structures in the High Density Residential zone, except within manufactured home parks:

Setback Type	Distance
Front yard	25 feet
Side yard	10 feet
Side yard, with an alley	6 feet
Rear yard	25 feet
Flanking Street	15 feet

B. Off-Street Parking. Standards for off-street parking are set forth in section 8.4.1301 of this title.

8.2.507: USES REQUIRING A CONDITIONAL USE PERMIT:

Any accessory building, structure, or use not located on the same parcel as the primary use, provided that it is located on a parcel within 200 feet of the parcel on which one or more primary uses listed in section 8.2.504 of this article have been established.

Any building, structure, or use to be built prior to the establishment of one or more of the primary uses listed in section 8.2.504 of this article.

Child Care Centers, Preschools, or Head Start Facilities

Golf Courses or Driving Ranges

Manufactured Home Parks

Public Safety Facilities

Public Utility Complex Facilities

Residential Care Facilities

Transitional Group Housing Facilities (Ord. 517, 1-31-18)

8.2.508: USE REQUIRING A SPECIAL NOTICE PERMIT:

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.

Article 2.6 Commercial Zone

8.2.601: GENERAL DESCRIPTION: The Commercial zone is a zoning district in which the land has been found to be suitable for wholesale and retail sales and services.

8.2.602: RESTRICTIONS: In the Commercial zone, no building or premises shall be used, nor any building or structure be hereafter erected or altered (unless provided in this title), except for the following uses in accordance with the standards set forth in this article.

8.2.603: USES PERMITTED: Unless a 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 (¾) 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. 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. (Ord. 514, 10-4-17; Ord. 546, 10-22-19)

8.2.604: 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. Automobile wrecking yards and junk yards.

B. Processing and manufacturing operations are prohibited unless they are part of, and accessory to, the operation of a use permitted pursuant to this article.

C. Sexually oriented businesses.

8.2.605: SETBACKS: The following setbacks shall apply to all structures in the Commercial zone:

Setback Type	Distance
Front yard	35 feet
Side yard	None
Rear yard	20 feet
Flanking Street	15 feet

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 (Ord. 517, 1-31-18; Ord. 546, 10-22-19)

8.2.607: USES REQUIRING A SPECIAL NOTICE PERMIT:

Uses otherwise permitted of right which are anticipated to generate traffic impacts in excess of the following thresholds according to calculations based on the most current edition of the *Trip Generation Manual* issued by the Institute of Transportation Engineers:

1. For sites which access directly onto a State or Federal Highway: 25 vehicles per hour, or 250 vehicles per day.

2. For sites which access onto other public roads: 50 vehicles per day.

Uses otherwise permitted of right which are located on a parcel which fronts a state or federal highway.

Outdoor lighting associated with permitted recreational uses.

One or more railroad cars or truck cargo containers or trailers used for storage or any other purpose not associated with the active operation of a railroad or trucking business.

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

Public Utility Complex Facilities.

Article 2.7 Mining Zone

8.2.701: GENERAL DESCRIPTION: The Mining zone is a zoning district in which the land has been found to be suitable for excavation and processing materials secured from the earth.

8.2.702: RESTRICTIONS: In the Mining zone, no building or premises shall be used, nor shall any building or structure hereafter be erected or altered (unless provided in this title), except for the following uses in accordance with the standards set forth in this article.

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 (¾) 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. (Ord. 546, 10-22-19)

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. (Ord. 546, 10-22-19)

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. (Ord. 514, 10-4-17)

8.2.704: 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. All types of dwelling units.

B. All types of commercial uses.

C. Schools, hospitals, child care centers, preschools, Head Start facilities, places of assembly, places of worship, and cemeteries.

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 (Ord. 517, 1-31-18; Ord. 519, 2-27-18; Ord. 546, 10-22-19)

8.2.706: USES REQUIRING A SPECIAL NOTICE PERMIT:

Asphalt or Concrete Batch Plants.

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

Public Utility Complex Facilities. (Ord. 514, 10-4-17)

Article 2.8 Light Industrial Zone

8.2.801: GENERAL DESCRIPTION: The Light Industrial zone is a zoning district in which the land has been found to be suitable for manufacturing and processing of a non-nuisance character. The purpose of the Light Industrial zone is to encourage the development of manufacturing and wholesale businesses that are clean, quiet, and free of noise, odor, dust, and smoke.

8.2.802: RESTRICTIONS: In the Light Industrial zone, no building or premises shall be used, nor shall any building or structure hereafter be erected or altered (unless provided in this title), except for the following uses in accordance with the standards set forth in this article.

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 (¾) 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. (Ord. 546, 10-22-19)

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. (Ord. 514, 10-4-17; Ord. 546, 10-22-19)

8.2.804: **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. Residential uses.

B. Schools, hospitals, child care centers, preschools, Head Start facilities, places of assembly, places of worship, and cemeteries.

C. Sexually oriented businesses.

D. Stockyards, tanneries, wool scouring and cleaning, cotton textile sizing, scouring, leaching, dyeing, and similar uses.

E. The production of soap, glue, paper, varnish, or creosote.

F. The production of corrosive and noxious chemicals, including, without limitation, acids, acetylene gas, ammonia, chlorine, and bleaching compounds.

G. The production and process of coal and coal tar, the processing of petroleum and petroleum products, and petroleum refining.

H. Mining, extraction, filling, and soil-stripping operations.

I. The preparation and processing of dust-producing mineral products including, without limitation, abrasives, cement, lime, fertilizer, plaster, crushed stone, sand, gravel, and topsoil.

J. The smelting and reduction of metallic ores, including, without limitation, blast furnaces, open hearth, and electric furnaces, bessemer converters, and non-ferrous metal smelters.

K. The manufacture and storage of explosive products, including, without limitation, dynamite, commercial explosives, TNT, military explosives, and fireworks.

8.2.805: SETBACKS:

A. Setback table and exceptions.

Structure Type	Setback Type	Distance
Publicly-owned uses and privately-owned uses open to the public	Front yard	35 feet
	Side yard	None*
	Rear yard	35 feet
	Flanking Street	20 feet
Commercial and industrial buildings	Front yard	35 feet
	Side yard	None**
	Rear yard	15 feet
	Flanking Street	20 feet

* When the use abuts any parcel located in the Agricultural, Rural, Agricultural Suburban, Restricted Residential, or High Density Residential zone, the side yard setback shall be five feet (5') for each story or ten foot (10') height increment, whichever is lower.

** When a commercial or industrial building abuts any parcel located in the Agricultural, Rural, Agricultural Suburban, Restricted Residential, or High Density Residential zone, the side yard shall be five feet (5') for each story or ten foot (10') height increment, whichever is lower.

Example: If the building is four (4) stories, the side yard setback would be twenty feet (20').

B. Building line variations. Where there is an established building line in a Light Industrial zone, a commercial or industrial building may be built on the established building line. The established building line shall be determined by sixty-five percent (65%) of the existing buildings within two hundred feet (200') from each side of the lot.

8.2.806: BUILDING HEIGHT: No building hereafter created or structurally altered in a Light Industrial zone shall exceed three stories or a maximum height of thirty-five (35) feet.

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. (Ord. 514, 10-4-17; Ord. 519, 2-27-18; Ord. 546, 10-22-19)

8.2.808: USES REQUIRING A SPECIAL NOTICE PERMIT:

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.

Public utility complex facilities. (Ord. 514, 10-4-17)

Article 2.9 Industrial Zone

8.2.901: GENERAL DESCRIPTION: The Industrial zone is a zoning district in which the land has been found to be suitable for manufacturing and processing of all types.

8.2.902: RESTRICTIONS: In the Industrial zone, no building or premises shall be used, nor shall any building or structure hereafter be erected or altered (unless provided in this title), except for the following uses in accordance with the standards set forth in this article.

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. (Ord. 546, 10-22-19)

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. (Ord. 514, 10-4-17; Ord. 546, 10-22-19)

8.2.904: 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. Residential and commercial uses.

B. Schools, hospitals, child care centers, preschools, Head Start facilities, places of assembly, places of worship, and cemeteries.

C. Oil and gas exploration, drilling and extraction operations shall be prohibited on all parcels located over the Rathdrum Prairie Aquifer, Chilco Channel Aquifer, or any aquifer recharge area, as determined by Panhandle Health District or the Idaho Department of Environmental Quality.

8.2.905: SETBACKS:

A. Fixed and permanent structures shall have a minimum setback of fifty (50) feet from any property line.

B. If the setback set forth in subsection (A) of this section would result in a clear area greater than twenty (20) percent of the total plant site area, the setback distance shall be reduced to not less than the following minimum distances, providing that the resulting clear area is not less than twenty (20) percent of the total plant site area:

Location of Property Line	Distance
Adjoining a public or private road, easement or right-of-way	50 feet
Adjoining another plant site	25 feet

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. (Ord. 546, 10-22-19)

8.2.907: USES REQUIRING A SPECIAL NOTICE PERMIT:

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.

Public utility complex facilities. (Ord. 514, 10-4-17)

Article 2.10 Classification of New and Unlisted Uses

8.2.1001: PURPOSE: It is recognized that new types of land uses will develop and forms of land use not anticipated may seek to locate in Kootenai County. The procedure set forth in this article is intended to provide a mechanism for consideration of such changes and contingencies.

8.2.1002: PROCEDURE:

A. Authority of Director. The Director may approve the following types of new or unlisted uses under the following circumstances:

1. The Director may find that a new or unlisted use is an accessory use permitted by right if it is customarily incidental to one of the listed primary uses and otherwise complies with the regulations applicable in that zone.

2. The Director may find that a new or unlisted use is similar to, or a lesser form of, an existing use which is permitted of right, or an existing use for which a conditional use permit or special notice permit is required, in one or more particular zones. If the Director determines that the use in question is similar to, or a lesser form of, an existing use, all performance standards, hearing requirements, and other provisions of this title which apply to that existing use shall be met.

3. A determination of the Director made pursuant to this subsection may be appealed in accordance with chapter 8, article 8.5 of this title.

B. Approval of Other New and Unlisted Uses. If the Director determines that the use in question is a new or unlisted use that cannot be approved pursuant to subsection (A) of this section, the following procedure shall apply:

1. The Director shall refer the matter to the Planning Commission, requesting an interpretation as to the zoning most appropriate for the use in question.

2. The referral of the matter shall be accompanied by a statement of facts provided by the applicant, listing the nature and potential impacts of the use in question, including, without limitation, whether it involves dwelling activity, sales, processing, production of a specific product, storage needs, employment of workers, and an accounting of the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated.

3. A public hearing on the matter shall be held before the Planning Commission in accordance with the provisions of section 67-6511, Idaho Code and chapter 8, article 8.4 of this title.

4. The Planning Commission shall consider the nature and potential impacts of the use in question and its compatibility with the uses permitted in each zone, and shall make the following findings in its recommendation to the Board:

a. Whether the use should be prohibited, or whether it should be permitted in at least one zone;

b. The zones in which the use should be permitted;

c. Whether the use should be permitted of right, or whether a conditional use permit or special notice permit should be required; and

d. The performance standards which should be associated with the use.

5. The Planning Commission shall transmit its findings and recommendation to the Board.

6. A public hearing on the matter shall then be held before the Board in accordance with the provisions of section 67-6511, Idaho Code and chapter 8, article 8.4 of this title.

7. The Board shall consider the findings and recommendation of the Planning Commission and determine whether to adopt amendments to this title in accordance with that recommendation. If the Board is inclined to make a material change to the recommendation of the Planning Commission, a second public hearing before the Board must be held before final action is taken. Alternatively, the Board may remand the question to the Planning Commission for further consideration.

Article 2.11 Land Use Tables

8.2.1101: PURPOSE: The purpose of the land use tables contained is this article is to assist the public in determining which uses are allowed in which zones, and what land use permits are required when applicable. In the event of any conflict between any of the tables contained in this article and the substantive language contained in this chapter, the substantive language shall govern.

8.2.1102: SCOPE: The tables set forth in this article are not intended to capture uses allowed on legally created lots of record which are less than the minimum lot size. Such uses are set forth in the regulations which apply to each respective zone.

8.2.1103: TABLE KEY:

A. Zones:

A	Agricultural	C	Commercial
R	Rural	M	Mining
AS	Agricultural Suburban	LI	Light Industrial
RR	Restricted Residential	I	Industrial
HDR	High Density Residential		

B. Classification of Uses Within the Zoning District:

P	Permitted of right	C	Conditional use permit required
A	Administrative approval required	X	Specifically prohibited
S	Special notice permit required		

Table 2-1101
Residential Uses

Use	A	R	AS	RR	HDR	C	M	LI	I
Residential uses, in general							X[10]	X	X
Single family dwelling	P	P	P	P	P[7]	P[1]			
Two-family dwelling (duplex)	P	P	P	P[5]	P	P[1]			
Multiple family dwelling			S		P[6]	P[1]			
Manufactured home park					C				
Class B manufactured home	P	P	S	S	P[7]				
Accessory living unit[2]	A	A	A	A	A				
Temporary hardship use[2]	A	A	A	A	A				
Bed and breakfast inn	P	P	P	P	P				
Home occupation[2]	P	P	P	P	P				
Cottage industry[2, 8]	A	A	A						
Automotive hobby use[2]	P	P	P	P	P				
Non-commercial kennels	P	P	P[8]						
Personal storage building[2, 3]	P[4]	P[4]	P[4]	P[4]	C				
Caretaker's quarters[2]							P		
Accessory buildings[2]	P	P	P	P	P[9]	P			

[1] Maximum density is one (1) dwelling unit per 3,000 sq. ft.
[2] Accessory uses which are permitted after the establishment of a primary use.
[3] One (1) personal storage building is permitted prior to the establishment of a primary use.
[4] A special notice permit may be required if the parcel is under one (1) acre; maximum building size is 5,000 sq. ft.
[5] Minimum parcel size is 9,900 sq. ft.
[6] Minimum parcel size is 12,000 sq. ft.; parcel must have frontage on a public road; maximum density is 3,000 sq. ft. per dwelling unit.
[7] A Class A or Class B manufactured home is permitted if the parcel size is at least 6,000 sq. ft. and the parcel has frontage on a public road.
[8] Minimum parcel size is two (2) acres.
[9] A conditional use permit is required if the use is not on the same parcel as the primary use or is being established prior to the establishment of a primary use on that parcel.
[10] One (1) residential structure for use as a caretaker's quarters is permitted of right. (Ord. 514, 10-4-178; Ord. 519, 2-27-18)

Table 2-1102
Institutional Uses

Use	A	R	AS	RR	HDR	C	M	LI	I
Child care centers, preschools, and Head Start facilities	C	C	C	C	C	P	X	X	X
Places of assembly or worship	C	C	C	C		P	X	X	X
Nonprofit trade or business associations	C	C				P			
Cemeteries	P	P	C			P	X	X	X
Schools	C	C	C	C		P	X	X	X
Hospitals	C	C	C			P	X	X	X
Residential care facilities	C	C	C	C	C	P			
Medical and dental clinics			C			P			
Universities, colleges, or vocational, trade, or private instructional schools						P			
Transitional Group Housing Facilities					C	C	C	C	

(Ord. 517, 1-31-18; Ord. 519, 2-27-18)

Table 2-1103
Uses Related to Agriculture

Use	A	R	AS	RR	HDR	C	M	LI	I
General farming and forestry	P	P	P			P	P	P	
Keeping of livestock[2]	P	P	P	P[1]	X	P	P	P	
Keeping of domestic fowl[3]	P	P	P	P	X				
Sales of agricultural products produced on the premises or on parcels under common ownership (less than 300 sq. ft.)	P	P							
Processing plants, feed mills, packing plants, and warehouses for the purpose of processing, packing, and storage of agricultural products[4]	P								
Dairy product manufacturing	P								
Slaughterhouses or rendering plants	C							C	C
Commercial fur farms	C	C							
Commercial riding arenas or equine training centers	C	C	C						
Agricultural product sales stores	C	C							
Sawmills, shingle or planing mills, or woodworking plants	C	C							
Wholesale greenhouses	C	C	C						
Fish hatcheries or fish farms (aquaculture)	C								
Feedlots	C								

[1] Minimum parcel size is five (5) acres.
[2] Minimum area for this use is three-fourths (¾) acre.
[3] *See* applicable standards in articles 2.1 through 2.4 of this title.
[4] Excluding meat or poultry processing, slaughterhouses, and fertilizer manufacturing. (Ord. 514, 10-4-178; Ord. 519, 2-27-18)

Table 2-1104
Commercial Uses

Use	A	R	AS	RR	HDR	C	M	LI	I
Commercial uses, in general	X	X	X	X	X[1]		X	P	X
Wholesale, retail or service businesses						P		P	
Special event locations	C	C				C	C	C	C
Annual special event locations	S	S	S	S	S	S	S	S	S
Commercial kennels	C	C	C						
Eating or drinking establishments, or other entertainment facilities						P			
Mobile commercial vehicles and temporary commercial structures						P	P	P	P
Public or private office buildings						P		C	
Veterinary clinics or hospitals	C	C	C						
Temporary office for the sale of real estate			P	P	P				
Uses which are anticipated to generate traffic impacts in excess of the thresholds set forth in subsection 8.2.607(A)						S			
Uses located on a parcel which front a state or federal highway						S			

[1] See subsection 8.2.505(A) for exceptions.

Table 2-1105
Lodging, Recreation and Entertainment Uses

Use	A	R	AS	RR	HDR	C	M	LI	I
Hospitality businesses						P			
Temporary or intermittent use of no more than two (2) RVs	P	P	P	P	P[1]				
Commercial resorts	C	C	C	C					
Private resorts	S	S	S	S	S	P			
RV parks						P			
Publicly owned parks, playgrounds, and recreational facilities	P	P	P	P	P	P		P	P
Gun clubs, rifle ranges, and archery ranges	C	C						C	C
Golf courses and driving ranges	C	C	C	C	C	P		P	P
Privately owned recreational facilities open to public use	C	C	C	C		P			
Recreational buildings						P			P
Racetracks	C	C						P	P
Outdoor theaters		C				C			
Zoos		C				C			
Sexually Oriented Businesses						X		X	P
Lighting for any outdoor recreational facility or use	S	S	S	S	S	S		S	S
Resort Lodges, Retreat Centers or Guest Ranches	C	C	C	C		P			

[1] Temporary or intermittent use of only one (1) RV is allowed in the HDR zone. See subsection 8.2.504(C). (Ord. 514, 10-4-17)

Table 2-1106
Communications, Utility and Transportation Uses

Use	A	R	AS	RR	HDR	C	M	LI	I
Public utility complex facilities	S	C	C	C	C	S	S	S	S
Utility complexes	P	S	S	S	S	P	P	P	P
Utility services	P	P	P	P	P	P	P	P	P
Wireless communication facilities (WCFs)	C	C	C[2]			C		C	C
Public safety WCFs	P	P	P[2]			P		P	P
Airports or Airstrips	C	C[1]	X[1]						
Public Safety Facilities	C	C	C	C	C	P	P	P	P
Public Service Facilities	C	C	C	C		P	P	P	P
Helipads, helicopter operation, and storage						P	P	P	P
Solid Waste Transfer Stations that are not Public Utility Complex Facilities						C	C	C	C

[1] Continued operation of airports or airstrips that were in existence on June 9, 2016 are permitted on parcels of five (5.00) acres or more in the R zone, and on parcels of two (2.00) acres or more in the AS zone.
[2] Minimum parcel size is two (2) acres. (Ord. 514, 10-4-17; Ord. 517, 1-31-188; Ord. 519, 2-27-18)

Table 2-1107
Industrial, Storage, Logistical and Mining Uses

Use	A	R	AS	RR	HDR	C	M	LI	I
Trade, industry, or processing facilities									P[1]
Industrial uses	X	X	X	X	X			P[1]	P[1]
Manufacturing uses, in general	X	X	X	X	X	X[2]		P[1]	
Automobile Wrecking/Junkyards	C	C				X		C	C
Sanitary landfills		C					C		
Transfer, storage, and warehouse facilities, and contractor storage[1]						P		P	P
Mini-storage facilities or rental warehouses	C	C	C					P	
Railroad cars or truck cargo containers used for storage	S	S	S			S	P	P	P
Storage for uses other than those permitted in the underlying zone	X	X	X	X	X	X	X	X	X
Storage	Refer to regulations for storage in the applicable zone.								
Stockyards; soap manufacturing; glue manufacturing; tanneries; paper manufacturing; wool scouring and cleaning; cotton textile sizing, scouring, leaching, dyeing, and similar uses; varnish manufacturing; and manufacturing of creosote and related products								X	
Production of corrosive and noxious chemicals								X	
Asphalt or concrete batch plants		C					S		
Cement, gypsum or asphalt plant									C
Oil and gas exploration and extraction								X	P[3]
Oil and gas processing and refining								X	
Production of dust producing mineral products								X	
Smelting and reduction of metallic ores								X	
Manufacturing and storage of explosives		C						X	C
Above-ground storage of up to 5,000 gallons of petroleum products								P	P
Above-ground storage of over 5,000 gallons of petroleum products								C	C
Restricted surface mining	C	C						X	C
Surface and subsurface mining operations, including processing of materials, necessary plants and offices, equipment, storage space, and other directly related facilities							P	X	C[4]

[1] Uses must comply with applicable performance standards.
[2] Uses are permitted if they are accessory to a permitted use.
[3] Except as prohibited in Section 8.2.904.
[4] Surface mining only.
[5] Contractor storage may also be allowed as part of a cottage industry permit. (Ord. 514, 10-4-17)

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CHAPTER 3
SPECIAL ZONING DESIGNATIONS AND USES

Article 3.1 Airport Overlay Zone

8.3.101: GENERAL DESCRIPTION AND SCOPE:

A. The purpose of the Airport Overlay zone is to protect the airspace in the vicinity of the Coeur d'Alene Airport and its runway approaches, to protect the lives of airport users, and to protect the property and occupants of land in its vicinity. Accordingly, the height of structures and objects, both natural and man-made, and the use of property within the Airport Overlay zone shall be subject to the additional regulations and restrictions contained in this article.

B. Except as modified by the provisions of this article, the uses permitted, building site areas, setbacks, and all other regulations set forth in this title shall apply within the Airport Overlay zone. In cases where a provision of this article conflicts with another provision of this title, the provision contained in this article shall take precedence.

8.3.102: AREA OF APPLICABILITY: The Airport Overlay zone shall consist of that portion of the unincorporated area of Kootenai County designated as the Coeur d'Alene Airport in the then-current Coeur d'Alene Airport Master Plan. Specific areas with the Airport Overlay zone are described as follows:

A. Height Limitation Area. The Height Limitation Area shall include all civil airport imaginary surfaces as set forth in the Federal Aviation Regulations, 14 C.F.R. Part 77, or any successor thereto, and as delineated in the then-current Airport Master Plan.

B. Noise Compatibility Area: The Noise Compatibility Area shall include all land located within the 2028 65-decibel day-night average sound level (65 DNL) noise contour, as delineated in the then-current Airport Master Plan.

8.3.103: RESTRICTIONS:

A. Notwithstanding any other provisions of this title, no use shall be established within any area within the Airport Overlay zone in such a manner as would create electrical interference with navigational signals or radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, attract birds in a manner that creates a bird strike hazard, create foreign object damage hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

B. Uses established within the Airport Overlay zone shall comply with all applicable Federal Aviation Regulations and administrative rules of the Division of Aeronautics of the Idaho Transportation Department, and shall not be inconsistent with the grant assurances made by the

County to the Federal Aviation Administration and/or the Division of Aeronautics of the Idaho Transportation Department.

C. No residential development, place of assembly or place of worship shall hereafter be constructed or otherwise established within any Runway Protection Zone, as defined in FAA Advisory Circular 150/5300-13A, *Airport Design*, and as depicted in the then-current Airport Master Plan.

D. Restrictions within the Noise Compatibility Area. The Noise Compatibility Area is considered to be hazardous because of noise or the potential of endangering the lives and property of the users. Therefore, the following restrictions shall apply:

1. Establishment of uses within the Noise Compatibility Area shall be limited to those within each respective day-night average sound level (DNL or L_{dn}) noise contour, as set forth in 14 CFR Part 150, Appendix A, Table 1, and as delineated in the then-current Airport Master Plan.

2. No place of assembly or place of worship shall hereafter be constructed or otherwise established within the Noise Compatibility Area.

3. All new subdivisions within the Noise Compatibility Area will be subject to recordation of avigation easements.

4. Nothing in this subsection shall be construed to permit any use otherwise prohibited in the underlying zone.

8.3.104: MARKING AND LIGHTING: Notwithstanding the provisions of this article governing Height Limitation Areas, the owner, and all future owners, of any existing nonconforming structure or tree within a Height Limitation Area hereby waives the right to object to the installation, operation, and maintenance thereon of such markers and lights as may be deemed necessary by the Federal Aviation Administration to indicate to operators of aircraft of airport obstructions located within a Height Limitation Area. Such markers and lights shall be installed at the expense of the Coeur d'Alene Airport.

8.3.105: VARIANCES: Any person desiring to erect or increase the height of any structure or the growth of any tree not in accordance with the regulations prescribed herein must apply for a variance in accordance with the provisions of section 8.8.203 of this title. The application must include determinations from the Airport Advisory Board and the Federal Aviation Administration that the proposal will not adversely affect the operation of the airport.

8.3.106: SETBACK REQUIREMENTS:

A. Separation requirements for abutting structures shall be as set forth in the International Building Code.

B. Apron, runway, taxiway, and tie down clearance specifications shall be as set forth in FAA Advisory Circular 150/5300-13A, *Airport Design*.

C. When a structure abuts a road, the front yard setback shall be thirty-five feet (35')f.

8.3.107: HEIGHT RESTRICTIONS:

A. No structure or tree shall be constructed, altered, maintained, or allowed to grow so as to exceed four (4) stories or a maximum height of fifty feet (50') above airport elevation.

B. Except as otherwise permitted in this article, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in the Height Limitation Area so as to project above any of the civil airport imaginary surfaces referenced in section 8.3.102 of this article

C. Site and structural plans for any proposed structure which will exceed thirty-five feet (35') above airport elevation shall be submitted to the Airport Advisory Board for design and safety review. The Airport Advisory Board must provide a recommendation to approve the proposed structure to the Director before a building permit may be issued.

8.3.108: OPEN SPACE REQUIREMENTS:

A. Maximum building coverage of eighty percent (80%) of the site is allowed within the Airport Overlay zone, subject to applicable setback and clearance requirements.

B. At-grade parking lots and parking areas shall not be included in building area calculations. Parking structures with levels above grade shall be included in the calculation of maximum building coverage.

8.3.109: STORAGE REQUIREMENTS:

A. Outdoor Storage.

1. The outdoor display of aircraft for the purpose of sale is permitted.

2. The outdoor display of automobiles and machinery other than aircraft for purposes of sale is prohibited.

3. In areas where outdoor storage is authorized by the Airport Director, storage of materials and machinery shall be within a six (6) foot high sight obscuring fence, or screened with vegetative materials, so that the storage area cannot be seen from adjacent properties or by the traveling public. Storage areas must conform to the setback regulations set forth in section 8.3.106 of this article, with the exception of aircraft being displayed for the purpose of sale.

B. Petroleum Products and Critical Materials.

1. The use, handling, and storage of petroleum products and critical materials shall be in accordance with all applicable state and federal laws and regulations, and with all applicable Panhandle Health District regulations.

2. Storage of petroleum products below ground in these areas shall be limited to a total quantity of twenty thousand (20,000) gallons or less per site except in areas where a larger quantity is authorized by the Airport Director.

8.3.110: LANDSCAPING REQUIREMENTS: The landscaping requirements set forth in Chapter 4, Article 4.6 of this title shall not apply within the Airport Overlay zone. The landscaping requirements which apply within the Airport Overlay zone shall be as follows:

A. The front, rear, and side setback areas shall be landscaped with an effective combination of ground cover, shrubbery, and trees. All other unpaved areas shall be landscaped in similar fashion, except those areas designated for parking or storage on site plans approved by the Director.

B. The entire area between the curb and a point fifteen feet (15') back from the front lot line shall be landscaped for the purpose of forming a vegetative frontage, except for driveway access in the immediate area. Notwithstanding the aforementioned vegetative frontage, the entire area between the curb and the building line of any lot, except for concrete or paved walkways, shall be landscaped.

C. All undeveloped areas shall be maintained in a weed-free condition by the lessee.

D. All areas under lease shall submit a landscaping plan to the Airport Advisory Board for design review. The Airport Advisory Board shall provide recommendations to the Board for all landscaping in the Airport Overlay zone.

E. Areas used for parking shall be landscaped in such a manner as to provide a vegetative frontage, or a visual vegetative barrier along areas in view of access streets, freeways, and adjacent properties.

F. All stormwater run off from parking areas shall receive primary treatment and disposal through grassy swales. Engineered site plans shall allow acreage sufficient to provide primary treatment for the first one-half inch (½") of stormwater runoff generated from paved or impervious parking surfaces.

8.3.111: AIRPORT SECURITY: Security within the Airport Overlay zone shall be maintained in conformance with the Federal Aviation Regulations, 14 C.F.R. Part 107, as set forth by the Federal Aviation Administration.

Article 3.2 Highway 41 Access Overlay Zone

8.3.201: PURPOSE: The goals and intent of this article are to improve safety conditions along State Highway 41, reduce congestion and delays, provide property owners with safe access, promote desirable land use development patterns which are compatible with the future growth of the cities of Post Falls and Rathdrum, facilitate the future widening of Highway 41, and make pedestrian and bicycle travel safer. The provisions of this article shall be used to manage and control access to Highway 41, and may require that properties adjacent to this highway utilize or obtain access from other public roads.

8.3.202: APPLICABILITY:

A. The provisions of this article shall apply within that portion of the unincorporated area of Kootenai County which lies within 1,320 feet east and west of the centerline of State Highway 41,

south of Lancaster Road and north of Poleline Avenue. If a parcel lies partially or entirely within the overlay area described in this section, the rules of this chapter shall apply to the entire parcel.

B. All applicable provisions of this title shall apply within the Highway 41 Access Overlay zone. In cases where a provision of this article conflicts with another provision of this title, the provision contained in this article shall take precedence.

8.3.203: NEW APPROACHES:

A. New approaches directly accessing onto Highway 41 from parcels located within the Highway 41 Access Overlay zone shall be permitted only in the following circumstances:

1. Access to and from an individual residence on an existing parcel. No new common driveways or private roads shall be allowed. All new subdivisions shall obtain access via a new or existing public road other than Highway 41.

2. Agricultural field access.

3. When a fire protection district requires a secondary access for emergency services, such access shall not be open for non-emergency uses, and shall be maintained by the owner of the parcel as a closed access except during emergencies.

B. The new approach shall not be used until the Idaho Transportation Department or highway district with jurisdiction has issued an approach permit. Traffic counts, studies and improvements may be required by the Idaho Transportation Department or the highway district with jurisdiction.

8.3.204: EXISTING APPROACHES: The use of existing approaches onto Highway 41 from parcels located within the Highway 41 Access Overlay zone shall be allowed to continue in accordance with the following standards:

A. The existing use is lawful and has been properly permitted.

B. There is no significant change in the use of the parcel or approach (for example, a residential use to a commercial use).

C. The intensity of an existing commercial or industrial use does not increase. For purposes of this article, an increase of intensity is defined as the establishment of additional businesses or an increase in lot coverage greater than twenty-five percent (25%) per year.

D. The number of parcels served by the approach does not change.

8.3.205: SETBACKS: All structures within the Highway 41 Access Overlay zone shall be set back at least one hundred fifty (150) feet from the centerline of Highway 41. All other setback standards which apply in the underlying zone shall also be met.

8.3.206: CHANGES OF USE:

A. If there is a significant change in the use of a parcel within the Highway 41 Access Overlay zone, a change of use permit must be issued before any new building permits may be issued.

B. Before a change of use permit may be issued, the property owner must acquire lawful access to an existing public road other than Highway 41. The access must meet the applicable standards of the highway district with jurisdiction, which may require dedication of a new access road based on the specific project or specific use. The Idaho Transportation Department or the applicable highway district with jurisdiction may require submittal of traffic counts, studies or proposed improvements to aid in making this determination.

C. After the change of use permit and the new access are approved, the use of the existing approach shall cease and the approach shall be abandoned and removed.

8.3.207: CIRCULATION PLANS: Before a building permit may be issued for a parcel located within the Highway 41 Access Overlay zone, the applicant shall provide a circulation plan which complies with the following standards:

A. The plan must be designed to create a safe flow of vehicular and pedestrian circulation through the parcel.

B. The plan must be drawn to scale, and must include:

1. Identification of easements, new or existing roads; and

2. Identification and overall design of parking lots, stormwater treatment, and sidewalks.

8.3.208: VARIANCES: Requests for variances from the requirements or standards set forth in this article shall be in accordance with the provisions of section 8.8.203 of this title.

Article 3.3 Planned Unit Developments

8.3.301: GENERAL DESCRIPTION: A Planned Unit Development (PUD) is an integrated design for development of residential, commercial or industrial uses, including mixed-use developments, which allow for flexibility and creativity in site and building design and location in a manner which is in accordance with the goals and policies of the Comprehensive Plan. Subdivisions may be developed as a PUD if they include at least twenty-five (25) lots. Approval of a PUD does not have the effect of changing the underlying zoning district, but does provide a mechanism by which the normally applicable standards of this title may be varied.

8.3.302: PURPOSE AND INTENT: The purpose of a Planned Unit Development is to allow diversification in the relationship of various uses and structures to their sites, and to permit more flexibility in the use of such sites. The application of planned unit development concepts is intended to:

A. Allow for and encourage a variety of housing types and environments;

B. Allow for greater flexibility and a more creative and imaginative approach to the design of residential and commercial developments and open space, while ensuring substantial conformance with the intent of this title and the Comprehensive Plan;

C. Encourage more functional, efficient and economical use of land, resulting in smaller networks of utilities, streets and other infrastructure features, and maximizing the allocation of fiscal and natural resources;

D. Ensure that development occurs at proper locations, away from environmentally sensitive areas, and on land best physically suited to construction;

E. Encourage land development that, to the greatest extent possible, preserves valuable natural areas, respects natural topographic and geologic features, scenic vistas, vegetation and natural drainage patterns, and that creates more usable open space and recreational amenities; and

F. Encourage more convenience in the location of commercial and industrial uses and services.

8.3.303: COORDINATION WITH OTHER REGULATIONS:

A. Approval of a PUD allows the normally applicable standards of this title to be replaced with alternative standards unique to the PUD. For example, a mix of residential and commercial uses, with different property line setbacks, lot sizes, or building heights may be approved as a PUD. The PUD must, however, meet the requirements of this title not expressly varied through the PUD approval, and must also meet the requirements of other agencies with jurisdiction.

B. If land is being divided in conjunction with a PUD, the development must also meet the requirements of chapter 6 of this title. A subdivision application associated with a PUD must be submitted, and will be processed, concurrently with the underlying PUD application. Both applications must comply with their respective application requirements.

C. A PUD may provide for phased development of subdivisions. For such PUDs, the subdivision application submitted concurrently with the PUD application may be for the first phase of subdivision development within the PUD. Phasing shall comply with the requirements of section 8.3.312 of this article.

D. If there is a conflict or inconsistency between the provisions of this article and another section of this title, the provisions of this article shall take precedence. Subjects not covered in this article shall be governed by the applicable provisions of this title.

8.3.304: OWNERSHIP, CONTROL AND MAINTENANCE:

A. All parcels to be developed under a PUD permit must be under single ownership or control, and must remain under single ownership or control until final approval of the PUD and any associated subdivisions are issued.

B. If components of the project will be under separate ownership, a cooperative corporation or similar organization must be established to provide oversight and control of the entire property included within the PUD in perpetuity. The documents establishing this organization must be

approved by the Director, and must include procedures allowing corporation officers to submit applications for amendment of the PUD or any associated subdivisions, and to take other action on behalf of the owners in the development as necessary.

C. All improvements and land within a PUD, including common areas, shall be operated and maintained by the owner in accordance with applicable best management practices (BMPs) and approved plans, and in a manner that is visually appealing. If the development will not remain under single ownership or control, an organization must be established to operate and maintain shared land, improvements and infrastructure in perpetuity. Organizational options include taxing districts (such as water or sewer districts), for-profit or nonprofit entities such as utility corporations, or cooperative entities such as homeowners' associations.

8.3.305: PERMITTED USES:

A. The primary uses in a PUD shall be those permitted of right, with a conditional use permit, or with a special notice permit in the underlying zone. Approval of a PUD shall constitute approval of any use within the area subject to the PUD which would otherwise require approval of a conditional use permit or special notice permit in that zone. In addition, other uses may be approved if they are found to have been harmoniously incorporated into the design of the PUD, are compatible with the surrounding area, and meet the requirements of this article.

B. Residential uses within PUDs may include both single-family and multifamily dwelling units such as townhouses, garden apartments, and common wall, single-family and multi-family dwellings.

8.3.306: DENSITY: The overall density of a PUD shall conform to the requirements of the zone in which the PUD is located, however lot sizes may be varied from the minimum lot size otherwise required in that zone. If a PUD is located in more than one zone, the allowable density for the land in each zone shall be calculated separately and then added together to yield the allowable density for the development. The distribution of dwellings within the PUD shall not be affected by zone boundaries.

8.3.307: DESIGN REQUIREMENTS: This section delineates the minimum on-site design requirements for PUDs. Any off-site improvements which may also be required to mitigate negative effects of the development will be considered on a project-by-project basis.

A. General Design Requirements.

1. The proposed uses and design of a PUD must be compatible with existing homes, businesses, neighborhoods, and the natural characteristics of the area. PUDs shall minimize grading, road construction and disturbance of the terrain, vegetation, soils, and drainageways, and shall prevent soil erosion. To achieve this, the Board may condition approval on the inclusion of design features such as building envelopes, no-disturbance zones, height restrictions or planting or retention of vegetation.

2. The development must be planned as a cohesive, integrated whole, consistent with the intent and purpose of this title.

3. The PUD plan must be compatible with the goals, policies and future land use map of the Kootenai County Comprehensive Plan.

4. Within the Airport Overlay zone, the proposal must be in conformance with the then-current Kootenai County Airport Master Plan, and an avigation easement, approved by the Airport Director, must be recorded.

5. The inclusion of open spaces within PUDs is to be encouraged to the greatest extent practicable. Open space shall be distinguished as common (for use by all property owners) or public (open to all members of the general public).

B. Utilities and Services. The development of a PUD must occur in conjunction with services and facilities that are appropriate and adequate for the proposed uses. Services and facilities necessary to serve the development must be feasible, available and adequate, and the proposal must mitigate the negative effects of the development so that the existing quality of services is not compromised, and so there is no substantial increase in the cost of services to existing residents. At a minimum, the following utilities and services shall be required:

1. Sewage disposal. A sewage disposal system or systems meeting the requirements of Panhandle Health District or the Idaho Department of Environmental Quality (DEQ), whichever has jurisdiction. Commercial and industrial areas must be served by a wastewater treatment plant approved by DEQ. No subsurface discharge of treated or untreated, non-domestic wastewater is permitted.

2. Water. A water system approved by DEQ that can provide fire flows or water storage as required by the fire protection district with jurisdiction. The new components of a water system, and any necessary improvements to an existing system, must be designed and constructed in conformance with the requirements of DEQ, the *Idaho Standards for Public Works Construction* promulgated by the Idaho Division of Public Works, the fire district fire protection district with jurisdiction, and if applicable, the water district, utility or corporation.

3. Electrical service.

4. Fire protection.

a. PUDs must be served by a fire protection district.

b. PUDs shall meet the requirements of the fire protection district with jurisdiction, including those pertaining to roads, driveways, fire flows, hydrants, water storage and defensible space.

c. PUDs shall also minimize the hazards associated with wildfire. PUDs that are located in timbered areas shall provide a Fire Mitigation Plan, developed by a professional forester, that is approved by the Director, the Fire District, or the Idaho Department of Lands. The plan must be implemented throughout the development of the PUD.

5. Roads and trails. Roads, trails and sidewalks within a PUD shall comply with the applicable provisions of section 8.6.707 of this title.

6. Garbage collection. Department staff shall seek comment regarding garbage collection service from the Kootenai County Solid Waste Department. The property owner shall arrange for garbage collection service as required by the Board.

7. Underground installation. Underground installation of utilities shall be required unless utility providers determine that site conditions would preclude or would render such installation impracticable or cost prohibitive, taking into consideration such factors as terrain, available easements, safety, maintenance, repair, replacement and the like. The Board may, however, allow appurtenances to these systems to be installed above ground if they can be effectively screened in a manner that is visually appealing and compatible with the PUD and are approved by the utility provider.

8. Other services. Other services and facilities may be required on a project-by-project basis.

C. Sensitive Area Requirements.

1. 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. Therefore, PUDs should be designed so that development can be accomplished in a manner that is visually unobtrusive, environmentally responsible, and compatible with the character of the area.

2. Minimization of Disturbance. PUDs must be designed to fit houses, structures and roads into and around hillsides 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. If the vertical height of any cut or fill slope, or any combination thereof, will exceed thirty (30) feet, effective measures must be taken to mitigate the visibility of the slope.

3. Stream and Wetland Protection Buffers. When a PUD abuts a stream or wetland, a stream or wetland protection buffer must be reserved and shown on the plan.

a. Purpose. The purpose of stream and wetland protection buffers 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.

b. Dimensions. Stream and wetland protection buffers shall be as set forth in Table 3-301 of this article.

c. Designation. Each stream or wetland protection buffer shall be labeled as such on the plan. The Board may require that such areas be designated as an easement or conservation easement.

d. Development restrictions. Proposed road and utility crossings within designated stream and wetland protection buffers must be shown on the plan, must be kept to a minimum, and must take the shortest possible route across the area. Roads and utilities shall not be constructed within such areas except at approved crossings. Fences, walkways which do not exceed four (4) feet in width, stairway landings which do not exceed six (6) feet in

length or width, and trams may be constructed in stream and wetland protection buffers, provided that disturbance of the ground and vegetation is minimized.

e. Maintenance. In stream and wetland protection buffers, native vegetation and large organic debris must be protected or replanted to leave the area in the most natural condition possible. Any necessary maintenance must be in conformance with chapter 7, article 7.1 of this title and with applicable best management practices.

4. Shoreline Management Areas. When a PUD 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.

Table 3-301
Stream and Wetland Protection Buffer Widths

Waterway Type	Required Width
Class I Streams	75 feet from the ordinary high water mark
Class II Streams	30 feet from the ordinary high water mark
Wetlands	Determined by the Board based on a wetland analysis

D. Zero Lot Line Development. PUD designs may include zero lot line development for single-family and multifamily dwellings, with each dwelling and lot independently owned, and lot lines along common walls providing:

1. The construction complies with all applicable provisions of building codes adopted pursuant to title 7, chapter 1 of this code which pertain to common wall and/or zero lot line construction;

2. Common walls are adequately sound-proofed in accordance with the requirements of applicable provisions of adopted building codes;

3. Electrical, water, sewer, heating and air conditioning systems, and all other incorporated utility systems are separately metered or designated for each dwelling unit.

4. Deeds and covenants pertaining to buildings must contain appropriate provisions to ensure harmonious maintenance of shared indoor or outdoor walls, and outdoor yard areas. Easements shall be recorded as necessary to assure access to shared outdoor walls and yards.

E. Common Open Space. Common open space in PUDs shall meet the following requirements:

1. The amount and design of common open space in a PUD must be appropriate to the scale and character of the project, considering its size, density, expected population, topography, and the number and type of dwellings to be provided. A minimum of fifteen percent (15%) of the land within the PUD shall be developed into usable public or common open space, or recreational facilities for the residents or users of the development. If possible, the open space should be designed to connect with existing or planned open space on neighboring properties.

Areas designated as open space shall be accessible to all residents of the development from a road or right-of-way. Utility, drainage and similar easements and rights-of-way are not acceptable for common open space unless such land is usable for a trail or similar purpose and is approved by the Board.

2. Common open space in a PUD shall be:

a. Retained by the owner of the development;

b. Dedicated to the public; or

c. Conveyed to a cooperative corporation such as a homeowners' association.

3. Responsibility for maintenance of open space areas shall be specified by the developer in the application for final plan approval, and must be approved by the Board.

F. Commercial and Industrial Uses. PUDs that include commercial or industrial uses and structures must meet the following additional requirements:

1. Commercial and industrial areas must be developed with park-like surroundings utilizing landscaping and/or existing woodlands around structures, parking areas, roads, loading areas, and areas used for outdoor storage of raw materials or products.

2. If the PUD includes, or is adjacent to residential zones or residential uses, commercial or industrial uses must be of a non-nuisance character, and must be clean, quiet and free of bright lighting, odor, dust or smoke.

3. Loading areas must be provided for delivery trucks.

4. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner.

5. Lighting may not exceed .2 foot candles at the property line of any lots used for commercial or industrial purposes.

8.3.308: APPLICATION REQUIREMENTS FOR PRELIMINARY APPROVAL:

A. The PUD permit application must contain the information necessary for the hearing body and the Board to make a decision on the proposal. To gain approval, the information provided in the application must sufficiently demonstrate that the project can meet the requirements of the County and of other agencies with jurisdiction.

B. The applicant shall submit one complete application packet to the County, including all required copies, plus additional packets for each agency or organization reviewing the proposal. The Director will determine which agencies will receive application packets, and the County 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

information is not necessary to establish conformance with the required findings, he may approve the request, in which case the application will be deemed to be complete, will be vested under then-current ordinances, 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. This determination may be appealed in accordance with chapter 8, article 8.5 of this title.

C. The following items constitute a complete application for preliminary PUD plan approval:

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.

2. A completed checklist of application requirements.

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

4. A legal description of the property.

5. A title report or similar document containing the legal description, ownership and easements for the property.

6. A large preliminary plan which meets the requirements outlined in Table 3-302 of this article. The original and two copies must be submitted for County review, along with two copies for the highway district and one for other agencies.

7. A small preliminary plan, which shall be an 11" x 17" copy of the large preliminary plan.

8. A map of adjoining subdivisions and the surrounding area showing the site of the proposed PUD and adjoining lots, parcels and subdivisions. The map shall show the layout of streets and parcels in a manner which is sufficiently distant from the project to illustrate the relationship to proposed streets and lots, any neighboring land owned by the same applicant, and surrounding properties within ¼ mile or two parcels (whichever is greater) in every direction. The map must be to scale, which shall not be less than one inch per 400 feet (1" = 400'). The original plus three copies of this map must be provided to the Department.

9. At least six photographs of the site, taken at various angles so as to depict the general character of the site, and a map showing the location and orientation of the photographs.

10. A narrative which provides a detailed description of the following:

a. The general character of the proposed development, including the design principles for buildings and streetscapes;

b. The acreage, number of lots, and number and type of housing units in each area;

c. Nonresidential structures or uses that are proposed;

d. Existing zones and uses, and the existing characteristics of the site, including vegetation, soils and wildlife;

e. Proposed variances to the standards set forth in this title;

f. Proposed water, sewer, electrical, natural gas and other utilities, and roads, trails, parking, landscaping and other improvements;

g. Plans for recreation facilities and common open space;

h. Proposed methods of ownership and/or control of the project, including proposed maintenance arrangements for common areas and shared infrastructure and improvements;

i. A statement explaining the reasons the PUD will be in the public interest;

j. The proposed completion schedule, including any phasing; and

k. A written analysis of the presence or absence of wetlands on the property that identifies all sensitive areas, as described in section 8.9.403 of this article, which are located on the property.

11. Adequate information must be provided to ensure that new or existing wells will provide sufficient water for the development, without negatively affecting nearby property owners. To satisfy this requirement, the application must, at a minimum, include an engineering report prepared by an Idaho licensed professional engineer or professional geologist, and approved by DEQ, which demonstrates that an adequate water supply is available to meet the estimated demand. 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 (½) mile of the boundary of the site shall be included in the report. For developments proposed to be served via a connection to an existing public water system, a letter from the owner of the system which indicates that it has sufficient reserve production capacity to supply water to the PUD may be submitted in lieu of an engineering report. The original plus one copy of this documentation must be provided to the Department.

12. A conceptual stormwater plan, developed by a design professional, which proposes suitable methods and locations for stormwater treatment systems. Proposed systems must comply with the provisions of chapter 7, article 7.1 of this title, associated resolutions, and approved best management practices (BMPs). If it is likely that slopes, soils, groundwater or other conditions will not meet the design parameters of proposed BMPs, the Director may require that test holes be evaluated to determine soil types in the vicinity of stormwater systems. The original plus three copies of this plan must be provided to the Department.

13. When land disturbing activity is proposed in areas where the natural slope equals or exceeds 15%, the Director may require a conceptual engineering plan as part of a PUD 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 PUD

plan and to illustrate the nature and extent of earth work required for site preparation and construction. The original plus three copies of this plan must be provided to the Department.

14. A traffic impact study shall be submitted when requested by the Director or by a highway agency with jurisdiction. This study must include:

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 development 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.

The original plus three copies of this study must be provided to the Department.

15. A geotechnical analysis is required whenever building sites, roads, driveways or other development are proposed in areas where the natural slope equals or exceeds 15%, where there is a high water table (within 6 feet of ground surface at any time of year), where soils are highly erodible, or where there are scarps, slumps, seeps or other geologic features that may be unstable, as determined by the Director. 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. The geotechnical analysis shall explain the geologic and hydrologic features of the area, shall evaluate the suitability of the site for intended 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. The original plus three copies of this analysis must be provided to the Department.

16. 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 design professional determines that there may be wetlands on the site, a detailed wetlands analysis and delineation shall be provided and shown on a supplemental page of the plan. The wetlands delineation must be provided by a professional recognized as qualified by the U.S. Army Corps of Engineers or the U.S. Fish and Wildlife Service, including, without limitation, a professional engineer, landscape architect or wetlands specialist. In addition to classifying wetlands and delineating their boundaries, the report must explain the likely impacts of the project on wetlands, and must recommend actions to mitigate those impacts and preserve wetland plants and animals. The original plus two copies of this analysis must be provided to the Department.

17. The Director, hearing body or Board may require additional studies of the social, economic, fiscal or environmental effects of the proposed PUD.

D. The application documents set forth in subsection (C) of this section which are required elements of agency packets are the application form, large preliminary plan, narrative, and photographs.

Table 3-302
Form and Content of PUD Plans

PLAN COMPONENT	PRELIM. PLAN	FINAL PLAN
1. Size and Format. Size 18" x 27". Plan must encompass all land included in the PUD, including open space that will not be used for building sites. Must also include north arrow, date, legend, vicinity map and scale. Scale must be suitable to ensure clarity.		X
2. PUD Name. If a previously approved PUD is being amended, the name must include the word "amended".	X	X
3. Location. Section, quarter section, township, range, meridian, county and state.	X	X
4. The proposed layout, showing the location, type and acreage of proposed uses; landscaping; signs; the approximate location, use, height, dimensions and proposed setbacks of structures; proposed number of dwelling units for each area; and adjacent parcels shown with dashed lines.	X	
5. The final, approved layout showing dimensions, lot lines and the exterior boundary of the PUD by distance and bearing; area of each lot in acres; the location and type of approved land uses, including landscaping, parks, residential, commercial and public uses; the approved location, use, height, dimensions and setbacks of structures and signs; and approved density and number of dwelling units for each area.		X
6. Roads, trails, parking and loading areas within and adjacent to the PUD.	X	X
7. Easements - the location, dimensions, and purpose of existing or proposed easements, with instrument numbers noted.	X	X
8. Hydrography – drainages, water courses, water bodies and wetlands and associated protection areas.	X	
9. Topographic Elevations – contours shown at vertical intervals of not more than 5 feet, at a scale between 1"=40' and 1"=100', and identifying the following slope zones: ≥ 0% and < 15% ≥ 15% and < 35% ≥ 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, driveways or structures.	X	
10. Physical Features – the location of significant physical features such as ridges, rock outcrops or wooded areas.	X	
11. Special Flood Hazard Areas – the location of any special flood hazard areas and the language required in chapter 7, article 2 of this title.	X	X
12. Existing built features, including structures, wells, sewage systems and roads.	X	
13. Building envelopes, if required by the Director or Hearing Body.		X
14. Sensitive areas, as defined in this article, if their location is known and can be shown on the plan.	X	

8.3.309: PRELIMINARY APPROVAL PROCEDURE:

A. Procedure. An application for preliminary PUD approval shall be brought before the hearing body for a recommendation, and before the Board for a decision, in accordance with the notice and hearing procedures set forth in chapter 8, article 8.4 of this title.

B. Required Findings. For the hearing body to recommend preliminary approval of a PUD plan, and for the Board to grant preliminary approval of a PUD plan, each of the following findings must be made:

1. The proposal is compatible with the goals, policies and future land use map of the Kootenai County Comprehensive Plan.

2. The proposal is consistent with the intent and purpose of this title, and the amenities, design, and benefits of the PUD justify any approved deviations from the normal requirements of this title.

3. The PUD will be held in one ownership, or there is an effective means of control and oversight of the development in perpetuity.

4. The application and design meet the requirements of this article, other applicable sections of this title, other applicable provisions of this code, and the requirements of other agencies.

5. The proposed development is compatible with surrounding homes, businesses and neighborhoods, and with the natural characteristics of the area.

6. The proposed structures and uses within the PUD are compatible with one another.

7. Provisions for maintaining land, infrastructure and shared improvements are adequate.

8. Services, utilities and facilities necessary to serve the development are feasible, available and adequate, and any adverse effects on delivery of service by political subdivisions will be adequately mitigated.

9. Proposed roads, sidewalks, trails and parking facilities within the development establish or adequately contribute to a transportation system for vehicles, bicycles and pedestrians that is safe, convenient, efficient and that minimizes traffic congestion.

10. Areas not suited for development are designated as open space.

11. Road construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion.

12. Any site constraints, hazards or negative environmental, social or economic impacts will be adequately mitigated.

13. The proposal is not anticipated to result in significant degradation of surface or ground water quality, as determined by the agency with jurisdiction.

14. Development of the PUD is in the best interest of the public.

15. Public notice and the processing of the application met the requirements set forth in chapter 8, article 8.4 of this title and applicable provisions of Idaho Code.

C. Conditions of Approval. Preliminary PUD approvals may contain conditions which address potential impacts of the development contemplated in the PUD, including, without limitation, the following:

1. Minimizing or mitigating adverse effects on delivery of services by political subdivisions, including school districts;

2. Minimizing or mitigating adverse effects on other developments;

3. Controlling the sequence, timing and duration of development;

4. Assuring that the development is maintained properly;

5. Designating the exact location and nature of development;

6. Requiring the provision of on-site or off-site public facilities or services;

7. Requiring more restrictive standards than those generally required in this title; or

8. Varying from standards generally required in this title.

D. 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.

E. Duration of Approval.

1. Approval of a preliminary PUD plan shall expire if a complete application for approval of the final PUD plan is not submitted within one (1) year from the date of preliminary approval.

2. If the approved plan calls for phasing, an application for final plan approval for the first phase must be submitted within one (1) year from the date of preliminary approval, and the plans for subsequent phases must be submitted in accordance with the schedule approved by the Board.

3. 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.

8.3.310: APPLICATION REQUIREMENTS FOR FINAL PLAN APPROVAL: Upon application for final approval of a PUD, the applicant shall submit an application packet containing the items set forth in this section. An application that is incomplete will not be processed.

A. 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.

B. A completed check list of application requirements.

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

D. A large final plan which meets the requirements outlined in Table 3-302 of this article.

E. A small final plan, which shall be an 11" x 17" copy of the large final plan.

F. A narrative explaining how each of the conditions of approval of the preliminary plan have been or are being met, any modifications from the original proposal, the completion schedule for the project, and, if applicable, the completion schedule for each phase of the project.

G. Documentation demonstrating that the entire project is under single ownership or control, as required in section 8.3.304 of this article.

H. Conceptual building plans, including floor plans and exterior elevations.

I. Conceptual landscaping plans for common areas which implement sound water conservation principals.

J. Conceptual plans for signs, including the height, dimensions and proposed lighting.

K. For PUDs in timbered areas, a wildfire mitigation plan which has been prepared by a professional forester and has been approved by the Director and by the fire protection district with jurisdiction or the Idaho Department of Lands.

L. Any documentation needed to show compliance with the conditions of approval of the preliminary plan, including, without limitation, approval letters from other agencies or departments, and documentation of financial security for improvements not yet completed.

M. Copies of any documents, such as deed restrictions, restrictive covenants, or homeowners' association articles of incorporation or bylaws, that are associated with the PUD or that will be used to control the use, development, operation or maintenance of the property and improvements. If components of the project will be under separate ownership, a cooperative corporation or other organization must have been established in accordance with section 8.3.304 of this article. The documents establishing the organization must be approved by the Director, and must include

procedures for submitting PUD amendment applications on behalf of the owners in the development.

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. (Ord. 546, 10-22-19)

8.3.312: PHASING REQUIREMENTS: The Board may approve alternative PUD construction schedules or phasing of PUD projects. Each phase shall be configured to create a serviceable project, capable of standing alone or with other completed phases, if the project were to be terminated at the conclusion of that phase. Project phasing shall not produce an imbalance of common space to private space, or of land use density, when compared to overall project ratios. Lands designated for development in subsequent phases shall be encumbered by the density limitations of the project as a whole, even if the project fails to develop as planned.

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 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;

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

d. 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. (Ord. 546, 10-22-19)

8.3.314: CONDOMINIUMS:

A. Condominiums may be allowed within a PUD as a means of cluster development, provided that the total number of dwelling units permitted shall not exceed the maximum density allowed in the underlying zoning district or districts in which the PUD is to be located.

B. Condominiums containing twenty-five (25) or more dwelling units shall require PUD approval in addition to approval of a condominium plat pursuant to chapter 6, article 6.5 of this title.

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CHAPTER 4
GENERAL PERFORMANCE STANDARDS

Article 4.1 General

8.4.101: PURPOSE: The purpose of this chapter is to provide standards and minimum regulations applicable to uses allowed in multiple zones in order to promote public health, safety, and general welfare.

8.4.102: APPLICABILITY: Except as specifically provided in this chapter, the standards contained in this chapter shall apply to the uses enumerated herein regardless of the zone in which the use is to be established. These standards shall be construed as being the minimum standards required. Whenever the provisions of any other duly adopted statute, ordinance, or regulation require more restrictive standards than those contained in this chapter, the provisions of such standards shall govern and, in any event, the applicant or proponent may voluntarily elect to incorporate more restrictive standards than might otherwise apply. These standards may also be incorporated as conditions of approval of an administrative permit, conditional use permit or special notice permit if they would not otherwise apply but have a rational nexus to the impacts of the use.

8.4.103: SITE PLANS: A combined site plan addressing landscaping, parking, and lighting will be acceptable if it can be easily reviewed and implemented. If the site plan becomes too cluttered or difficult to review for compliance with the applicable requirements of this title, separate site plans may be required by the Director.

Article 4.2 Access

8.4.201: ACCESS ROAD AND DRIVEWAY STANDARDS FOR RESIDENTIAL PROPERTIES: With the exception of parcels which were legally created with access solely from the shoreline of a lake or river, every residential lot shall have access from a public or private road which complies with the following standards:

A. Private Roads.

1. All newly constructed private roads within a major subdivision, minor subdivision, or condominium, or which connect a subdivision or condominium with the nearest public road, shall comply with the applicable requirements of section 8.6.707 of this title.

2. All newly constructed private roads not associated with a major subdivision, minor subdivision, or condominium shall comply with the standards set forth in the then-current International Fire Code as adopted pursuant to Title 7, Chapter 1 of this code.

3. The Director may seek a recommendation from the highway district or fire protection district in which the road is located as to whether a newly constructed private road complies with the applicable standards.

4. If the Director finds that the road complies with the applicable standards and, if applicable, that it complies with the requirements of section 8.6.707 of this title, the Director shall approve the road and shall give final approval to any associated permits.

5. If the Director, upon recommendation of the highway district or fire protection district, determines that a private road should be approved with a variance, exception or deviation from the applicable standards, the road will be deemed to comply with the applicable standards for purposes of this article and section 8.6.707 of this title.

B. Driveways and Common Driveways.

1. All driveways and common driveways shall be constructed in accordance with the standards set forth in the then-current International Fire Code as adopted pursuant to Title 7, Chapter 1 of this code.

2. The fire protection district with jurisdiction shall determine whether a driveway or common driveway complies with the standards set forth in the then-current International Fire Code.

3. For parcels located outside of a fire protection district, the Director shall make this determination. The Director may seek a recommendation from any fire protection district entirely or partially located within Kootenai County as to whether a newly constructed private road complies with the standards set forth in the then-current International Fire Code.

Article 4.3 Accessory Dwellings

8.4.301: ACCESSORY LIVING UNITS:

A. Description. An accessory living unit is a secondary dwelling unit located on the same parcel as the principal dwelling unit. An accessory living unit provides a complete, independent dwelling with facilities for living, cooking, eating, sanitation, and sleeping. An accessory living unit cannot share a common wall with the principal dwelling unit.

B. Standards. Accessory living units shall comply with the following standards:

1. The square footage of the accessory living unit shall not exceed 1,000 square feet of habitable space or fifty percent (50%) of the habitable space of the primary structure, whichever is greater. New structures that will be used solely for accessory living units shall be measured from the exterior walls. Existing structures that will add habitable space will be measured from interior dimensions of the habitable space.

2. For purposes of this section, habitable space shall include all enclosed areas used for living, cooking, eating, sanitation, and sleeping. Garage areas will not be included as habitable space if the garage has a door which is at least eight feet (8') wide.

3. The footprint of the accessory living unit shall count toward the calculation of lot coverage.

4. No parcel shall contain more than one (1) accessory living unit.

5. Accessory living units shall comply with the setback requirements for accessory buildings which apply within the underlying zone.

C. Permit Procedure. Accessory living units may be established only upon the issuance of a accessory living unit permit by the Director.

1. The permit application shall be on a form provided by the Department and shall include a site plan, a narrative and an affidavit attesting to the validity of the information provided.

2. The procedure for approval of an accessory living unit permit shall be as set forth in section 8.8.204 of this title.

3. Upon review of the information provided, the Director shall determine if the minimum requirements have been met and either approve or deny the permit application.

4. The decision of the Director to grant or deny an accessory living unit permit may be appealed to the Board in accordance with chapter 8, article 8.5 of this title. (Ord. 514, 10-4-17)

8.4.302: TEMPORARY HARDSHIP USES:

A. Purpose. Temporary hardship uses allow for the placement and use of a temporary dwelling for a dependent person's use on a single lot that has an existing, primary single-family dwelling.

B. Permit Required. Temporary hardship uses may be established only upon the issuance of a temporary hardship use permit by the Director. The dependent person noted in the permit shall be the primary occupant of the temporary dwelling authorized by the permit.

C. Restrictions.

1. The applicant must be a holder of an interest in the property on which the temporary dwelling is to be located. The applicant shall also be a relative of the dependent person that will be occupying the temporary dwelling.

2. The parcel on which the primary single family residence exists and on which the temporary dwelling is to be permitted shall be a minimum of one (1) acre. No more than one (1) temporary dwelling shall be permitted per parcel.

3. The dependent person named in the application shall be the occupant of the temporary dwelling. When a dependent person no longer occupies the permitted dwelling, the permit shall become null and void and the temporary dwelling shall be removed from the site.

4. A Class A or Class B manufactured home may be used as the temporary dwelling. A manufactured home setting permit shall also be obtained from the Department prior to placing

the housing unit on the site, and an occupancy permit shall be received from the Department before the manufactured home may be occupied by the dependent person named in the permit.

5. Structures which are to be used as the temporary dwelling, other than manufactured homes, shall meet the applicable standards set forth in the International Residential Code for a single-family dwelling. A building permit and occupancy permit shall be received from the Department before the structure may be occupied by the dependent person named in the permit.

6. The temporary dwelling shall be connected to an approved sewage disposal system. Utility and service connections of any type shall be in accordance with the applicable utility or service provider's requirements.

7. A temporary hardship use permit shall not be issued if covenants or plat dedications of the site restrict such use.

8. A temporary hardship use permit shall be renewed every two (2) years unless otherwise released. It shall be the responsibility of the permit holder to seek renewal of the permit.

9. A temporary hardship use permit is not transferable and shall terminate upon the sale or lease of the property on which the use is located.

D. Application Requirements. An application for a temporary hardship use permit shall include the following information:

1. Name, address, and telephone number of the applicant.

2. Name of the dependent person and his relationship to the applicant.

3. A written Certification of Dependency from a licensed physician which states that the dependent person lacks the capacity to live independently.

4. A copy of the deed, or contract for sale, of the property on which the temporary dwelling will be located.

5. A statement signed by the applicant that the temporary hardship use is not in conflict with restrictive covenants or plat dedications of the property.

6. A letter from Panhandle Health District that the sewage disposal system for the temporary dwelling meets with their approval.

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

E. Approval Procedures.

1. The procedure for approval of a temporary hardship use permit shall be as set forth in section 8.8.204 of this title.

2. If the Director approves the permit, a temporary hardship use permit shall be issued to the applicant and shall note the dependent person who will occupy the permitted temporary dwelling. The permit shall also provide the following information:

a. The date the permit must be renewed, if the dependent person's status remains the same as it did at the time of issuance of the permit.

b. A statement that the temporary dwelling unit shall be removed from the lot when the dependent person ceases to occupy it.

c. A statement that failure to renew the permit by the stated date, or failure to notify the Director when the dependent person ceases to occupy the temporary dwelling, will be considered a violation of the permit subject to enforcement action as set forth in chapter 8, article 8.6 of this title.

d. A statement that the applicant must obtain the applicable building and occupancy permits before the dependent person can occupy the dwelling.

F. Recordation of Notice of Use. It shall be the responsibility of the Director to ensure that notice of an approved temporary hardship use is recorded with the Office of the County Recorder. The notice shall include:

1. The applicant's name and address;

2. A legal description of the property on which the temporary use will be located;

3. A statement that a temporary dwelling has been permitted under the terms of a temporary hardship use permit and that the temporary dwelling is for the occupancy of a dependent person; and

4. A statement that the temporary use shall be discontinued upon the sale or lease of the property, or when the dependent person ceases to occupy the temporary dwelling.

G. Recordation of Release. It shall be the responsibility of the Director to record a release of a previously recorded notice of temporary hardship use with the Office of the County Recorder upon termination of a temporary hardship use permit. A copy of the recorded release shall be sent to the property owner.

H. Appeals. The decision of the Director to grant or deny a temporary hardship use permit may be appealed to the Board in accordance with chapter 8, article 8.5 of this title.

Article 4.4 Recreational Vehicles and RV Parks

8.4.401: TEMPORARY OR INTERMITTENT USE OF RECREATIONAL VEHICLES: Temporary or intermittent use of recreational vehicles (RVs) shall comply with the following standards:

A. The RV shall have current registration and shall be in serviceable condition so it can to be operated in a safe and lawful manner upon the roads and highways in the State of Idaho as set forth in the Motor Vehicle Laws of the State of Idaho, Title 49, Idaho Code. An RV shall not be set on blocks with the tires or running gear removed.

B. No decks or additions shall be attached to an RV, nor shall an RV be skirted.

C. An RV shall not be used as a dwelling except as provided in this section. The owner of an RV must have a primary residence other than the RV. If the parcel on which the RV is located is otherwise undeveloped, there shall be no mail service to that parcel.

D. The RV must be hooked into a sewage disposal system which meets the requirements of the Panhandle Health District, or shall be totally self-contained and removed from the site to empty holding tanks at an approved location.

E. An RV may be used as a dwelling for the owners of the parcel on which the RV is located during construction of a dwelling on that parcel. In such cases, the provisions of this section regarding the owner's primary residence and mail service shall not apply. Upon completion of the residence or expiration of the building permit for the residence, the use of the RV shall revert to temporary or intermittent use as provided in this section.

F. An RV shall not be used as a rental.

8.4.402: RECREATIONAL VEHICLE PARKS: Recreational vehicle parks shall provide temporary living quarters, but shall not provide permanent or year-round housing. Recreational vehicle parks shall comply with the following standards:

A. Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Accessory structures such as attached awnings or carports, shall be considered to be part of the recreational vehicle for the purpose of this requirement.

B. Each recreational vehicle lot or space shall contain a stabilized vehicular parking pad composed of paving, compacted crushed gravel, or other all-weather material.

C. Each recreational vehicle lot shall have at least one (1) off-street vehicle parking space.

D. Internal roads and parking service areas shall provide safe and convenient access for service and emergency vehicles and to amenities within the park. Internal roads shall not be designed to encourage use by outside traffic to traverse the park to adjoining developed areas.

E. Approaches for interior driveways in recreational vehicle parks which enter and exit onto a public road must be approved by the applicable Highway District or the Idaho Transportation Department, whichever agency has jurisdiction.

F. If it is determined by the highway agency with jurisdiction that traffic control devices or other traffic regulation improvements will be required in conjunction with the development of a recreational vehicle park, the applicant shall be responsible for the cost of installation or construction of those improvements.

G. Yards, fences, walls, or vegetative screening shall be provided at the property lines of the park where it adjoins parcels that are zoned or used for residential purposes. In particular, extensive off-street parking areas, service areas for loading and unloading purposes other than for passenger uses, and areas for storage and collection of refuse, shall be screened.

H. Uses that are clearly incidental to the operation of the park, such as management headquarters, recreational facilities, toilets, dumping stations, laundry facilities, a convenience store, and other facilities established within the park, are permitted as accessory uses.

I. Occupancy of a recreational vehicle park space by a particular recreational vehicle shall be limited each year to those days between May 1 and the first Sunday in October, and, in addition, a maximum of one (1) period of no more than thirty (30) consecutive days during the remainder of the calendar year.

J. Any action toward removal of wheels of a recreational vehicle, except for temporary purposes of repair or to attach the recreational vehicle to the ground for stabilizing purposes, is prohibited.

K. A site plan shall be submitted upon application for a building or site disturbance permit for the development of a recreational vehicle park. The site plan must include a North arrow and date of drawing, and must clearly depict the following:

1. Existing structures which will remain on the parcel, and their uses, and any existing structures proposed to be modified or removed;

2. All proposed structures and their uses;

3. Existing and proposed roads, easements, and points of access;

4. Recreational vehicle lot dimensions;

5. Size of the site in acres;

6. Dimensions of property lines and property line setbacks;

7. Reserved or dedicated open space;

8. Major landscape features, both natural and man-made;

9. Locations of existing and proposed utility lines;

10. Accessory off-street parking and loading facilities, and parking space areas;

11. Wastewater drainfield areas;

12. Traffic circulation patterns;

13. Refuse and service areas;

14. Signs;

15. Outdoor storage, and

16. Proposed screening and buffering, including fences, yards, walls or vegetation.

8.4.403: PARK MODEL RECREATIONAL VEHICLES: Park model recreational vehicles (also known as park models or park trailers) shall be subject to the regulations pertaining to recreational vehicles as set forth in this title. (Ord. 514, 10-4-17)

Article 4.5 Home-Based Activities

8.4.501: HOME OCCUPATIONS: A home occupation is an occupation, profession, or craft which is clearly incidental to the residential use of a site. Home occupations shall be subject to the following standards:

A. The home occupation shall be conducted by an immediate member of the family residing within the dwelling on the site.

B. There shall be no more than one (1) individual employed at the site who does not live in the dwelling on the site.

C. The home occupation may be conducted in any accessory building on the site and in no more than one-half (½) of the floor area of the building housing the primary use. No home occupation shall be allowed on a site where the primary use has not been established.

D. The home occupation shall be of a nature that does not generate retail business or have customer traffic on a regular basis. An equipment storage facility where more than one employee arrives at the site to pick up equipment, then leaves to work off-site, shall not be permitted as a home occupation, but instead must be permitted as a cottage industry pursuant to section 8.4.504 of this article.

E. Storage of equipment, inventory, or work-related items other than vehicles, shall be within the residence or a permitted accessory building. Outdoor storage is prohibited. A special notice permit is required for storage within a cargo container or trailer in zones where such storage is permitted; otherwise, such storage is prohibited.

8.4.502: BED AND BREAKFAST INNS: Bed and breakfast inns shall be subject to the following standards:

A. Maximum of five (5) rooms for lodging of paying guests.

B. Must provide off-street automobile parking space for each guest room, as well as all vehicles owned by permanent residents.

C. Wedding ceremonies and receptions are allowed, provided that a total of no more than twenty-five (25) persons will be on the premises at any given time.

D. No commercial uses are permitted except as provided in this section.

8.4.503: AUTOMOTIVE HOBBY ACTIVITIES: Automotive hobby activities involve the restoration, maintenance, repair, or preservation of motor vehicles, and similar activities. Automotive hobby activities shall be subject to the following standards:

A. No commercial retail or wholesale sales of automotive parts or supplies shall be conducted.

B. A property owner or person who resides on the property may sell vehicles that he or she owns which have been restored, maintained, repaired, or preserved in conjunction with lawful automotive hobby activities. No other commercial restoration, repair, preservation or maintenance of motor vehicles shall be conducted.

C. The site shall be maintained in an orderly manner so as to prevent the creation of a public nuisance or a health hazard.

D. Not more than two (2) inoperable, dismantled, or unregistered motor vehicles may be visible from ground level on any adjacent property. All other inoperable, dismantled, or unregistered motor vehicles shall be covered, stored behind a 100% sight-obscuring fence or hedge which is not less than six (6) feet in height, or stored within a completely enclosed building.

E. All inoperable, dismantled, or unregistered motor vehicles, and parts thereof, which are being kept on the site in conjunction with automotive hobby activities shall be necessary and wanted. Once inoperable, dismantled, or unregistered automobiles, or parts thereof, are no longer necessary or wanted, the automobile or parts shall be removed from the site for proper disposal.

8.4.504: COTTAGE INDUSTRIES: A cottage industry is a commercial use of a residential parcel which is more intensive than a home occupation but is still incidental to the residential use of the site. Cottage industries shall be subject to the following standards:

A. The cottage industry may be operated by immediate members of the family residing within the dwelling on the site, plus no more than five (5) employees.

B. The cottage industry may be conducted in any accessory building on the site and in no more than one-half (½) of the floor area of the building housing the primary use. No cottage industry shall be permitted on a site where the primary use has not been established.

C. On-site retail and wholesale sales shall be limited to products produced or assembled on site, plus other sales which are clearly incidental to the operation of the cottage industry.

D. Deliveries may be made by any means; however, delivery by semi-trailer is permitted only if the parcel has direct access to a paved public road.

E. Storage.

1. Except as otherwise permitted in this subsection, storage of equipment, inventory, or work-related items other than vehicles shall be within the residence or an accessory building, and outdoor storage is prohibited.

2. The Director may approve contractor storage as part of a cottage industry permit. In such cases, 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.

3. A special notice permit is required for storage within a cargo container or trailer in zones where such storage is permitted; otherwise, such storage is prohibited.

F. Permit Procedure. Cottage industries may be established only upon the issuance of a cottage industry permit by the Director.

1. The permit application shall be on a form provided by the Department and shall include a site plan, a narrative describing the proposed use in detail, and an affidavit attesting to the validity of the information provided.

2. The procedure for approval of a cottage industry permit shall be as set forth in section 8.8.204 of this title.

3. Upon review of the information provided, the Director shall determine if the minimum requirements have been met and either approve or deny the permit application.

4. The decision of the Director to grant or deny a cottage industry permit may be appealed to the Board in accordance with chapter 8, article 8.5 of this title.

8.4.505: NON-COMMERCIAL KENNELS:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban

B. All non-commercial kennels shall adhere to the applicable provisions of this title and to the applicable provisions of title 5, chapter 1 of this code.

C. All non-commercial kennels shall have passed all necessary inspections performed by the Animal Control Division of the Kootenai County Sheriff's Office, and must possess a valid kennel license issued by the Board.

D. Adequate fencing shall be provided to restrain animals from running at large. At a minimum, the animals shall be enclosed within a six foot (6') fence or wall. Electronic fences shall not be used as the sole method of restraining animals.

E. Non-commercial kennels located in the Rural or Agricultural Suburban zones shall provide visual screening to buffer adjacent land uses if existing visual screening is insufficient to accomplish that purpose.

F. No commercial activities shall be permitted.

Article 4.6 Landscaping, Screening and Fencing

8.4.601: APPLICABILITY:

A. The provisions of this article shall apply to all development in the Commercial, Light Industrial and Industrial zones 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 article.

B. The provisions of this article, or any applicable portion thereof, may also be included as conditions of approval of any administrative approval, conditional use permit or special notice permit.

8.4.602: LANDSCAPE PLAN REQUIREMENTS: Prior to the issuance of a building or site disturbance permit for uses to which this article applies, a landscape plan shall be submitted to the Department for review and approval. The landscaping standards in place at the time an applicant applies for a building permit or site disturbance permit will govern that application. The landscape plan shall be a drawing to scale, prepared by a landscape designer, including the following information:

A. Boundaries and dimensions of the site.

B. Identification of all species and locations of existing trees that are to be retained.

C. Location and identification of species of all proposed plantings.

D. Location and design of areas to be landscaped, buffered, and maintained.

E. Type, location and design of proposed irrigation.

F. Plant lists or schedules with common name, quantity, spacing and size of all proposed landscape material at the time of planting.

G. Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and paved areas.

H. Methods and details for protecting existing vegetation during construction.

I. A determination as to whether the site contains noxious weeds. If the site contains noxious weeds, no Certificate of Occupancy shall be issued until a weed mitigation plan is reviewed and approved by the Kootenai County Noxious Weed Control Department.

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. (Ord. 514, 10-4-17; Ord. 546, 10-22-19)

8.4.604: PLANTING IMPLEMENTATION:

A. All existing trees that are to be saved shall be unmistakably delineated in the field so that it is obvious to construction personnel and equipment operators.

B. All field construction personnel and equipment operators shall use appropriate construction practices to prevent damage to existing and new landscaping.

C. Prior to issuance of the Certificate of Occupancy, the designer shall submit a completion report attesting to the correct installation of healthy trees, shrubs, groundcover and other landscape treatments as shown on the landscape site plan, and that the installation is a correct representation of the plan.

D. The Director may authorize a delay in the completion of planting during the months of November, December, January, February, and up to March 15th (or adverse weather conditions which threaten survivability of plants). Should a delay occur, a guarantee of financial surety equal to one hundred fifty percent (150%) of the costs of landscaping will be provided by the owner or developer and held by the County until the landscaping is complete. No Certificate of Occupancy shall be issued until the required landscape development is complete, or a financial guarantee has been approved.

8.4.605: SCREENING AND FENCING:

A. Refuse containers shall be screened from view by a one hundred percent (100%) sight obscuring fence that is a minimum of six feet (6') in height.

B. Storage of Equipment, Materials and Goods. Equipment, materials or goods not housed within the primary building shall be stored within an accessory building or within a one hundred percent (100%) sight obscuring fence that is a minimum of six feet (6') in height. Materials and goods shall not be stored in any manner where they are visible from adjacent property or a public right-of-way.

C. Fencing material shall not consist of tires, manufactured home parts, salvaged building materials, automobile parts, junk, or garbage.

D. Fencing shall be limited to a maximum of eight feet in height.

8.4.606: ALTERNATIVE METHODS OF COMPLIANCE:

A. It is recognized that with certain site conditions, strict compliance with the requirements of this article may be physically impossible, impractical, or not meaningful (as, for example, where the development is to occur in a remote location on the subject property, unmanned facilities, etc.). In such cases, an approved alternative method of compliance may allow modifications to the requirements of this article. Requests for use of alternative landscaping, screening or fencing standards may be approved only if it is demonstrated that compliance with the requirements of this article would cause an undue hardship or one or more of the following apply:

1. The site has space limitations or the parcel is unusually shaped.

2. Topography, soil, vegetation or other physical hardship site conditions are such that full compliance is impossible or impractical.

3. Due to a change of use of an existing site, the required buffer is larger than can be provided.

4. Legitimate safety considerations from other public agencies are raised.

5. The landscaping, screening, and/or fencing called for by this article are not necessary or effective to mitigate the impacts of the proposed development on the surrounding property owners or the general public.

6. The landscaping, screening, fencing or other measures called for by this article would be in violation of other applicable law.

B. Approval Procedure. The Director may approve a proposed alternative method of compliance in accordance with the procedure set forth in this subsection.

1. The application shall be on a form provided by the department, and, in addition to the information required in the Landscape Plan, must include a written narrative prepared by a landscape designer explaining the proposed alternative method of compliance, and the applicable fees.

2. The procedure for approval of a proposed alternative method of compliance shall be as set forth in section 8.8.204 of this title.

3. Upon review of the information provided, the Director shall determine if the minimum requirements have been met and either approve or deny the application.

4. The decision of the Director to approve or deny a proposed alternative method of compliance may be appealed to the Board in accordance with chapter 8, article 8.5 of this title.

C. In addition to the approval procedure contained in subsection (B) of this section, the Board may approve a proposed alternative method of compliance as part of a land use application requiring Board approval.

Article 4.7 Parking

8.4.701: APPLICABILITY: The provisions of this article shall apply to all development in the Commercial, Light Industrial and Industrial zones, unless expressly modified via approval of an alternative method of compliance pursuant to section 8.4.705 of this article. The provisions of this article, or any applicable portion thereof, may also be included as conditions of approval of any administrative permit, conditional use permit or special notice permit.

8.4.702: GENERAL REQUIREMENTS:

A. Parking and Circulation Plan Required. Off-street parking and loading facilities shall be shown on a site plan for review. The plan submitted shall show a detailed functional parking arrangement and on-site circulation and shall be prepared at a scale of not less than one inch per one hundred feet (1" = 100').

B. Parking Area Limitations. A required parking area shall be used exclusively for parking of vehicles in operating condition and shall be used in conjunction with a permitted land use. No

inoperable or unlicensed vehicle shall be parked or stored within a space which is necessary for compliance with the minimum number of spaces required under the provisions of this article. Following approval, off-street parking facilities shall not be reduced or encroached upon in any manner unless provisions of this article have been met and approval for the change has been received.

C. Changes in Parking Facility. Whenever a use or building is enlarged in floor area, number of employees, number of dwelling units, seating capacity, intensity of use, or any other change that creates an increase in the need for additional parking spaces, a site plan shall be prepared and submitted to the Director for approval.

D. Access. All parking facilities shall be provided with safe and convenient access to a public or private road. Ingress and egress to roads shall be provided only through approved driveways. Approaches onto a public road shall comply with the requirements of the highway agency with jurisdiction.

8.4.703: PARKING LOT DESIGN STANDARDS:

A. Number of Parking Spaces Required. The minimum number of off-street parking spaces required for each type of use, or similar use, shall be in accordance with the following list. Gross floor space shall be used where the number of spaces is based on a square footage type requirement. In determining the number of parking spaces required, fractions shall be rounded to the nearest whole number. If a specific use is not listed, the Director or Board may include parking and circulation requirements as conditions of approval of an administrative permit, a conditional use permit, or a special notice permit for that use.

1. Manufactured home parks: 2 per dwelling unit

2. Community uses:

a. Auditoriums, stadiums, places of worship, places of assembly, or theaters:

Fixed Seating: 1 per 4 seats

No Fixed Seating: 1 per 150 square feet

b. Schools or higher educational facilities: 1 per classroom, 1 per office, and 1 per each 4 seats in the largest gathering room

c. Child care centers, preschools, and Head Start facilities: 1 per 350 square feet

d. Hospitals: 1 per each bed

e. Libraries: 1 per 250 square feet

f. Nursing homes: 1 per 5 beds

g. Parks or athletic fields: 30 spaces, and 50 per each playing field

h. Public Safety Facilities, Public Service Facilities, and Public Utility Complex Facilities with regular on-site employees: 1 for every 2 employees on the largest shift

3. Commercial:

a. Offices: 3 per 1000 square feet

b. Medical or dental clinics: 1 per 250 square feet

c. Retail sales or personal services: 1 per 250 square feet

d. Furniture or motor vehicle showrooms: 1 per 800 square feet

e. Hotels or motels: 1 per rental unit, and 1 per each regular employee of the largest shift

f. Indoor recreation, such as bowling alleys or skating rinks: 1 per 100 square feet

g. Restaurants, nightclubs or bars: 1 per 250 square feet

h. Outdoor recreation activities (depending upon the activity):

1 per every cabin; or

1 per every equestrian stall; or

1 per every 100 square foot of floor space in the primary lodge or club; or

1 per every 4 tickets sold.

i. Research parks: 1 per 600 square feet

j. Utility complexes, utility services and wireless communication facilities: None

4. Industrial:

a. Manufacturing: 1 for every 2 employees on the largest shift

b. Warehouse or wholesale facility: 1 per 800 square feet

c. Mining: 1 for every 2 employees on the largest shift

5. Utilities: For utility installations (including Utility Complexes and Public Utility Complex Facilities) without regular on-site employees, a circulation plan shall be included with an application for a permit, but no permanent parking facilities shall be required.

6. Commercial marinas: Commercial marinas, as defined by the Idaho Department of Lands in IDAPA 20.03.04, must provide a minimum of upland vehicle parking equivalent to one (1) parking space per two (2) public watercraft or float home moorages. If private moorage is tied

to specific parking spaces or designated parking areas, then one (1) parking space per one (1) private watercraft or float home moorage shall be provided.

B. Location of Parking Facilities. Required off-street parking shall be either on the same parcel as the principal building or within three hundred feet (300') of the building. The 300 foot requirement shall be measured from the nearest point of the principal building to the nearest point of the parking facility. Off-street parking facilities for separate uses may be provided jointly when operating hours of users do not conflict and provided the total number of spaces is not less than the required spaces for each individual use.

C. Dimensions.

1. Parking Lot Space Dimensions - Eight feet (8') in width by eighteen feet (18') in length. At the developer's option, 25 percent (25%) of the lot may be marked "compact only" with individual parking space dimensions of seven and one-half feet (72') in width by fifteen feet (15') in length.

2. Aisle Width - Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

Parking Angle (degrees):		0	30	45	60	90
Aisle Width (feet):	One-Way Traffic	13	12	15	18	24
	Two-Way Traffic	19	20	21	23	24

3. Driveway Entrances and Exits - One-way traffic entrance and exit driveways for all uses except residential: fourteen feet (14'). Two-way traffic entrance and exit driveways used for all uses except residential: twenty-six feet (26').

D. Bicycle Parking. One bicycle parking space shall be provided for every ten (10) required auto parking spaces. Bicycle parking shall not obstruct vehicular or pedestrian circulation.

E. Parking for Persons with Disabilities. Where off-street parking is required for non-residential uses, parking spaces for persons with disabilities shall be provided on the ratio of one handicapped parking space per twenty-five (25) required automobile parking spaces, and shall meet the following standards:

1. Parking spaces shall comply with the requirements of the applicable adopted building codes and the Americans with Disabilities Act Accessibility Guidelines (ADAAG), 36 C.F.R. Part 1191, appendices B and D.

2. Spaces shall be signed in accordance with section 49-213, Idaho Code.

3. Spaces shall be located on the shortest possible accessible circulation route to an accessible entrance to a building.

4. If there is any conflict or inconsistency between the standards set forth or referenced in this subsection, the most stringent standard shall be met.

F. Construction Requirements.

1. Required off-street parking areas and access driveways shall be paved with asphalt, concrete, traffic rated concrete unit pavers, crushed stone, gravel, or an equivalent surfacing material approved by the Director.

2. There shall be continuous curbing between parking areas and buildings and along both sides of the approach(es) across the road right-of-way. Curb cuts shall be allowed for driveways, access ways, walkways, and stormwater conveyance.

3. Where four (4) or more parking spaces are required, each parking space shall be designated by a three inch (3") painted line defining the side of each space for its entire length.

4. When off-street parking lots abut residential property, the site plan shall include a fifty percent (50%) sight obscuring fence not less than 6 feet in height and a fifty percent (50%) sight obscuring vegetative screen along the entire boundary that is common to both the residential and parking lot areas.

G. Circulation Requirements.

1. All on-site traffic patterns shall be designated and clearly marked.

2. Circulation within an off-street parking lot shall be such that a vehicle shall not have to exit and re-enter the lot in order to reach another parking aisle, and a vehicle shall not have to exit the parking lot by backing into the street.

3. Turnarounds shall be a minimum of twenty-four feet (24') in width.

H. Parking Lot Lighting - Lighting used to illuminate a parking lot shall be shown on the site plan, and shall be downward directed and shielded to prevent illumination at the property line greater than 0.2 foot-candles. (Ord. 514, 10-4-17)

8.4.704: LOADING AREA REQUIREMENTS:

A. All required loading areas shall be off-street and shall be located on the same lot as the building to be served.

B. A loading area shall be served by vehicular access to a street or alley.

C. All open loading areas shall be paved with asphalt or concrete.

D. One loading area shall be required for each 10,000 square feet of building area. The loading area shall be a minimum of 12 feet wide, 35 feet in length.

8.4.705: ALTERNATIVE METHODS OF COMPLIANCE:

A. It is recognized that with certain site conditions, strict compliance with the requirements of this article may be physically impossible, impractical, or not meaningful (as, for example, where the development is to occur in a remote location on the subject property, unmanned facilities, etc.). In

such cases, an approved alternative method of compliance may allow modifications to the requirements of this article. Requests for use of alternative parking and circulation standards may be approved only if it is demonstrated that compliance with the requirements of this article would cause an undue hardship or one or more of the following also apply:

1. The site has space limitations or the parcel is unusually shaped.

2. Physical site conditions are such that full compliance is impossible or impractical.

3. The nature of the use is such that the applicable parking requirements set forth in this article are greater than are actually needed in conjunction with the use.

4. Legitimate safety considerations from other public agencies are raised.

5. The parking and/or circulation called for by this article are not necessary or effective for the proposed use, or are not necessary or effective to mitigate the impacts of the proposed development on the surrounding property owners or the general public.

6. The parking, circulation or other measures called for by this article would be in violation of other applicable law.

B. The proposed alternative method of compliance shall:

1. Have the effect of equaling or exceeding the normally applicable requirements of this article, or provide the number of parking spaces actually needed to adequately serve the contemplated use; and

2. Comply with applicable requirements for parking and accessibility for persons with disabilities.

C. Approval Procedure. The Director may approve a proposed alternative method of compliance in accordance with the procedure set forth in this subsection.

1. The application shall be on a form provided by the department, and, in addition to the information required in the Parking and Circulation Plan, must include a written narrative explaining the proposed alternative method of compliance, and the applicable fees.

2. The procedure for approval of a proposed alternative method of compliance shall be as set forth in section 8.8.204 of this title.

3. Upon review of the information provided, the Director shall determine if the minimum requirements have been met and either approve or deny the application.

4. The decision of the Director to approve or deny a proposed alternative method of compliance may be appealed to the Board in accordance with chapter 8, article 8.5 of this title.

D. In addition to the approval procedure contained in subsection (C) of this section, the Board may approve a proposed alternative method of compliance as part of a land use application requiring Board approval.

Article 4.8 Signs

8.4.801: PURPOSE, FINDINGS AND OBJECTIVES:

A. Purpose. The purpose of this article is to set out regulations for the erection and maintenance of signs while preserving the right of free speech and expression.

B. Findings. Because signs contain messages which may be protected by the First Amendment to the United States Constitution and Article I, Section 9 of the Idaho Constitution, the Board makes the following findings:

1. The adoption and enforcement of this article advances important, substantial, and compelling governmental interests.

2. The regulation of signs in Kootenai County is directed at the impacts of the structures and not the contents of their messages. The regulations set out in this article are "content neutral," as they are unrelated to the suppression of constitutionally protected speech, do not relate to the content of protected messages which may be displayed on signs, and do not relate to the viewpoints of individual speakers.

3. Any incidental restriction on constitutionally protected speech is no greater than is essential to the furtherance of the legitimate governmental interests advanced by this Article.

4. The ability to display signs of reasonable size and dimensions is vital to the health and sustainability of many businesses, and the display of signs with noncommercial messages is a traditional component of the freedom of speech. On the other hand, the constitutional guarantee of free speech may be affected by reasonable and constrained regulation that is unrelated to the expression itself.

5. The County has an important and substantial interest in preventing sign clutter (defined as the proliferation of signs of increasing size and dimensions as a result of competition among property owners for the attention of passing motorists), because sign clutter degrades the character of the community, makes the community a less attractive place for commerce and private investment, and dilutes or obscures messages displayed along the County's roads by creating visual confusion and aesthetic blight.

6. Sign clutter can be prevented by reasonable regulations that balance the legitimate needs of individual property owners to convey their commercial and noncommercial messages against the comparable needs of adjacent and nearby property owners and the interest of the community as a whole in providing for a high quality community character.

7. The uncontrolled use of outdoor advertising signs and their location, density, size, shape, motion, illumination and demand for attention can significantly degrade community character,

property rights and property values, and therefore, reasonable restrictions on the display of commercial messages are necessary and desirable.

8. Temporary signs are frequently damaged or destroyed by wind, rain, and sun, and after such damage or destruction, degrade the aesthetics and resource values in and along road rights-of-way if they are not removed. The County has an important, substantial, and in some cases compelling, interest in keeping road rights-of-way clear of obstructions and litter.

C. Objectives. The objective of this article is to provide a balanced and fair legal framework for design, construction, and placement of signs that:

1. Promotes the safety of persons and property by ensuring that signs do not create a hazard by:

a. Collapsing, catching fire, or otherwise decaying;

b. Confusing or distracting motorists; or

c. Impairing drivers' ability to see pedestrians, obstacles or other vehicles, or to read traffic signs.

2. Promotes the efficient communication of messages, and ensures that persons exposed to signs:

a. Are not overwhelmed by the number of signs or messages presented; and

b. Are able to exercise freedom of choice to observe or ignore signs or messages according to the observer's purpose.

3. Protects the public welfare and enhances the appearance and economic value of the landscape by protecting scenic views and avoiding sign clutter, which tends to compromise the character, quality, and vitality of the area in which it occurs.

4. Ensures that signs are compatible with their surroundings, and prevents the construction of signs that are a nuisance to occupants of adjacent and contiguous property due to brightness, bulk, or height.

5. Assists in way-finding.

8.4.802: GENERAL REQUIREMENTS:

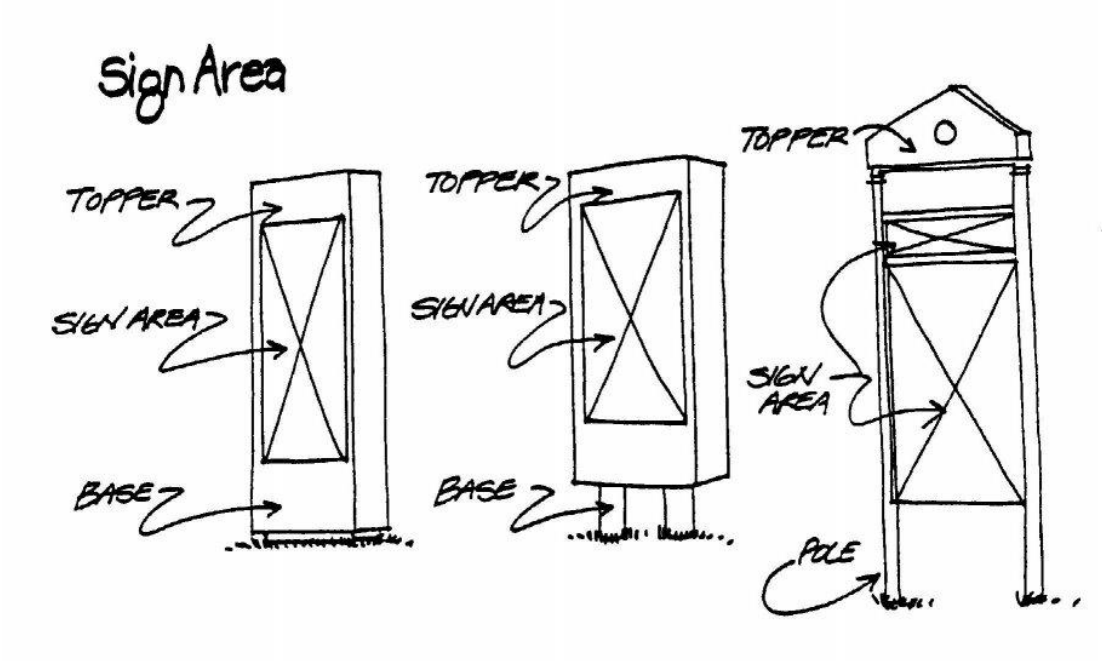
A. Property Line Setbacks. Signs may be installed up to, but not over, property lines. Signs may not be installed in easements.

B. Sign Area. The size of a sign face, in square feet, shall be measured so as to include the entire area within a continuous perimeter enclosing the extreme limits of the sign, including the background on which the lettering is placed. Such perimeter shall not include any structural elements which lie outside the limits of the sign and which do not form an integral part of the

display. When a sign is painted on a building, the size of the sign shall be determined by the perimeter within which the lettering and/or artwork of the sign is inscribed. *See also* Illustration 4-801 (Sign Areas).

C. Sign Height. The height of a sign shall be measured from the finished ground level adjacent to the sign, to the top of the sign, or to the highest point of the sign structure or frame, whichever is greater. On slopes, the height of the sign is measured at the mid-point of the sign.

Illustration 4-801
Sign Areas



D. Corner Visibility.

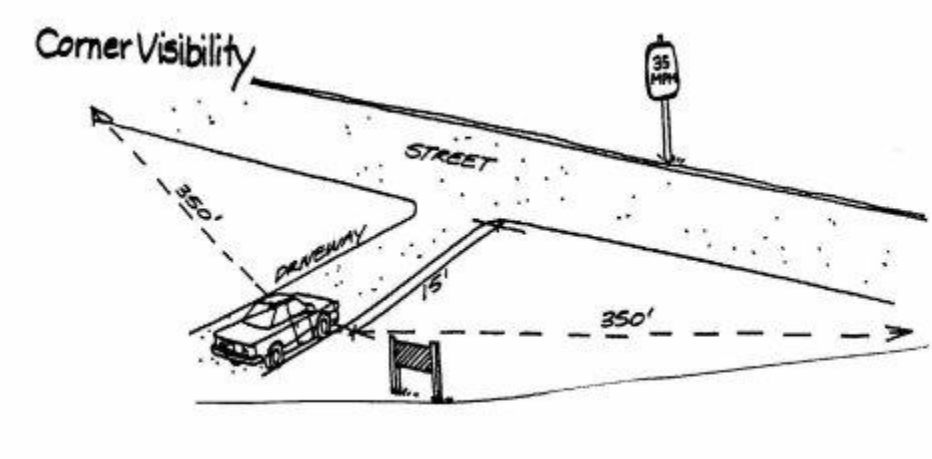
1. No sign or display shall be permitted at the intersection of a road, alley or driveway, in a manner that obstructs the clear vision of any part of the road. If a sign is placed at the intersection of two roads, the sign must not interfere with the 50 foot corner visibility triangle described in article 4.13, section 8.4.1402 of this chapter.

2. For signs located near a driveway entrance onto a road, a sight triangle based on the speed of traffic is used. At a point fifteen feet back from the edge of the road surface or curb, no sign may block the line of vision to a point equal to the speed limit times ten. For example, if the speed limit is 35 miles per hour, the exiting driver must be able to see the road and vehicles up to 350 feet away. *See also* Illustration 4-802 (Corner Visibility).

E. Sign Maintenance. All sign supports, braces, guys, anchors and other components shall be kept in good repair, and the faces of signs shall be neatly painted or posted at all times.

F. International Building Code. Signs construction shall comply with the currently adopted edition of the International Building Code. If a building permit is not required, no other permit is necessary; however, the sign or display must meet the requirements of this title.

Illustration 4-802
Corner Visibility



8.4.803: SIGNS PERMITTED IN ALL ZONES: The following signs are permitted in all zoning districts:

A. Official notices required by a Court or other governmental authority.

B. Directional, warning, location, information, or traffic signs, located on public property and authorized by a governmental authority.

C. Signs that are oriented internally to a site and that are not directed toward other properties or roads. Examples include sponsorship signs at race tracks and sporting facilities.

D. Other signs authorized or required by law (for example, no trespassing or handicap parking signs).

E. Signs that include only the name of a location, owner or occupant (for example, signs depicting the name of a subdivision, ranch or property owner). The name of a business or other information may not be included on this sign.

8.4.804: SIGNS AND DISPLAYS PROHIBITED IN ALL ZONES: The following signs and displays are prohibited in all zoning districts:

A. Signs that create a hazard or dangerous distraction to vehicular traffic; that may be confused with or interfere with authorized railroad or traffic signs, signals or devices; that impair the vision of drivers or pedestrians; or that otherwise interfere with traffic visibility.

B. Signs that are not structurally sound, that may pose a hazard to people or property.

C. Roof signs.

D. Revolving signs or signs with moving parts.

E. Animated signs (both mechanically and electronically animated).

F. Signs with audible devices.

G. Flashing signs, lights or displays.

H. Signs advertising activities that are illegal.

I. Signs that are obscene or indecent.

J. Signs not specifically permitted by this title.

K. Off-Premises Signs.

1. With the following exception of temporary event signs, off-premises signs are not permitted in any zoning district.

2. Off-premises, temporary event signs or banners are permitted in all zones for up 14 days during a calendar year, in connection with a single event which is not repeated during the calendar year, with the permission of the property owner.

3. Off-premises signs near State, U.S. and Interstate highways shall also comply with the applicable requirements of Title 40, Chapter 19, Idaho Code.

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-premise 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 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-premise 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.

Table 4-803
Maximum Sign Size and Height in the Commercial, Light Industrial, and Industrial Zones

Speed Limit	Number of Traffic Lanes	Maximum Area of Sign Face*	Maximum Sign Height**
25 mph or lower	2-3	25 sq. ft.	12 feet
	4 or more	32 sq. ft.	
30-35 mph	2-3	32 sq. ft.	20 feet
	4 or more	42 sq. ft.	
40-50 mph	2-3	75 sq. ft.	35 feet
	4 or more	90 sq. ft.	
55 mph or higher	2-3	150 sq. ft.	40 feet
	4 or more	200 sq. ft.	

* Area is determined by the dimensions of one side of a two faced sign (e.g. a 25 sq. ft. sign may have 25 sq. ft. of sign face on one side, and 25 sq. ft. of sign face on the opposite side).

** Sign height is measured to the top of the sign, or the top of the sign structure, whichever is greater. The maximum height for monument signs is 6 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.

D. 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 in addition to the general prohibitions set forth in this section:

1. Internal lighting of signs.

2. Electronic message centers.

3. Banner signs.

4. Pennants and similar displays, individually or strung together.

5. Floating or blow up signs.

6. Search lights. (Ord. 546, 10-22-19)

8.4.806: VARIANCES: Variances from the standards set forth in this article shall be heard and decided in accordance with the provisions of section 8.8.203 of this title.

8.4.807: APPEALS: Appeals from any decision or interpretation of the Director pertaining to the standards set forth in this article may be appealed in accordance with the procedure set forth in chapter 8, article 8.5 of this title.

Table 4-804
Maximum Sign Size and Height in the Agricultural, Rural, Agricultural Suburban, Restricted Residential, High Density Residential, and Mining Zones

Speed Limit	Type of Sign	Maximum Area of Sign Face*	Maximum Sign Height**
45 mph or lower	Monument	16 sq. ft.	6 feet
	Pole	10 sq. ft.	
50 mph or higher	Monument	32 sq. ft.	6 feet
50-55 mph	Pole	16 sq. ft.	8 feet
60 mph or higher	Pole	32 sq. ft.	12 feet

* Area is determined by the dimensions of one side of a two faced sign (e.g. a 25 sq. ft. sign may have 25 sq. ft. of sign face on one side, and 25 sq. ft. of sign face on the opposite side).

** Sign height is measured to the top of the sign, or the top of the sign structure, whichever is greater.

Article 4.9 Conditional Zoning Development Agreements

8.4.901: PURPOSE: Conditional zoning development agreements are a discretionary tool that may be used by the Board as a condition of rezoning. Conditional zoning development agreements allow a specific project with a specific use to be developed on one or more parcels located in an area that is not currently zoned for the proposed uses.

8.4.902: INITIATION OF AGREEMENTS: An agreement may be initiated with the consent of the applicant for the rezoning of a particular parcel of land or collection of parcels of land through the following methods:

A. On application by the applicant;

B. By recommendation of the Director;

C. By recommendation of the Planning Commission or a hearing examiner; or

D. As required by the board.

8.4.903: JURISDICTION: In the event that a hearing body finds that a conditional zoning development agreement should be entered into, the hearing body shall retain jurisdiction of the matter, defer consideration of the rezone applied for and set a time limit for submittal of a proposed agreement. The hearing body shall then proceed as specified herein.

In the event of a determination by the Board that an agreement should be entered into, the Board may remand the matter to the hearing body to set a time limit for submittal of a proposed agreement. The hearing body shall then proceed as specified in this article.

8.4.904: TIME LIMITS: In the event of findings by the hearing body, or by requirement of the Board to submit an agreement, all time limits required by the provisions of Idaho Code or this title may be stayed, modified, or extended upon affirmative decision of the hearing body or vote of the board. The hearing body or the Board may establish time limits for submittal of a proposed agreement. Failure by the applicant to comply with such time limits may be deemed to constitute just cause for termination of conditional zoning development agreement proceedings and denial of the zone change application.

8.4.905: FORM OF AGREEMENTS: An agreement shall be in the form required by the Director. No agreement shall be accepted by the Department which does not include the following:

A. The legal name, title and addresses of the applicant, property owner and/or others with a direct vested interest in the conditional zoning development agreement and rezone request.

B. A legal description of the property that is subject of the rezone request. Such legal description must be acceptable to the county.

C. An affidavit by the owner of the parcel agreeing to submission of the use and property for an agreement upon the adoption of an order by the board approving the requested re-zone of the subject parcel.

D. The current use of the property for which the conditional zoning development agreement is sought.

E. The proposed specific use of the property for which the conditional zoning development agreement is sought and an explanation of how the proposed use is permitted or conditionally permitted in the zone for which application has been made.

F. A project summary report, which shall include:

1. A narrative description of the proposed density, amenities, improvements or other uses sought, including, but not limited to: height, setbacks, size, and location of all proposed structures or activities on the property.

2. The estimated time of start and completion of all proposed development activities. This may be simplified by devising a timeline that splits development activities into phases.

3. Plans for use and reuse of property after proposed project completion.

4. A narrative description of physical and environmental effects, constraints, or limitations of the proposed development, including infrastructure demands, and proposals for mitigation of identified physical and environmental effects, constraints or limitations.

5. Economic benefits gained or lost from proposed development.

6. Conceptual site plans, with some representation of scale showing the approximate location of any proposed structures, perimeter buffer treatment (as required), road improvements, conceptual drainage strategy, and other proposed usage information. Exhibits on general soil types, topography, slope, vegetation, drainages, and other pertinent land characteristics may also be required.

G. Signed letters of application, approval, or pre-approval from any applicable federal, state, or local agencies involved in the permitting process for the specific use proposed. Letters shall include any written agreements made with agencies to perform specific action. If letters of application, approval, or pre-approval are not provided, acknowledgement and consent to comply with all applicable federal, state and local laws, rules, regulations, and standards shall be substituted.

H. A statement by the owner of the property that failure to comply with the commitments in the agreement shall be deemed consent to rezone the property to the pre-existing zone. Rezoning of the subject parcel will occur at the time of termination of the agreement and shall comply with the notice and hearing procedures set forth in section 67-6509, Idaho Code. The costs of such rezone shall be paid by the applicant, owner and/or developer.

I. Signatures of all applicants, owners, developers, or lawfully authorized agents, shall be notarized, and in the case of lawfully authorized agents, properly executed powers of attorney in a form acceptable to the County's legal counsel shall be presented to the director and shall be made part of the agreement.

J. A clause that the commitment shall run with the land and be binding on the heirs, assigns, and successors in interest of the owner and/or developer.

K. Any other matter mutually agreeable to the parties. This may include, but is not limited to, performance bonding or other fiscal guarantees.

8.4.906: APPROVAL OF AGREEMENTS: The Board may require an agreement to be executed to allow a rezone in order to ensure implementation of the project as represented by the applicant and to promote the general health, safety, comfort, convenience, and welfare of the citizens of Kootenai County. A conditional zoning development agreement shall not allow a use of the property that is not a permitted use (whether of right or with the appropriate permit) in the zone requested.

A. Conditional zoning development agreements may be recommended for approval by the hearing body, and may be approved by the Board, only after public hearings complying with the notice

and hearing procedures set forth in section 67-6509, Idaho Code and chapter 8, article 8.4 of this title.

B. The hearing body may recommend, and the Board may add, conditions, terms, duties or obligations to the development agreement.

8.4.907: RECORDATION OF AGREEMENTS: Following approval of a conditional zoning development agreement and adoption of a companion ordinance rezoning the subject property by the Board, the agreement shall be recorded in the Office of the County Recorder at the expense of the property owner or applicant. The recorded agreement shall take effect and be in force upon adoption of the approval order or publication of the ordinance rezoning the subject property, whichever occurs later. The agreement, and all conditions, terms, duties or obligations included therein, shall run with the land and shall be considered to be continuing obligations of the owner, all subsequent owners and any other person acquiring an interest in the property.

8.4.908: DUTY TO COMPLY WITH TERMS OF AGREEMENT: Any owner, subsequent owner, and any other person acquiring an interest in property that is restricted by an agreement adopted pursuant to this chapter, shall comply with all terms, conditions, obligations and duties contained in the agreement.

8.4.909: MODIFICATION OF AGREEMENTS:

A. No substantial modification of an agreement may be made without approval of the Board unless the modification is required by changes in state or federal laws, rules, or regulations. An agreement may be modified by the Board without a public hearing only upon an affirmative recommendation from the hearing body that the proposed modification is not a substantial change to the terms and conditions of the agreement, or that the modification is required by changes in state or federal laws, rules, or regulations.

B. After recordation of a conditional zoning development agreement, any party bound by the agreement may seek to modify the agreement. Requests for modification of a conditional zoning development agreement shall comply with the procedures set forth in this article, and may also follow any procedures contained in the original agreement which are consistent with those set forth in this article. The hearing body may recommend to the Board, and the Board may approve, a substantial modification of a previously adopted agreement based upon the following criteria:

1. A public hearing is held which complies with the notice and hearing procedures set forth in section 67-6509, Idaho Code and chapter 8, article 8.4 of this title.

2. A finding that the circumstances surrounding the agreement currently in effect have changed and that the proposed modification will:

a. Preserve the enjoyment of a substantial property right of the owner;

b. Not be detrimental to the public welfare; and

c. Not be injurious to other property in the surrounding neighborhood.

8.4.910: TERMINATION OF AGREEMENTS:

A. A conditional zoning development agreement may be terminated by the Board without the consent of the breaching party for failure to comply with any term, condition, obligation or duty contained in the agreement. Such termination shall take place after a public hearing on the termination, at which time testimony shall be taken to establish non-compliance with the agreement. The public hearing shall comply with the notice and hearing procedures set forth in section 67-6509, Idaho Code and chapter 8, article 8.4 of this title.

B. A conditional zoning development agreement may contain termination procedures, including, without limitation, notification of the persons bound by the agreement of the alleged violation and establishing a reasonable time to remedy the violation prior to the initiation of termination proceedings.

C. Upon termination of the agreement, the property which was the subject of the agreement shall revert to the zone applicable as of the date of submittal of the rezone request which resulted in the adoption of the agreement. If no such zone then exists, the zone then in effect which most closely conforms to the characteristics and requirements of the prior existing zone, as determined by the Director, shall apply. At that time, all uses of the property which are not permitted within the subsequently applied zone following termination of the agreement shall immediately cease. The property owner may apply for the appropriate permit for any use that is permitted within the subsequently applied zone upon approval of such permit.

D. A conditional zoning development agreement shall stipulate that the costs incurred to rezone the property upon termination of the agreement be paid by the applicant, owner and/or developer of the property.

8.4.911: ENFORCEMENT OF AGREEMENTS: Conditional zoning development agreements may be enforced by the County through any means deemed to be appropriate, including but not limited to, specific enforcement, injunctive relief, or damages for violation of any provision of this article or of any agreement approved pursuant to the provisions of this article. The foregoing enforcement options available to the County shall not be deemed exclusive.

8.4.912: RATIFICATION OF PRIOR ACTIONS: All actions of the board, the Kootenai County Planning and Zoning Commission, hearing examiners, directors, and/or their designees, concerning any conditional zoning development agreements approved on or after July 7, 1993 are hereby ratified.

Article 4.10 Road Naming and Addressing

8.4.1001: PURPOSE: The purpose of this article is to provide the residents of the County with a uniform and standardized system of road naming and addressing to:

A. Minimize future road name and addressing conflicts;

B. Provide a database for county records and enhanced 911 service;

C. Expedite property identification by emergency services; and

D. Comply with addressing guidelines issued by the National Emergency Number Association (NENA), the U.S. Postal Service (USPS), and emergency communications providers.

8.4.1002: IMPLEMENTATION AND RESPONSIBILITIES:

A. The Department shall have the responsibility of implementing, enforcing and maintaining the addressing and road naming standards set forth in this article.

B. In the event that violations of this chapter are not corrected by the date required herein, the county may perform the work and bill the property owner for work completed.

C. Property owners shall be responsible for posting address numbers in accordance with sections 8.4.1005 and 8.4.1012 of this article, and for erecting private road signs in accordance with section 8.4.1011 of this article. Addresses and road names shall be posted within four (4) months of issuance of the address or road name.

D. Each highway district will be responsible for erecting and maintaining public road signs at district road intersections within their respective boundaries. Each highway district will also supervise the erection of private road signs.

E. Property owners shall be responsible for the designation of access points on the public or private road and installation and maintenance of all required road signs. The access points designated by the owner shall be utilized to determine the address of the parcel. Access points shall be subject to County review and approval to ensure that they are accessible to emergency service providers.

F. All addresses shall comply with the addressing guidelines outlined in section 8.4.1001 of this article. The order of precedence will be NENA, emergency communications providers, and USPS.

G. The County geographic information systems (GIS) department will hold and maintain all official addressing data.

8.4.1003: ADDRESS GRID: Kootenai County shall be divided into four (4) quadrants with the address origination point located at the southwest corner of Section 13, Township 50 North, Range 4 West Boise Meridian, as follows:

A. To the north, from the origination point as defined above, to Kootenai County's north boundary.

B. To the east, from the origination point as defined above, to Kootenai County's east boundary.

C. To the south, from the origination point as defined above, along the centerline of Coeur d'Alene Lake to Kootenai County's south boundary.

D. To the west, from the origination point as defined above, to the centerline of the Spokane River, then westerly down the centerline of the Spokane River to Kootenai County's west boundary.

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 individual unit shall be assigned a unit number.

2. A multiple 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. The owner of the parcel shall be responsible for providing designated individual numbering of each unit before an address number will be issued to any structure.

3. Roads within a manufactured home park shall be named and signed, and each manufactured home space assigned an address number, according to the provisions of this article.

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 to ensure that they are accessible to emergency service providers. If this primary access point is not designated by the property owner, the director shall make the official determination to allow the proper addressing of the property.

8. Each public and private road shall be assigned a road name, and all parcels which directly access the road shall be addressed in accordance with the provisions of this article. 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 served by an unnamed common driveway shall be assigned its own address based on the point at which the common driveway intersects a public road, private road, or named 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 not properly permitted under the provisions of this title. (Ord. 546, 10-22-19)

8.4.1005: POSTING OF ADDRESS NUMBERS: Physical address numbers shall be clearly readable from the roadway, and shall contrast with background color in accordance with the fire code adopted by the County or the fire protection district with jurisdiction, as applicable. If a structure is more than seventy five feet (75') from the road, or is otherwise not clearly visible from the road, its address shall be posted at the intersection of its access road and public or private road. The address sign shall be no less than four feet (4') nor more than six feet (6') above the ground on a substantial, maintained support structure. The view of the address from the road must be unobstructed and maintained. All primary letters, numbers and symbols shall be a minimum of

three and one-half inches (3½") in height, with a one-half inch (½") stroke, and shall contrast with the background color.

8.4.1006: ROAD DESIGNATIONS: Designation of roads within the unincorporated areas of Kootenai County shall be in accordance with the following guidelines:

A. All named roads that extend from incorporated areas into unincorporated areas shall retain the same name except as may be specifically approved by the Director or the Board.

B. Roads which have a definite north-south directional course shall be designated as a street. Roads which have a definite east-west directional course shall be designated an avenue.

C. Roads which do not have a definite directional course shall be designated as a road, drive, trail, way or lane.

D. A dead end road or cul-de-sac less than one thousand feet (1,000') in length, when not an extension of an existing road or a continuation of a proposed road, shall be called a court.

E. A road that has its ingress and egress on the same road shall be designated a loop.

F. A road that circles back upon itself shall be designated as a circle.

G. Special scenic routes or park drives may be designated parkway upon review and approval by the Director.

H. A road which has less than a one hundred twenty five foot (125') centerline alignment offset from an existing road intersection shall continue the same road name, provided that this would not conflict with the standards contained in section 8.4.1004 of this article. A road, which has more than a one hundred twenty five foot (125') centerline alignment offset from an existing road intersection, shall adopt a new name.

I. Duplicate road names are prohibited. Existing duplicated names shall be corrected in accordance with this article.

8.4.1007: ROAD NAMING STANDARDS: In selecting road names, consideration shall be given to the following:

A. The centerline alignment road name standards of subsection 8.4.1006(H) of this article shall be observed for non-continuous roads, unless there is no possibility for extension of the road to make it a continuous through road.

B. There shall be no duplication of existing names. The county shall assemble, update and maintain an official list of all road names throughout the county for use by all jurisdictions.

C. Names of similar pronunciation and/or spelling shall be prohibited (example: Briar Lane, Brier Lane).

D. Variations of the same name with a different road designation shall be prohibited within the first word of the two (2) word title or in the road extension (example: Pine Road, Pine Drive, White Pine Rd, White Lilly Ln).

E. No road name shall consist of more than three (3) words or contain more than sixteen (16) letters, excluding the road direction (N, S, E, W) and extension (street, lane, court, etc.).

F. No road shall have more than one name.

G. No road name shall contain the words north, south east or west or any combination thereof within the road name.

8.4.1008: NEW ROADS OR EXISTING UNNAMED ROADS: Any new road to be established within the county, public or private, or any existing unnamed road, public or private, shall require a road name approved by the Director.

A. In the case of plats, approved road names shall be specified on the final plat map.

B. In the case of other new roads or naming of unnamed roads, the owner of, or any person with a bona fide interest in, a parcel abutting the road may file a request to officially name the road.

1. The request shall be made on a form provided by the Department.

2. The procedure for approval of a request to name a road shall be as set forth in section 8.8.204 of this title.

3. If the owners present a petition bearing the signatures of at least fifty one percent (51%) of the property owners (excluding federal, state, public utilities and municipal lands) whose properties abut the road, the road shall be officially named. Property owners who own more than one property abutting a road shall only have one vote. The Director shall notify by first class mail all property owners along the road. Tax assessment records shall be used for owner address information.

4. If the petition bears the signatures of less than fifty one percent (51%) of the owners whose property abuts the road, the name shall be temporary. Property owners shall have thirty (30) days to respond. A property owner's failure to respond during the thirty (30) day period shall be deemed as an approval of the name by that property owner. The Director shall only consider a request to name a road if all road naming requirements of this chapter are met. The Director shall officially designate the road name having the greatest percentage of approval in the event a fifty one percent (51%) approval is not obtained.

C. In cases where the property owners have not petitioned, as outlined in subsection (B) of this section, the Department shall choose an unduplicated road name. Notice shall be given to the property owners by first class mail. Tax assessment records shall be used for owner address information. Property owners shall have thirty (30) days to respond with their appeal if they dispute the chosen name. If no adverse response from more than fifty one percent (51%) of the ownership is received within the thirty (30) day period, the planning director shall officially name the road. Roads named pursuant to section 8.4.1010 of this article shall be exempt from this requirement.

8.4.1009: OFFICIAL DESIGNATION OF EXISTING ROAD NAMES: The names of all roads named as a result of the county mapping and rural addressing project for enhanced 911 contract dated October 14, 1997, shall be designated as the official road names unless any such roads are subsequently renamed in accordance with section 8.4.1010 of this article.

8.4.1010: RENAMING ROADS:

A. Renaming of Existing Duplicated Road Names: Where duplicate names exist, roads shall be renamed by the Director to eliminate the duplication.

1. The Director shall decide which roads shall be renamed using the following criteria:

    a. When the road was originally named.

    b. The number of improved properties served by the road.

    c. Other relevant factors.

2. When a road name within the unincorporated area of the County is duplicated by a road name within a city, the County shall work with the city to decide which road shall be renamed. Roads shall be renamed in accordance with the procedures outlined in subsection 8.4.1008(C) of this article.

B. Renaming Other Roads: In cases where property owners request to change the name of a road which has an existing county approved name, the property owners may petition the county in the same manner as outlined in subsection 8.4.1008(B) of this article. Property owner initiated requests under this section shall require seventy five percent (75%) approval of property owners abutting the road and the payment of an applicable fee. Road names shall not be changed more frequently than once every five (5) years.

8.4.1011: ROAD SIGN STANDARDS:

A. General: Road signs shall be placed in accordance with subsection (B) of this section to be clearly visible at intersections. All primary letters, numbers, and symbols shall be a minimum of four inches (4") in height, with a one-half inch ($^1/_2$") stroke, and shall be reflectorized and contrasting with the background color of the sign in accordance with the *Manual Of Uniform Traffic Control Devices* (MUTCD). Specifically, public road signs shall be green with white lettering. Private road signs shall be blue with white letters. All public and private road signs shall be constructed and installed to the standards of the highway district with jurisdiction. Private road signs shall be erected under the supervision of the highway districts.

B. Installation Standards: Proper positioning of signs is essential to obtain maximum safety, efficiency and observance. While the MUTCD establishes minimum standards, positioning of signs must also comply with the following additional standards:

1. Sign visibility requirements as noted in the MUTCD are set at a height of five feet (5') minimum in rural areas and seven feet (7') in urban areas above the road surface.

2. Road signs placed for public roads shall be set by the appropriate highway district, and shall meet the MUTCD standards.

3. Road signs shall be installed on either a treated four inch by four inch (4" x 4") post, eight feet (8') in length, with three and one-half feet (3.5') buried in the ground, or a metal pipe of the same length and burial depth. The road signs shall be bolted directly to the post, utilizing a bracket that will allow the sign to be seen from two (2) sides.

4. Road signs may be mounted on the stop or yield sign posts with an approved bracket, and after receiving approval from the highway agency with jurisdiction. Road signs shall be set a minimum of six feet (6') from the road edge, and a maximum of thirty feet (30') from the road edge, depending on the line of sight or topography. If a curb is present, the sign post shall be set a minimum distance of two feet (2') from the curb edge.

8.4.1012: MARINE ADDRESSING SYSTEM:

A. A shoreline distance based system may be used by emergency service agencies to assign numerical points to facilitate emergency responses. These marine response identification numbers shall not be used as addresses except for those parcels that do not have any access other than by water.

B. Marine response identification numbers shall be based on a shoreline distance measurement from a uniform starting point as follows:

1. For Coeur d'Alene Lake, the west shoreline numbers shall start at that point where the west side of the U.S. Highway 95 bridge intersects the Spokane River. The east shoreline numbers shall start at that point where the east side of the Highway 95 bridge intersects the Spokane River. Odd and even numbers may occur on the same side of the lake.

2. For Spirit Lake, the north and south shores shall be consecutively numbered starting at the Spirit Lake Road bridge over the outlet at the north end of the lake and continuing to the mouth of Brickel Creek on the west end of the lake. Odd and even numbers may occur on the same side of the lake. The directional letter shall refer to the shore where the parcel is located.

3. For both Upper and Lower Twin Lakes, the north and south shores shall be consecutively numbered, starting at the bridge between the two (2) lakes. For Lower Twin Lake, Rathdrum Creek shall serve as the dividing point on the east end. For Upper Twin Lake, Fish Creek shall serve as the dividing point on the west end. Odd and even numbers may occur on the same side of the lake. The directional letter shall refer to the shore where the parcel is located.

4. For other navigable lakes and water bodies within Kootenai County, marine response identification numbers shall be established starting at a readily identified point on the water body and numbered consecutively.

C. Where a marine response identification number is used as an address for a parcel, the number shall be posted on a pier, dock or other waterfront appurtenance, no less than four feet (4') nor more than six feet (6') above the ground or high water line. The sign must be clearly readable to emergency providers arriving by boat. In cases where the marine response identification number

is not used as an address (where road access is available and a road address has been issued), the marine response identification number shall be posted in accordance with the policies of those emergency service providers with jurisdiction.

8.4.1013: ADMINISTRATIVE PROCEDURES:

A. Controversial Or Disputed Road Names: The Director shall have the discretion to refer any disputed road name, addressing issues or controversial road name changes to the Board for approval or resolution.

B. Appeals: Any decision of the Director made pursuant to this article may be appealed to the Board in accordance with chapter 8, article 8.5 of this title.

8.4.1014: VIOLATIONS AND ENFORCEMENT:

A. Violations: It shall be unlawful for any person to:

1. Erect or install a street name sign not in accordance with this chapter;

2. Remove, alter, change or deface a street name sign or address identification erected or installed as provided herein;

3. Place or post addresses not approved by this chapter; or

4. Fail to place an address visible from the road and/or waterway.

B. Enforcement: Enforcement of the provisions of this article shall be in accordance with the provisions of chapter 8, article 8.6 of this title.

Article 4.11 Lots and Parcels

8.4.1101: ELIGIBILITY FOR PERMITS:

A. In order to be eligible for issuance of permits, a parcel shall meet at least one of the following criteria:

1. The parcel was created by a deed describing the property by metes and bounds, or aliquot parts, which was recorded in the Office of the Kootenai County Recorder on or before January 3, 1973; or

2. The parcel was created by a deed describing the property by metes and bounds, or aliquot parts, which was recorded in the Office of the Kootenai County Recorder after January 3, 1973, and on or before November 17, 1995, by means other than the County's subdivision process in effect at the time of creation, and has duly recorded legal access to a public road or from water; or

3. The parcel was created by a deed describing the property by metes and bounds, or aliquot parts, which was recorded in the Office of the Kootenai County Recorder after November 17, 1995 pursuant to an exemption to the County's subdivision approval requirements in effect at the time of creation, and has duly recorded legal access to a public road; or

4. The parcel is a railroad or road right of way which was lawfully abandoned and subsequently conveyed by the former owner of the right of way.

5. The lot was created pursuant to subdivision approval in accordance with the subdivision regulations in effect at the time of application, and:

a. The subdivision plat was recorded in the Office of the Kootenai County Recorder; and

b. Either:

i. The lot has legal access from a public or private road, as approved at the time of platting, and driveways meet the standards set forth in article 4.2 of this chapter; or

ii. The lot has legal access from water only, if such access was approved at the time of platting.

B. Lots are created as of the date of recordation of the plat creating the lot. All lots contained within a plat which modifies one or more previously created lots shall be deemed to be newly created lots as of the date of recordation of the plat.

C. A parcel which is not a lot is created upon the occurrence of the following:

1. A parcel created by a deed describing the property by metes and bounds, or aliquot parts, which was executed on or before November 17, 1995 and subsequently recorded in the Office of the Kootenai County Recorder shall be deemed to have been created as of the date of execution of the deed.

2. A parcel created by a deed describing the property by metes and bounds, or aliquot parts, which was executed after November 17, 1995 and subsequently recorded in the Office of the Kootenai County Recorder shall be deemed to have been created as of the date of recordation.

3. Parcels cannot be created via unrecorded deed or via execution of a contract for the sale of the property, even if such contract has been recorded.

4. Remainder parcels. If a portion of a then-existing parcel has been conveyed via execution and recordation of a deed describing the property by metes and bounds, or aliquot parts, the remaining portion of the parcel shall be deemed to have been created as of the date of creation of the parcel formed as a result of the conveyance.

D. Access to residential lots via driveways, common driveways, and private roads shall comply with the requirements of article 4.2 of this chapter.

8.4.1102: LOT TYPES:

A. A corner lot is a parcel located at the corner of an intersection of two (2) or more streets. A parcel abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of the parcel meet at an interior angle of less than one hundred thirty-five (135) degrees.

B. A double frontage lot is a parcel other than a corner lot which abuts two (2) or more streets.

C. An interior lot is a parcel other than a corner lot with only one (1) frontage on a street.

D. A reversed frontage lot is a parcel on which the frontage is at right angles or approximately right angles (interior angles less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, a double frontage lot, an interior lot, or a through lot.

E. A through lot is a parcel in which a road runs through.

F. A waterfront lot is a parcel that adjoins or abuts the high water mark of a lake, river, or stream.

8.4.1103: MEASUREMENTS:

A. Depth of a parcel shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side boundary lines in front and the rearmost points of the side boundary lines in the rear.

B. Width of a parcel shall be considered to be the distance between straight lines connecting front and rear boundary lines at each side of the parcel, measured across the rear of the required front yard; provided, however, that width between side boundary lines in the foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required parcel width, except in the case of parcels on the turning circle of cul-de-sacs, where the eighty (80) percent requirement shall not apply.

8.4.1104: SIZE:

A. Compliance with Minimum Size Requirements. Except as otherwise permitted in this title, yards and parcels shall meet at least the minimum parcel size, yard coverage and setback requirements which apply to the zone in which the parcel is located, and no existing yard, parcel size or setback area shall be reduced in dimension or area below these minimum requirements.

B. Calculation of Parcel Size.

1. The size of a parcel may be figured using gross acreage (including one-half (½) of the adjacent right-of-way) if the gross acreage of the parcel is five (5.00) acre or larger, and the net acreage (excluding right-of-way) is no more than ten percent (10%) smaller than the minimum lot size which applies to the underlying zone (for example, 4.50 net acres or larger for a parcel with a gross acreage of 5.00 acres).

2. The size of a parcel which is smaller than 5.00 gross acres shall be figured using net acreage.

8.4.1105: FRONTAGE:

A. In General. Except as otherwise provided in this section, the front of a parcel shall be the portion of the parcel closest to the nearest public or private road.

B. Corner Lots. The front of a corner lot shall be the portion of the parcel where the primary access to the parcel intersects with a road. The other road abutting the parcel shall be considered a flanking street for purposes of yard and setback requirements.

C. Double Frontage Lots. The front of a double frontage lot shall be the portion of the parcel where the primary access to the parcel intersects with a road. The other road abutting the parcel shall be considered the rear of the parcel for purposes of yard and setback requirements.

D. Through Lots. The portions of the parcel abutting both sides of the road shall be considered the front of the parcel for purposes of yard and setback requirements.

E. Waterfront Lots. The shoreline shall be considered the rear of a waterfront lot unless there is no road access to the parcel, in which case the shoreline shall be considered the front of the parcel.

F. Effect of Prior Interpretations. Notwithstanding the provisions of subsections (A) through (E) of this section, prior interpretations and determinations pertaining to frontage of an existing parcel shall remain effective as to that parcel, and shall not cause the parcel to be regarded as nonconforming.

8.4.1106: SETBACKS:

A. Measurement of Setbacks.

1. Setbacks from public roads which have a definite right-of-way location and width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County shall be measured from the edge of the right-of-way regardless of the presence or absence of improvements within the right-of-way.

2. Setbacks from public roads which do not have a definite right-of-way location or width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County shall be measured from a line twenty-five feet (25') from, and parallel to, the centerline of the roadway.

3. Setbacks from private roads which have a definite right-of-way location and width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County shall be measured from the edge of the right-of-way if the roadway is actually located entirely within such right-of-way.

4. Setbacks from private roads shall be measured from the edge of the roadway when either:

a. There is not a definite right-of-way location or width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County; or

b. The roadway is actually located entirely or partially outside of the right-of-way set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County.

B. Effect of Prior Interpretations. Notwithstanding the provisions of subsection (A) of this section, prior interpretations and determinations pertaining to the setbacks that apply to an existing parcel shall remain effective as to that parcel, and shall not cause the parcel to be regarded as nonconforming.

C. Exceptions to Setback Requirements. The setback requirements set forth in this title shall not apply to:

1. Fences which are less than eight feet (8') in height;

2. Poured concrete structures on grade, such as patios and sidewalks;

3. Platforms necessary for access from roadways to garages or for parking purposes and which are not enclosed;

4. Stairways, walkways, and stairway landings which comply the following standards:

a. Stairways and walkways shall not exceed four feet (4') in width.

b. Stairway landings shall not exceed six feet (6') in width or length.

c. The following setback requirements shall apply:

i. Front and Rear Yard: none

ii. Side Yard: five feet (5')

5. Eave projections which:

a. Do not exceed two feet (2'); or

b. Are for the purpose of covering a stairway or walkway permitted pursuant to this subsection. The setback requirements contained in this subsection shall also apply to such eave projections.

6. Driveways and common driveways.

7. Unimproved private road rights-of-way.

8. Retaining walls.

9. Decks that are no higher than one foot (1') above grade. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

8.4.1107: INTERPRETATION OF DEEDS:

A. General Rule. Deeds shall be interpreted in a manner which best effectuates the intent of the grantor.

B. Specific Rules of Interpretation.

1. The intent of the grantor shall be determined by the deed language alone if the language is clear and unambiguous.

2. If deed language is ambiguous, evidence extrinsic to the deed may be considered, and well-recognized rules of statutory interpretation may be applied, to determine the intent of the grantor.

3. Ambiguity exists whenever language is subject to two or more reasonable interpretations.

C. Special Considerations.

1. Deeds shall not be interpreted solely on the basis of punctuation or changes in punctuation between deeds conveying the same property.

2. Changes in the wording of legal descriptions between deeds conveying the same property shall not be deemed controlling as to the number of parcels created by any given deed, nor as to whether parcels were divided or consolidated through the recordation of a given deed.

Article 4.12 Sexually Oriented Businesses

8.4.1201: FINDINGS AND INTENT:

A. Findings. Based on evidence concerning the adverse impacts of sexually oriented businesses on the community, the Board hereby makes the following findings:

1. Sexually oriented businesses are frequently used for unlawful and unhealthful sexual activities, including prostitution and sexual liaisons of a casual nature, and for other unlawful or unhealthy activities that are not well controlled by the operators of the establishments;

2. The concern over sexually transmitted diseases, including HIV, is a legitimate health concern of the County which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens;

3. Sexually oriented businesses have a deleterious effect on both neighboring businesses and surrounding residential areas, generally causing an increase in crime and a decrease in property values, contribute to blight, and downgrade the quality of life in these areas, particularly when two or more such businesses are located in close proximity to one another;

4. Children are particularly susceptible to the harmful impact of exposure to the effects of sexually oriented businesses, including those encountered when they walk through or visit in the immediate area around such businesses;

5. Sexually oriented businesses require special supervision from public safety agencies and local government regulation in order to protect the health, safety and welfare of the patrons of such businesses as well as the citizenry at large;

6. Regulation of sexually oriented businesses furthers substantial governmental interests and is necessary because, in the absence of such regulation, significant criminal activity, including prostitution, narcotics and liquor law violations, has historically and regularly occurred;

7. The Board wishes to minimize and control adverse effects and thereby protect the health, safety and welfare of the citizens, preserve the quality of life, property values and character of surrounding neighborhoods, and deter the spread of blight and protect the citizens from increased crime; and

8. It is not the intent of the regulations set forth in this article to suppress any speech protected by the First Amendment, but rather, to enact content-neutral regulations that address the particular adverse impacts of sexually oriented businesses.

B. Intent. The intent of this article and other pertinent provisions of this title is to set reasonable and uniform regulations to prevent the deleterious location and siting of sexually oriented business. These regulations impose restrictions no greater than necessary to further the County's interest in preventing or mitigating the negative effects of sexually oriented businesses. The provisions of this article and other pertinent provisions of this title are to be construed as a regulation of time, place, and manner of the location of these businesses, consistent with the United States and Idaho Constitutions. The provisions of this article have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment. It is also not the intent of this article to condone or legitimize the distribution of obscene material or material not protected by the First Amendment.

C. Relationship to State Law. The provisions of this article are not intended to abrogate the standards or enforcement the standards pertaining to indecency and obscenity set forth in Title 18, Chapter 41, Idaho Code, although such standards may in some circumstances be more restrictive than this article. It is the intent of the Board, however, that the standards contained in this article are to survive any repeal, amendment, or adverse judicial holding with respect to Title 18, Chapter 41, Idaho Code.

8.4.1202: STANDARDS: In recognition of the findings and intent set out in section 8.4.1201 of this article, sexually oriented businesses shall be subject to the following standards:

A. Sexually oriented businesses shall be permitted of right in the Industrial zone only. Sexually oriented businesses are prohibited in all other zones.

B. Sexually oriented businesses shall comply with the location requirements set forth in section 67-6533, Idaho Code.

C. No sexually oriented business shall be located within one thousand feet (1,000'), measured from property line to property line, of any of the following:

1. Any public or private school, college, university, or trade or vocational school;
2. A boundary of any residential district;
3. Any single-family, single-family attached, two-family, or multi-family dwelling unit;
4. Any publicly or privately owned park that is available for use by the general public;
5. Any child care center, preschool, Head Start or similar facility;
6. Any place of worship or place of assembly;
7. Any business licensed to distribute, sell, or serve alcoholic beverages; and
8. Another sexually-oriented business.

C. It is unlawful to cause or permit the operation or maintenance of more than one sexually oriented business in the same building, structure, lot, parcel, or portion thereof regardless of whether such businesses would be owned or operated by the same owner or lessee.

D. No sexually oriented business will be permitted to operate as an accessory to an otherwise permitted use.

E. Sexually oriented businesses shall not be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified anatomical areas and or specified sexual activities by display, decorations, signage, show window, or other opening from any public right-of-way.

F. Signage for sexually oriented businesses shall not display any pictures, photographs, silhouettes, drawing, or other pictorial representations of a sexually oriented nature.

G. No alcoholic beverages shall be possessed, sold, distributed, served, or consumed on any parcel on which a sexually oriented business is located.

Article 4.13 Standards Applicable in Particular Zones

8.4.1301: OFF-STREET PARKING IN RESIDENTIAL ZONES: In the Agricultural Suburban, Restricted Residential, and High Density Residential zones, off-street parking for vehicles shall be required as follows:

A. One (1) off-street parking space shall be required for a single-family dwelling.

B. Two (2) off-street parking spaces shall be required for a two-family dwelling.

C. Two (2) off-street parking spaces per dwelling unit shall be required for multiple family dwellings and manufactured home parks.

D. One (1) additional off-street parking space shall be required for an accessory living unit or temporary hardship unit.

E. The requirements of this section may be increased or reduced as a condition of an administrative approval, conditional use permit, or special notice permit to the extent necessary to reasonably address the impacts of the uses approved in the permit.

8.4.1302: COMMERCIAL ZONE STANDARDS: All uses in the Commercial zone shall meet the following standards:

A. Parcels shall have direct access from a public road.

B. Uses shall comply with all applicable requirements of this chapter.

C. Anticipated traffic impacts shall be calculated using the most current edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers, to determine whether a special notice permit is required pursuant to chapter 2, section 8.2.607 of this article.

D. Uses shall comply with the applicable requirements of the applicable Highway District and Idaho Transportation Department, or if the site is within an area of city impact, the associated city's standards for access, approaches, and street design, whichever is the higher standard.

F. If an existing community water system within 1,000 feet of the site is willing and able to provide water service to the use, connection to that system shall be required.

G. Uses shall comply with the applicable requirements of the Panhandle Health District for sanitary sewage disposal.

H. Uses shall comply with the applicable requirements of the Panhandle Health District's Critical Materials Regulation, IDAPA 41.01.01.100.

I. Fire Protection.

1. Uses on parcels located within the boundaries of a fire protection district shall meet all applicable regulations of that district.

2. Uses on parcels which are not within the boundaries of any fire protection district shall incorporate such fire protection measures as may be recommended by the State Fire Marshal or by the fire protection district contracted to provide fire code compliance inspections for the area in which the parcel is located.

J. No use shall generate sound pressure levels greater than 80 dBA as measured at the property line.

K. Fifty percent (50%) of the area of all sites must be left in open spaces free from structures.

L. Units in condominium/vacation rental facilities must be available for rental at least one hundred eighty-two (182) days per calendar year.

M. Outdoor storage of materials and machinery must comply with the setback areas set forth in chapter 2, section 8.2.605 of this title, except that automobiles and other machinery normally displayed for sales purposes on an open lot may be displayed within setback areas.

8.4.1303: MINING ZONE STANDARDS:

A. No use of land in the Mining zone shall be conducted on a parcel of land less than five (5) acres except for general farming and forestry.

B. Mining operations shall comply with the applicable provisions of Idaho law and the administrative rules and permitting requirements of the Idaho Department of Lands.

C. All mining operations shall be set back at least one thousand feet (1,000') from any parcel within the Agricultural, Rural, Agricultural Suburban, Restricted Residential, or High Density Residential zone, except that a setback of at least two hundred feet (200') may be allowed in conjunction with a structural or vegetative buffer designed to provide adequate visual, noise and dust screening of mining operations required as part of a conditional zoning development agreement executed in accordance with the provisions of chapter 4, article 4.9 of this title.

C. Excavations shall be at least fifty feet (50') from any property line and seventy-five feet (75') from any public highway right-of-way unless a greater setback is required by the Idaho Department of Lands or by the highway agency with jurisdiction.

D. Whenever use of a site has been terminated, the owner shall engage in reclamation of the site in accordance with the reclamation plan approved by the Idaho Department of Lands.

E. Topsoil removed during mining operations shall be retained and stored so that it may be used for reclamation. Topsoil may be retained and stored off-site until needed for reclamation operations.

F. Fencing shall be sufficient to exclude people and animals.

G. Road approaches to a site shall meet the requirements of the appropriate agency with jurisdiction.

H. Outdoor storage of materials and machinery must comply with the setback areas set forth in this section. (Ord. 517, 1-31-18)

8.4.1304: STANDARDS COMMON TO THE LIGHT INDUSTRIAL AND INDUSTRIAL ZONES: All commercial, manufacturing, and industrial uses in the Light Industrial and Industrial zones shall comply with the following performance standards:

A. Uses shall be carried on in such a manner and with such precautions against fire and explosion hazards as provided in the applicable building codes adopted pursuant to Title 7, Chapter 1 of this code.

B. Parcels shall have direct access from a public road, or from a frontage road or interior road with direct access from a public road.

C. Unless otherwise required by law, direct and indirect illumination shall not exceed 0.2 foot-candle at the edge of the parcel or parcels on which the use is located.

D. Sites shall be maintained in accordance with good housekeeping principles and sound operating practices.

E. Uses must comply with all applicable laws and regulations promulgated by public agencies with jurisdiction.

F. Storage.

1. All raw materials, finished products, machinery, and equipment, including company-owned or operated trucks, shall be screened or stored within a building, a fence, or vegetative barrier.

2. Outdoor storage must comply with the setback areas applicable in the respective zone.

3. Storage of petroleum products shall not exceed five thousand (5,000) gallons except as may be authorized via approval of a conditional use permit. Storage of petroleum products shall conform to the requirements set forth in subsection (G) of this section and those contained in the publication entitled *Best Management Practices for Containing Critical Materials During Above Ground Storage and Handling*, published by Kootenai County.

G. Flammable Materials.

1. The manufacture, transportation, utilization, and storage of flammable materials shall be conducted in accordance with accepted standards for safety and fire prevention. Such standards shall include the International Fire Code, and the applicable standards of the American Petroleum Institute, the Manufacturing Chemists' Association, and other organizations that promulgate standards of good practice.

2. The storage, utilization, or manufacture of flammable gases or liquids having a flash point below one hundred ten degrees Fahrenheit (110°F) shall not be permitted within two hundred feet (200’) of the boundary line separating a site from any area within Kootenai County except when stored underground or in containers of five thousand (5,000) gallons or less above ground. When flammable gases are stored in the gaseous phase, the above limit in gallons shall be multiplied by thirty (30) to obtain the limit in cubic feet at 14.7 pounds per square inch absolute and sixty degrees Fahrenheit (60°F).

3. Flammable liquids which may drain to a waste collection and treatment system shall be trapped and contained at a point within the plant boundaries. No flammable liquids shall be permitted in the central waste collection and treatment system.

4. Storage of flammable materials shall comply with the requirements of Panhandle Health District or other agency with jurisdiction.

H. Noise.

1. Noise emissions from any site shall not cause sound pressure levels greater than those listed in Column Three (3) below, measured at any point beyond the plant property line, either at ground level or at a habitable elevation, whichever is more restrictive.

Sound Pressure Level (decibels, re: 0.0002 Microbar)			
Octave Band Center Frequency (cycles per second)	**COL. (1)**	**COL. (2)**	**COL. (3)**
31.5	97	90	83
63	87	77	68
125	78	68	58
250	73	63	52
500	69	58	47
1000	65	55	44
2000	63	50	39
4000	60	48	37
8000	57	46	35
Impact Noise (Overall)	**97**	**90**	**83**

For the convenience of those who may wish to use sound level meters calibrated in accordance with the American Standard Z24.10-1953, the following table shall be considered equivalent to the table listed above:

Sound Pressure Level (decibels, re: 0.0002 Microbar)			
Octave Band Center Frequency (cycles per second)	**COL. (1)**	**COL. (2)**	**COL. (3)**
37.5-75	89	82	75
75-150	81	71	62
150-300	74	64	54
300-600	69	59	48
600-1200	66	55	44
1200-2400	63	53	42
2400-4800	62	49	38
4800-9600	59	47	36

2. Sound levels shall be measured with a sound level meter and an associated octave band analyzer, both manufactured in accordance with standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impact noises shall be measured with an impact noise analyzer.

8.4.1305: LIGHT INDUSTRIAL ZONE STANDARDS: In addition to the standards set forth in section 8.4.1304 of this article, all commercial, manufacturing, and industrial uses in the Light Industrial zone shall comply with the following performance standards:

A. No obnoxious odors of any kind shall be emitted.

B. No waste or dust created by business operations shall be exhausted into the air.

C. No treated or untreated sewage or waste shall be discharged into any reservoir or lake. Discharge and disposal of untreated sewage or industrial waste shall comply with the standards approved by the appropriate agency with jurisdiction.

D. No mining, extraction, filling, or soil-stripping operations shall be conducted.

E. Industrial fuel shall be limited to wood, oil, natural gas, gasoline, diesel fuel, and electricity.

8.4.1306: INDUSTRIAL ZONE STANDARDS: In addition to the standards set forth in section 8.4.1304 of this article, all uses in the Industrial zone shall comply with the following performance standards:

A. Open Space. Twenty percent (20%) of the area of the site must be left in open space free from structures.

B. Emissions. Emissions of dustfall, smoke, and suspended matter shall meet the requirements of the State of Idaho Air Pollution Control Commission.

C. Odors. The release of odorous material from any plant shall be controlled so as not to become a nuisance or source of unreasonable discomfort at any point beyond the plant property line.

D. Toxic materials. The discharge of toxic materials shall meet the requirements of the State of Idaho Air Pollution Control Commission.

E. Radioactive Materials. The manufacture, utilization, and storage of radioactive materials shall comply with the regulations established by the Nuclear Regulatory Commission, the Idaho Department of Health, and other authorities having jurisdiction.

F. Explosive Materials. The manufacture, transportation, storage, and use of materials or products which decompose by detonation shall be conducted in accordance with the National Fire Protection Association Standard No. 495, "Code for Manufacture, Transportation, Storage and Use of Explosives and Blasting Agents," and the rules and regulations governing explosives promulgated by the State of Idaho and other authorities having jurisdiction. Explosive materials not covered by these standards and regulations shall be manufactured, stored, or utilized no closer than one hundred (100) feet from a plant property line or two hundred (200) feet from the boundary line separating it from a residential or commercial area.

G. Vibration. The amplitude, in inches, of earth borne vibrations caused by the plant shall not exceed:

$$\frac{.0001K}{F}$$

Where:

F = The vibration frequency in cycles per second, and

K = 15 for measurements made within the Industrial zone at any point on or beyond the plant property line, or

K = 3 for measurements made in any residential area outside an Industrial zone.

Impact vibrations with less than one hundred (100) impulses per minute shall be permitted amplitudes of twice those computed above.

H. Wastes and Surface Drainage.

1. Liquid Wastes. The volume, quality and point of discharge of industrial and domestic liquid wastes shall not exceed standards approved by Panhandle Health District (IDAPA 41.01.01) or other agency with jurisdiction.

2. Surface Drainage. Storm drainage and surface runoff shall be segregated from industrial and domestic waste. To avoid contaminating surface drainage, all apparent sources of contamination, such as operating areas, loading or unloading areas, product transfer pump areas, and equipment cleaning and maintenance areas shall be curbed and drained to the waste system. Drainage from tankage area impoundments may be combined with storm drainage and surface runoff if approved by Panhandle Health District.

3. Solid Waste. Off-test and rejected products, by-products, spent catalysts, waste sludges, garbage, trash, scrap, rubble, refuse, and other such waste materials shall be temporarily stored or permanently disposed of in such a way as not to pollute the air or surface runoff nor cause odors or an unsightly appearance. If disposal is by incineration, care shall be taken to insure compliance with other parts of these standards covering air pollution. If disposal is by landfill, disposal procedures shall comply with the Solid Waste Management Rules promulgated by the Idaho Department of Environmental Quality (IDAPA 58.01.06).

Article 4.14 Supplementary Standards

8.4.1401: APPLICABILITY: The supplementary standards set forth in this article are applicable in all zones established by this title.

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. (Ord. 546, 10-22-19)

8.4.1403: VISIBILITY AT INTERSECTIONS: On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet six inches (2’6”) and ten feet (10’) above the centerline grades of the intersecting streets of such corner lots and a line joining points along said street lines fifty feet (50’) from the point of intersection.

8.4.1404: ERECTION AND ALTERATION OF BUILDINGS: No building or other structure shall hereafter be erected or altered in any manner contrary to the provisions of this title or title 7, chapter 1 of this code, including, without limitation, the following:

A. Exceeding applicable height regulations;

B. Accommodating or housing a greater number of families; provided, however, that this provision shall not be interpreted in a manner that discriminates against race, ethnicity, national origin, age, family status or disability;

C. Occupying a greater percentage of lot area; or

D. Having narrower or smaller rear yards, front yards, side yards, or other open space.

8.4.1405: ACCESSORY BUILDINGS: Accessory buildings shall not be erected in open space required under the provisions of this title.

8.4.1406: INCLUSION OF OPEN SPACE: No part of a yard, or other open space, or off-street parking or loading space required in connection with any building for the purpose of complying with this title shall be included as part of a yard, open space, or off-street parking, or loading space similarly required for any other building.

8.4.1407: ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A PARCEL:

A. In the Commercial, Light Industrial, Industrial, Mining, and High Density Residential zones, more than one (1) structure housing a permitted primary use may be erected on a single parcel, provided that the open space and other requirements of this title shall be met for each structure as though it were on an individual parcel.

B. In the Agricultural, Agricultural Suburban, Restricted Residential and Rural zones, no more than one (1) structure housing any single permitted primary use may be erected on a single parcel, except as specifically permitted in the individual zone.

C. When a properly permitted manufactured home is replaced with another properly permitted manufactured home or residential structure, the manufactured home may be temporarily stored on site for up to ninety (90) days if it complies with the following requirements:

1. It is disconnected from all utilities; and

2. It is placed on wheels and axles, and the running gear, including the tongue, are in place.

D. A manufactured home may not be converted to, or used as, a storage unit.

8.4.1408: EXCEPTIONS TO HEIGHT REQUIREMENTS: Height limitations contained in this title, except those which apply within the Airport Overlay zone as set forth in section 8.3.107 of this title, shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

8.4.1409: MOBILE COMMERCIAL VEHICLES AND TEMPORARY COMMERCIAL STRUCTURES:

A. Mobile commercial vehicles and temporary commercial structures are uses permitted of right in the Commercial, Mining, Light Industrial and Industrial zones, and may be permitted in

conjunction with any commercial use permitted via conditional use permit, special notice permit or administrative approval.

B. The design standards set forth in articles 4.6 and 4.7 of this chapter shall not be applied upon the establishment of a use located within a mobile commercial vehicle or temporary commercial structure if an existing commercial, industrial or mining use has previously been established.

C. Mobile commercial vehicles and temporary commercial structures may be located on public property or right-of-way only upon written consent of the agency with jurisdiction.

D. Mobile commercial vehicles and temporary commercial structures selling prepared food shall at all times have the appropriate valid permits from Panhandle Health District.

E. Mobile commercial vehicles may operate continuously as long as they are capable of being driven or towed on public roads.

F. Temporary commercial structures may be used for no longer than thirty (30) days in any given ninety (90) day period.

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 8.7.111 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. (Ord. 546, 10-22-19)

CHAPTER 5
PERFORMANCE STANDARDS FOR SPECIAL USES

***Note**: The "zones permitted" set forth in each section of this chapter do not include zones in which the use is permitted of right.*

Article 5.1 Standards for Uses Requiring a Conditional Use Permit

8.5.101: ABOVE-GROUND STORAGE OF OVER FIVE THOUSAND (5,000) GALLONS (PER SITE) OF PETROLEUM PRODUCTS:

A. Zones Permitted: Light Industrial, Industrial

B. Minimum Area: five (5) acres

C. Setbacks for all petroleum storage facilities shall be in accordance with current fire and safety codes and shall not be less than fifty feet (50') from any property line.

D. All such facilities shall be contained within a sight-obscuring fence not less than six feet (6') in height or sight obscuring evergreen trees or compact hedge not less than six feet (6') in height. All landscaping will require adequate sprinkling systems and proper maintenance.

E. All such uses shall be located and/or designed with full consideration to their proximity to adjacent uses, their effect upon adjacent property, and to the reduction of inherent dangerous factors.

F. All such facilities, including structures and storage tanks, within three hundred feet (300') of the property line of any parcel located within any residential zone shall have a maximum vertical height of forty feet (40').

G. All such facilities shall conform to the standards prescribed by the National Fire Protection Association, the American Petroleum Institute, Panhandle Health District, and other agencies with jurisdiction, whichever regulations are most restrictive. All such facilities shall also conform to the Kootenai County *Best Management Practices for Containing Critical Materials During Above Ground Storage and Handling*.

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.

8.5.102: AGRICULTURAL PRODUCTS SALES STORE:

A. Zones Permitted: Agricultural, Rural

B. Minimum Area: five (5) acres

C. The processing and sale of agricultural products such as grains, fertilizers, feeds, vegetables and fruits, and the sale of items such as hand tools and gardening products, are permitted.

D. Processing activities shall not employ more than five (5) persons.

E. No commercial activity is permitted except as set forth in this section or as otherwise permitted of right in the underlying zone.

F. All buildings must be six hundred feet (600') from any dwelling other than the dwelling of the owner.

G. All storage areas shall have sight obscuring fencing.

8.5.103: AIRSTRIP:

A. Zones Permitted: Agricultural, Rural

B. Facilities shall be designed and located with full consideration given to the proximity of residential zones and to safety considerations.

C. Facilities must be located at least two thousand feet (2,000') from any adjoining residence not directly associated with the airstrip.

D. Facilities must meet all ITD and FAA aviation requirements.

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.

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. 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. (Ord. 546, 10-22-19)

8.5.105: AUTOMOBILE WRECKING YARD OR JUNKYARD:

A. Zones Permitted: Agricultural, Rural, Light Industrial, Industrial

B. A one hundred percent (100%) sight-obscuring fence or equivalent vegetative screening must be constructed around the entire storage area a minimum of six feet (6') high, to ensure obscured visibility from neighboring properties and for the traveling public.

C. No materials, parts, automobiles, or junk shall be visible from any public right-of-way.

D. 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.

8.5.106: CEMENT, GYPSUM, OR ASPHALT PLANT, AND ASSOCIATED STORAGE AND MANUFACTURING:

A. Zone Permitted: Industrial

B. Minimum Area: five (5) acres

C. 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.

8.5.107: CHILD CARE CENTER, PRESCHOOL, OR HEAD START FACILITY:

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

B. No facility shall be located adjacent to any property located within the Light Industrial or Industrial zone.

C. No facility shall be located in a floodplain or floodway, or adjacent to any hazardous land use.

D. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, playground area, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

8.5.108: COMMERCIAL FUR FARM:

A. Zones Permitted: Agricultural, Rural

B. Minimum Area: twenty (20) acres

C. All animals and runs will be housed in permanent buildings located not less than one hundred (100) feet from any dwelling other than the dwelling of the owner.

D. The operator of such a use will maintain adequate housekeeping practices to prevent the creation of a nuisance.

8.5.109: COMMERCIAL KENNEL:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban

B. All commercial kennels shall adhere to the applicable provisions of this title and to the applicable provisions of title 5, chapter 1 of this code.

C. All commercial kennels shall have passed all necessary inspections performed by the Animal Control Division of the Kootenai County Sheriff's Office, and must possess a valid kennel license issued by the Board.

D. Adequate fencing shall be provided to restrain animals from running at large. At a minimum, the animals shall be enclosed within a six foot (6') fence or wall. Electronic fences shall not be used as the sole method of restraining animals.

E. Commercial kennels located in the Rural or Agricultural Suburban zones shall provide visual screening to buffer adjacent land uses if existing visual screening is insufficient to accomplish that purpose.

F. A grooming facility is allowed as part of a commercial kennel facility, but shall not occupy more than thirty five percent (35%) of the building floor area, excluding the kennel area.

G. Five percent (5%) of the building floor area of a commercial kennel facility, excluding the kennel area, may be used for related retail sales.

8.5.110: COMMERCIAL RESORT:

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

B. Minimum Area: ten (10) acres

C. Recreational Activities. The primary purpose of a commercial resort shall be to provide recreational activities for its customers. Such activities may include indoor or outdoor facilities for swimming, boat launching, boat sales and rentals, waterskiing, hiking, fishing, hunting, camping, picnicking, snow skiing and snowboarding, snowmobiling, tennis, volleyball, soccer, badminton, golf, horseback riding or other athletic activities. Recreational and educational activities ordinarily associated with an agritourism or ecotourism operation are also permitted.

D. Other Uses Which May Be Permitted.

1. The following uses may also be permitted, so long as they are incidental and accessory to the commercial resort's recreational activities:

a. Convention or entertainment facilities.

b. Retail sales shops for items such as agricultural products, groceries, camping and sporting equipment, souvenirs, and art and handicraft items.

c. Restaurants and bars.

d. Retail fuel services.

e. Hotels, motels, cabins, condominiums, and similar accommodations.

f. Camping facilities, including tent camping sites, yurts, and recreational vehicle parks.

g. Bath and laundry facilities.

h. Spa facilities.

i. Facilities for weddings, wedding receptions, and other associated activities.

j. Other commercial uses as specifically authorized in the permit.

2. All commercial uses permitted within a commercial resort must be scaled to the size of the parcel and must meet the required setbacks and standards applicable to such uses in the underlying zone.

E. Prohibited Uses: Any uses other than those permitted in this section, or those which are otherwise permitted of right in the underlying zone, are prohibited.

F. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, activity areas, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

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

8.5.111: COMMERCIAL RIDING ARENAS, BOARDING STABLES, OR EQUINE TRAINING FACILITIES:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban

B. The minimum property size for commercial riding arenas shall be five (5) acres.

C. Riding arenas may be located indoors or outdoors. Indoor riding arenas shall be enclosed within a structure that is at least twenty-four feet (24') in height, and that is at least two thousand square feet (2,000 sq. ft.).

D. Facilities shall be for private use, but may be rented to individuals or groups. Individual or group lessons may be provided to the general public for a fee.

E. Riding arenas shall provide spectator seating for at least fifty (50) people.

F. Retail sales accessory to the use of the facility may be conducted on site.

G. Facilities shall provide sufficient parking and turnaround areas for horse trailers. Such areas shall be designed to preclude vehicles from backing out into a roadway.

H. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, areas for riding, boarding, feeding, training, and other associated activities, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

I. Boarding stables which are not associated with a commercial riding arena or equine training facility shall not be required to obtain a conditional use permit for such use and shall be subject only to the requirements of subsection (G) of this section, and to a minimum lot area for the keeping of livestock of three-fourths (¾) acre. Such use shall be permitted as a home occupation subject to the standards set forth in section 8.4.501 of this title unless a cottage industry permit is required under section 8.4.504 of this title.

8.5.112: EXPLOSIVE MANUFACTURING AND STORAGE:

A. Zones Permitted: Rural, Industrial

B. Minimum Area: ten (10) acres

C. The use shall comply with all applicable federal and state laws, regulations, and permitting requirements.

D. 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.

8.5.113: FEEDLOTS:

A. Zones Permitted: Agricultural

B. Minimum Area: fifteen (15) acres

C. The entire perimeter of the parcel shall be fenced. All perimeter fencing shall be at least five feet (5') in height and must effectively restrain all livestock.

D. All feedlot operations shall be located at least one thousand feet (1,000') from the property line of any parcel located within any residential zone and five hundred feet (500') from any then-existing dwelling other than that of the owner.

E. All lots shall provide a minimum of two hundred square feet (200 sq. ft.) of lot area per animal.

8.5.114: GOLF COURSES OR DRIVING RANGES:

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

B. Minimum Area: fifteen (15) acres

C. No commercial uses shall be permitted except as permitted in this section or as may be permitted of right in the underlying zone.

D. The collection of greens or range fees, the sale or rental of golf equipment and clothing, and associated food and beverage sales are permitted commercial uses.

E. With the exception of signs, lighting shall be downward directed and screened so that it produces no glare upon public rights-of-way or adjacent properties.

F. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, areas for golfing and associated activities, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

8.5.115: GUN CLUBS, RIFLE RANGES, OR ARCHERY RANGES:

A. Zones Permitted: Agricultural, Rural, Light Industrial, Industrial

B. Minimum Area: ten (10) acres

C. Target areas shall be six hundred feet (600') from any existing dwelling and three hundred feet (300') from any property line.

D. All facilities shall be designed and located in accordance with safety standards or guidelines promulgated by the National Rifle Association (NRA), National Skeet Shooting Association (NSSA), National Field Archery Association (NFAA), or other similar body.

E. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, areas for shooting or archery and associated safety buffers, other associated activities, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

8.5.116: MANUFACTURED HOME PARKS:

A. Zone Permitted: High Density Residential

B. Minimum Area: Not less than twelve thousand (12,000) square feet

C. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, access points, park streets, manufactured home sites, parks, common areas or playgrounds, other associated uses, and other existing or proposed improvements, and incorporates the following:

1. A manufactured home park shall provide stalls or spaces for each manufactured home unit of not less than two thousand five hundred (2,500) square feet.

2. Laundry and convenience related services may be provided for the use of the tenants of the park only.

3. A parking and traffic circulation plan shall also be submitted.

D. Manufactured home parks shall comply with the following standards:

1. Seventy percent (70%) of each manufactured home stall or site shall be left in open space.

2. Each manufactured home shall be located at least twenty-five feet (25’) from any park property line.

3. A manufactured home may not be located closer than twenty feet (20’) from any other manufactured home or permanent building within the manufactured home park. A manufactured home accessory building shall not be closer than ten feet (10’) from a manufactured home or building on an adjacent lot.

4. Each manufactured home lot within a manufactured home park shall have direct access to a park street. Each park street shall consist of a twenty foot (20’) wide unobstructed area, and shall be well-marked to provide for continuous traffic flow. The park street system shall have direct connection to a public road.

5. Streets and walkways designed for the use of manufactured home park residents and guests shall be lighted during the hours of darkness.

6. Each manufactured home site shall be provided with utility connections, ground anchors, piers or pads, and stabilizing connections of sufficient size to properly accommodate the manufactured home placed on the site.

7. Water supplies for fire flow shall be as required by the fire protection district with jurisdiction. Where there are no such requirements, water supplies shall be adequate to permit the effective operation of minimum fire hose stream flows and duration of flows, as required by NFPA Standard No. 501A for manufactured home parks, on any fire in a manufactured home or elsewhere in the manufactured home park. Hydrants shall be located within five hundred feet (500') of all manufactured home sites unless otherwise specified in the permit.

8.5.117: MINI-STORAGE FACILITIES OR RENTAL WAREHOUSES:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban

B. Minimum Area: five (5) acres

C. Individual units in mini-storage facilities shall be no larger than 14 feet in width or 40 feet in length, and total building height shall not exceed 22 feet.

D. Security fencing shall be placed around the entire storage area, and shall be six feet (6') in height at a minimum.

E. No outdoor storage of any kind shall be permitted, with the exception of major recreational equipment.

F. No commercial sales of any kind shall be permitted, with the exception of rental or sales of storage units.

G. With the exception of signs, lighting shall be downward directed and screened so that it produces no glare upon public rights-of-way or adjacent properties.

8.5.118: NONPROFIT TRADE OR BUSINESS ASSOCIATIONS:

A. Zones Permitted: Agricultural, Rural

B. Buildings shall meet the following standards:

1. One primary building shall be allowed on a parcel.

2. Maximum building height shall not exceed thirty-five feet (35').

3. Open space and lot area requirements of the underlying zone shall be met.

C. A site plan shall be submitted which includes the location of existing and proposed structures, landscaped areas, lighting for site and signs, and other existing or proposed improvements. A parking and traffic circulation plan which includes proposed on and off site parking areas shall also be submitted.

D. With the exception of signs, lighting shall be downward directed and screened so that it produces no glare upon public rights-of-way or adjacent properties.

8.5.119: PLACES OF ASSEMBLY OR WORSHIP:

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

B. Use of a place of assembly or worship for meetings, recreational activities, educational activities, weddings, and wedding receptions shall be regarded as being customarily incidental to the primary use of the facility.

C. Buildings shall meet the following standards:

1. One primary building shall be allowed on a parcel.

2. Maximum building height shall not exceed thirty-five feet (35').

3. Open space and lot area requirements of the underlying zone shall be met.

D. At least one (1) parking space per one hundred fifty square feet (150 sq. ft.) of floor area shall be required.

E. A site plan shall be submitted which includes the location of existing and proposed structures, landscaped areas, lighting for site and signs, and other existing or proposed improvements. A parking and traffic circulation plan which includes proposed on and off site parking areas shall also be submitted.

F. With the exception of signs, lighting shall be downward directed and screened so that it produces no glare upon public rights-of-way or adjacent properties.

G. Additional Provisions for Conditional Use Review. The Board may attach such reasonable conditions as the record indicates may be necessary to visually screen, control dust, manage traffic, buffer adjoining uses, reduce noise impacts, prevent glare and undue lighting impacts on adjacent properties, or to mitigate effects on water and air quality.

8.5.120: PRIVATELY OWNED RECREATIONAL FACILITIES WHICH ARE OPEN TO PUBLIC USE:

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

B. Minimum Area: two (2) acres

C. No commercial uses shall be permitted except as permitted in this section or as may be permitted of right in the underlying zone.

D. The collection of membership or use fees, the sale or rental of equipment and clothing associated with the activities to be conducted within the facility, and associated food and beverage sales, are permitted commercial uses.

E. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, types of recreational activities and locations for each activity, other associated activities, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

F. With the exception of signs, lighting shall be downward directed and screened so that it produces no glare upon public rights-of-way or adjacent properties.

G. The provisions of this section shall apply only to those recreational facilities which are not otherwise enumerated in this article.

8.5.121: PUBLIC UTILITY COMPLEX FACILITIES:

A. Zones Permitted: CUP required in Rural, Agricultural Suburban, Restricted Residential and High Density Residential; SNP required in Agricultural, Commercial, Mining, Light Industrial and Industrial

B. Lot coverage by buildings shall not exceed thirty-five (35) percent of the total lot area.

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

1. The public convenience and the necessity of the facility;

2. 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.

D. Specific conditions with respect to emissions of noise, particulate matter, or vibrations, may deviate from the standards which would otherwise apply in the underlying zone in order to ensure consistency with applicable State and Federal standards.

E. Public utility complex facilities in existence as of January 3, 1973 shall not be subject to conditional use permitting requirements, and shall be exempt from the standards set forth in this section. However, depending on the underlying zoning, a conditional use permit may be required in conjunction with the creation of a new facility or the expansion of an existing facility involving a material increase in the facility's boundaries.

F. The provisions of this title pertaining to public utility complex facilities shall be interpreted and applied in a manner consistent with applicable federal and state law.

8.5.122: RACETRACKS:

A. Zones Permitted: Agricultural, Rural

B. Minimum Area: twenty (20) acres

C. All new racetracks shall be designed in accordance with then-current industry standards applicable to racetracks of comparable configuration and length for driver, crew and spectator safety, including, without limitation, walls, barriers, catch fences, and recovery areas.

D. All uses shall be a minimum of one thousand feet (1,000') from any parcel located in the Agricultural Suburban, Restricted Residential, or High Density Residential zone, measured from property line to property line.

E. All uses and facilities will be designed and located with full consideration to their proximity to adjacent uses, especially to the reduction of nuisance factors, such as noise, smoke, fumes, and dust.

F. One (1) parking space will be provided for each three (3) seating spaces. The perimeter of the parking area shall be fenced with security fencing. Parking areas for spectators need not be paved, except as may be necessary to comply with parking requirements for persons with disabilities.

G. All racing surfaces, including pit areas, on racetracks located within the Light Industrial zone shall be paved.

H. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, racing areas, pit areas, garage areas (if any), spectator seating, ticket and concession areas, other associated activities, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted.

8.5.123: RESIDENTIAL CARE FACILITIES:

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

B. Scope: The requirement to obtain a conditional use permit, and the standards set forth in this section, shall apply only to residential care facilities designed to house nine (9) or more residents.

C. Minimum Area: three (3) acres

D. A minimum of six (6) off-street parking spaces shall be provided.

E. Adequate fencing shall be provided around the entire facility.

F. Facilities shall comply with the applicable requirements of the Idaho Department of Health and Welfare (IDHW).

G. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, parking areas, other associated activities, and other existing or proposed improvements.

8.5.124: RESORT LODGES, RETREAT CENTERS, OR GUEST RANCHES:

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

B. Roadway Access: This use must have direct access to a collector or arterial roadway, as defined in the then-current edition of the *Highway Standards for the Associated Highway Districts of Kootenai County, Idaho*.

C. Minimum Area: Twenty (20) acres in the Agricultural, Agricultural Suburban, Rural, and Restricted Residential zones (no minimum area required in the Commercial zone).

D. Parking Requirements. One and one-half spaces per room or cabin. Parking requirements for any use of a resort lodge, retreat center, or guest ranch that is not covered under the parking lot design standards set forth in chapter 4, article 4.7 of this title shall be determined through the conditional use review process.

E. Loading Requirements. One loading space for 10,000 or more square feet of floor area.

F. Caretaker Residence. Accessory on-site housing may be allowed for caretakers or staff members.

G. Additional Provisions for Conditional Use Review. The Board may attach such reasonable conditions as the record indicates may be necessary to visually screen, control dust, manage traffic, buffer adjoining uses, reduce noise impacts, prevent glare and undue lighting impacts on adjacent properties, or to mitigate effects on water and air quality.

H. Prohibited Uses: Any uses other than those permitted in this section, or those which are otherwise permitted of right in the underlying zone, are prohibited.

I. Required Findings. The Board shall only approve a resort lodge, retreat center or guest ranch upon a finding that the use meets all applicable regulations, and the following standards:

1. The use will be in harmony with the character of the neighborhood and compatible with the surrounding area;

2. The use will not result in undue traffic congestion or traffic hazards;

3. The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Kootenai County; and

4. Except as may be approved through the conditional use review process, the proposed use and all incidental uses shall be entirely contained on the site of the proposed conditional use. The location, duration, and extent of any proposed off-site incidental uses, whether on public or private land or water, must be expressly documented and approved by the Board.

J. Existing Establishments.

1. Existing non-permitted resort lodges, retreat centers or guest ranches established prior to March 17, 2016 will be regarded as conforming with respect to such uses as would be permitted as part of a resort lodge, retreat center or guest ranch.

2. Uses set forth in this section which were permitted under a previously approved conditional use permit may continue operating as authorized in the permit, so long as they continue to meet all of the requirements for that use as set forth in the permit.

3. Existing non-permitted resort lodges, retreat centers or guest ranches established prior to January 4, 1973 will be regarded as nonconforming uses.

4. A new or modified conditional use permit shall be required for any expansion or change of use, or any increase in the floor area of an existing use; provided, however, that all uses which were permitted under a then-existing conditional use permit will continue to be allowed under a new or modified conditional use permit.

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 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. 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.

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. (Ord. 546, 10-22-19)

8.5.126: SAWMILLS, SHINGLE OR PLANING MILLS, OR WOODWORKING PLANTS:

A. Zones Permitted: Agricultural, Rural

B. Minimum Area: ten (10) acres

C. All sawmill, shingle mill, planing mill, or woodworking plant operations shall be located at least one thousand feet (1,000’) from the property line of any other parcel located within any residential zone and five hundred feet (500’) from any then-existing dwelling other than that of the owner.

D. All facilities must meet the air quality standards of the agency with jurisdiction applicable at the time of application.

E. All facilities must be located within a fire protection district, and must meet the requirements of, and be approved by, the fire protection district with jurisdiction.

F. All facilities will be designed and located on the site with full consideration given to their proximity to adjacent uses, their effect upon adjacent property, and to the reduction of noise, odor, dust and traffic.

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

D. Access to the school shall be from a public road.

E. 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.

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

G. Setbacks for all structures shall be forty feet (40') from any public road and thirty feet (30') from any other property line. (Ord. 546, 10-22-19)

8.5.128: SLAUGHTERHOUSES OR RENDERING PLANTS:

A. Zones Permitted: Agricultural, Light Industrial, Industrial

B. Minimum Area: five (5) acres

C. All slaughterhouse and rendering plant operations shall be located at least one thousand feet (1,000') from the property line of any other parcel located within any residential zone and five hundred feet (500') from any then-existing dwelling other than that of the owner.

D. All such facilities shall be designed and located with full consideration to their proximity to adjacent residential zones and uses and especially to the reduction of such nuisance factors as odors, dust, and fumes.

E. Commercial sales of products manufactured or processed on the site may be permitted with such reasonable conditions as the Board may determine are appropriate.

8.5.129: SPECIAL EVENT LOCATIONS:

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

B. Minimum Area: The size of the site must be adequate to accommodate the event, attendees, and parking unless provisions have been made for off-site parking. Adequacy of the site shall be as reasonably determined by the Board.

C. The application shall include a detailed site plan and event description which addresses security, access, crowd management, traffic management, parking, waste control and disposal, litter control plans, and includes any other relevant information requested by the Director. Copies of the site plan and event descriptions shall be submitted to the Kootenai County Sheriff's Office, Panhandle Health District, Idaho Transportation Department, the highway district and fire protection district with jurisdiction, and any other agencies as requested by the Director.

D. One (1) parking space will be provided for each three (3) seating spaces, and the parking area shall be restricted to a clearly designated area which has clearly delineated boundaries. Off-site parking may be permitted if the applicant demonstrates that transportation between the parking area and the event site will be adequate. If the owner of the property where the parking area will be located is different than the owner of the event site, the written consent of the owner of the parking area shall be required.

E. Maximum noise threshold shall be 75 dBa, as measured at the property lines, unless a higher level is approved in the permit.

F. Parking and construction over existing drainfields is prohibited.

G. Lighting at the special event shall be downward directed and shielded, and shall not exceed 0.2 foot candles at the property line unless otherwise approved in the permit.

H. The Board may impose such reasonable conditions as may be necessary for visual screening, control of dust, mitigation or elimination of nuisance factors, management of traffic, buffering of adjoining uses, mitigation of potential effects on water or air quality, limitation of the duration of the permit, or otherwise addressing the health, safety, or general welfare of event participants and spectators. Conditions may also include a requirement that agencies review and approve plans for each event to be held at the location.

I. The Board may require the posting of a performance bond to guarantee performance of conditions of approval and to ensure that the event will not constitute a nuisance or be detrimental to the health, safety, comfort or welfare of persons in the vicinity of such use.

8.5.130: VETERINARY HOSPITALS OR CLINICS:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban

B. Minimum Area: five (5) acres

C. All animals will be housed in permanent structures which can be physically enclosed during nighttime hours.

D. Adequate fencing shall be provided to restrain animals from running at large. At a minimum, the animals shall be enclosed within a six foot (6') fence or wall. Electronic fences shall not be used as the sole method of restraining animals.

E. All buildings and fenced running areas will be a minimum of three hundred feet (300') from any existing dwelling other than the dwelling of the owner.

F. Animal runs, kennels and pasturing areas located in the Rural or Agricultural Suburban zones shall provide visual screening to buffer adjacent land uses if existing visual screening is insufficient to accomplish that purpose.

G. Adequate housekeeping practices will be maintained so as to prevent the creation of a nuisance.

8.5.131: WHOLESALE GREENHOUSES:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban

B. Direct retail sales are allowed, but only to the extent that they are occasional and incidental. The following factors shall be considered in determining whether or not retail sales are occasional and incidental:

1. Square footage devoted to retail sales shall not exceed five hundred square feet (500 sq. ft.).

2. Retail sales shall be limited to products grown on the premises.

3. Advertising for retail sales shall be ancillary to advertising for wholesale operations.

C. Yard setbacks:

1. Front Yard: 40 feet

2. Side Yard: 25 feet

3. Rear Yard: 25 feet

D. Any outdoor storage areas shall be surrounded by sight-obscuring fences or densely planted shrubbery or trees, to a minimum height of six feet (6').

E. Drainage and runoff shall be controlled and contained on-site.

8.5.132: WIRELESS COMMUNICATION FACILITIES (WCF):

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban, Commercial, Light Industrial, Industrial

B. Standards.

1. Maximum allowable tower height, including antennas, is one hundred fifty feet (150'). The Board may impose stricter height limitations as a condition of approval in order to mitigate obstruction of views or incompatibility with surrounding uses.

2. Setbacks.

a. All WCFs shall be set back at least three hundred feet (300') from any existing residential structure.

b. All WCFs shall be set back at least one hundred fifty feet (150') from the boundary of any parcel located within the Agricultural Suburban, Restricted Residential, or High Density Residential zone.

3. No new WCF tower greater than sixty feet (60') in height shall be constructed within a two (2) mile radius of an existing WCF unless engineering data demonstrates the existence of a significant network coverage gap which would be impractical to remedy by other means.

4. All WCFs shall be of a design which best blends in with the surrounding area, as determined by the Board.

5. Collocation.

a. All new transmission towers and tower sites shall be designed to structurally allow for a minimum collocation of three (3) additional providers. Collocation shall be a permitted use accessory to any permitted WCF.

b. Transmission towers sixty feet (60') high or less are exempt from collocation requirements and may be located within a two (2) mile radius of an existing tower.

c. No lot shall contain multiple WCF towers.

d. Antennas placed for purposes of collocation shall be placed and colored to blend into the architectural detail and coloring of the host structure.

e. The placement of an antenna on an existing tower or structure for collocation purposes shall not require a new conditional use permit or modification of an existing permit unless otherwise required by this title

6. A landscape design plan prepared by a landscape design professional shall be required. The following standards shall apply:

a. Existing vegetation at the tower site shall be preserved to the maximum extent possible. Landscaping shall be placed completely around the site except as required to access the facility. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well maintained.

b. A chain link fence no less than six feet in height from the finished grade shall be constructed around each siting area. Access shall be by locked gate.

7. Outdoor storage of any supplies or vehicles is prohibited.

8. If any antenna or tower is not operated for a continuous period of six months it shall be considered abandoned. The owner of an abandoned antenna or tower, or property owner, shall remove the same within ninety (90) days. If such antenna or tower is not removed within a ninety (90) day period, the County may, at the property owner's expense, remove the antenna or tower and file a lien on the subject property for expenses incurred in removal. If the County is compelled to seek judicial authority to undertake such removal, the reasonable costs and attorney fees incurred by the County in the course of doing so shall constitute a charge against the owner.

9. WCF towers shall comply with the applicable requirements of the Federal Communications Commission (FCC) and other agencies with jurisdiction.

10. The standards and application requirements contained in this section shall not be interpreted or applied in a manner which would constitute a violation of, or conflict with, the applicable provisions of the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq.

11. The provisions of this section shall not apply to public safety WCFs which are permitted of right in the underlying zone.

C. Application Requirements. Except as may be waived by the Director with respect to modifications to existing conditional use permits, the following shall be submitted with a permit application for a new WCF or a modification to an existing WCF:

1. Written verification from a licensed engineer that a structural analysis of the tower has been completed which demonstrates the tower's ability to accommodate the collocation of three additional providers.

2. Written verification that alternative sites within a radius of four (4) miles have been considered and have been determined to be unavailable or are not technologically feasible.

3. A description of the need for the proposed facility at the proposed location and justification for site selection, including appropriate engineering data. The Applicant shall also provide a radio frequency coverage plan.

4. A notarized statement from the property owner granting authorization to proceed with the permit application.

5. Proof of a duly recorded legal right of access to the site for the intended purpose. The County may restrict the location and number of access points to the property.

6. A signed agreement stating that the tower owner is willing to allow collocation on the proposed tower. This agreement shall also state that any future owners or operators will allow collocation on the tower.

7. Documents demonstrating that the Federal Aviation Administration (FAA) has reviewed and approved the proposal.

8. Only such lighting as required by the FAA is permitted. The FAA lighting requirement shall be complied with in the least obtrusive manner, as determined by the Director. Security lighting for the tower site is permitted as long as it is downward directed and shielded to prevent illumination at the site boundary to be no greater than 0.2 foot-candles.

9. A photo simulation (including elevations) of the proposed facility from selected properties and public rights of way as requested by the Director.

10. A detailed site plan and letters of comment from agencies with jurisdiction, as deemed applicable by the Director.

D. Modifications to Existing WCFs.

1. The Director may approve a minor modification to a previously issued conditional use permit for a WCF.

2. If the Director determines that a modification to a previously issued conditional use permit for a WCF would constitute a substantial change to the previous approval, the modification shall require approval via the conditional use permitting process. Substantial changes may include, but are not limited to, the physical expansion of a siting area or the extension of a transmission tower beyond twenty feet (20') from its original height.

8.5.133: ZOOS:

A. Zones Permitted: Commercial, Rural

B. A site plan shall be submitted which shows the proposed design and layout of the zoo, including the location of existing and proposed structures, fencing, interior roads and walkways, lighting, landscaping, locations of animal exhibits, gift shops, restaurants or concession stands, other associated activities, and other existing or proposed improvements. A parking and traffic circulation plan and an operations and security plan (including provisions for response to an animal escape) shall also be submitted as part of the application.

C. The zoo shall meet all requirements for sanitary disposal that may be imposed by Panhandle Health District and the Kootenai County Solid Waste Department.

D. All local, state, and federal permits or licenses pertaining to the keeping of mammals, birds, and/or reptiles for public display shall be obtained prior to commencing operations.

E. Sight obscuring fencing is required around any and all storage areas.

8.5.134: PUBLIC SAFETY FACILITIES AND PUBLIC SERVICE FACILITIES:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban, Restricted Residential, High Density Residential (public safety facilities only)

B. A public safety facility or public service facility may be located on a lot that is otherwise ineligible for building permits, and need not comply with the minimum lot size requirement for the zone in which it is located.

C. Parking and loading requirements shall be as set forth in section 8.4.703 of this code unless modified in the permit.

D. Adequate fencing shall be provided around the entire facility.

E. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, parking areas, other associated activities, and other existing or proposed improvements. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

8.5.135: TRANSITIONAL GROUP HOUSING FACILITIES:

A. Zones Permitted: High Density Residential, Commercial, Mining, Light Industrial

B. Scope: The requirement to obtain a conditional use permit, and the standards set forth in this section, shall apply only to transitional group housing facilities designed to house nine (9) or more residents.

C. Minimum Area: three (3) acres

D. A minimum of six (6) off-street parking spaces shall be provided.

E. Adequate fencing and screening shall be provided around the entire facility.

F. The facility shall not allow any person on the premises who has been convicted of any crime of a sexual nature, any felony involving violence against another person, any misdemeanor involving domestic violence, or any crime involving trafficking, delivery, or possession with intent to deliver any controlled substance, whether in Idaho or any other jurisdiction.

G. A narrative shall be submitted which addresses facility security, transportation of residents, services to be provided on site, and all other requirements set forth in this section.

H. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, parking areas, other associated activities, and other existing or proposed improvements.

I. The applicant shall conduct a neighborhood meeting regarding the application. Completion of this requirement shall be a prerequisite for scheduling of the application for hearing before the hearing examiner.

J. A conditional use permit for a transitional group housing facility 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 approval of conditional use permits.

K. 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. (Ord. 517, 1-31-18; Ord. 519, 2-27-18)

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. (Ord. 546, 10-22-19)

Article 5.2 Standards for Uses Requiring a Special Notice Permit

8.5.201: CARGO CONTAINERS: Railroad cars, truck cargo containers or trailers, or shipping containers shall not be used for storage or any other purpose except as provided in this section.

A. A cargo container may be used for storage only under the following circumstances:

1. It is being used for storage in conjunction with permitted construction activities;

2. It is associated with the active operation of an allowed railroad or trucking business; or

3. Upon issuance of a special notice permit, in accordance with the standards contained in subsection (C) of this section and the conditions of approval set forth in the permit.

B. Zones Permitted: Agricultural, Rural, Agricultural Suburban, Commercial, Mining, Light Industrial, Industrial

C. Standards. Cargo containers may be used for storage upon issuance of a special notice permit in accordance with conditions of approval set forth in the permit and the following standards:

1. Not more than one cargo container is present for each five (5) acres of land area or portion thereof.

2. For properties that are five (5) acres or more in area, the cargo container is:

a. Located at least one hundred feet (100') from all property lines; or

b. Located behind the principal building eighty percent (80%) screened from view (e.g., by fences, walls, buildings, topography, and/or landscaping) from surrounding properties and public rights-of-way; and

3. For properties that are less than five (5) acres in area, the cargo container is located behind the principal building eighty percent (80%) screened from view (e.g., by fences, walls, buildings, topography, and/or landscaping) from surrounding properties and public rights-of-way.

8.5.202: PERSONAL STORAGE BUILDINGS: On lots or parcels under one (1.00) acre 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. (Ord. 546, 10-22-19)

8.5.203: OUTDOOR LIGHTING FOR PERMITTED RECREATIONAL USES: Outdoor lighting for permitted recreational uses may be constructed and used upon issuance of a special notice permit for such use. Lighting shall be downward directed and screened so that it produces no glare upon public rights-of-way or adjacent properties.

8.5.204: ANNUAL SPECIAL EVENT LOCATIONS:

A. Zones Permitted: All zones

B. Minimum Area: The size of the site must be adequate to accommodate the event, attendees, and parking unless provisions have been made for off-site parking. Adequacy of the site shall be as reasonably determined by the Director.

C. The application shall include a detailed site plan and event description which addresses security, access, crowd management, traffic management, parking, waste control and disposal, litter control plans, and includes any other relevant information requested by the Director. Copies of the site plan and event descriptions shall be submitted to the Kootenai County Sheriff's Office, Panhandle Health District, Idaho Transportation Department, the highway district and fire protection district with jurisdiction, and any other agencies as requested by the Director.

D. One (1) parking space will be provided for each three (3) seating spaces, and the parking area shall be restricted to a clearly designated area which has clearly delineated boundaries. Off-site parking may be permitted if the applicant demonstrates that transportation between the parking area and the event site will be adequate. If the owner of the property where the parking area will be located is different than the owner of the event site, the written consent of the owner of the parking area shall be required.

E. Maximum noise threshold shall be 75 dBa, as measured at the property lines, unless a higher level is approved in the permit.

F. Parking and construction over existing drainfields is prohibited.

G. Lighting at the special event shall be downward directed and shielded, and shall not exceed 0.2 foot candles at the property line unless otherwise approved in the permit.

H. The Director may impose such reasonable conditions as may be necessary for visual screening, control of dust, mitigation or elimination of nuisance factors, management of traffic, buffering of

adjoining uses, mitigation of potential effects on water or air quality, limitation of the duration of the permit, or otherwise addressing the health, safety, or general welfare of event participants and spectators. Conditions may also include a requirement that agencies review and approve plans for each event to be held at the location.

I. The Director may require the posting of a performance bond to guarantee performance of conditions of approval and to ensure that the event will not constitute a nuisance or be detrimental to the health, safety, comfort or welfare of persons in the vicinity of such use.

8.5.205: PRIVATE RESORTS:

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

B. Private resorts may include provisions for private, non-commercial, indoor and outdoor recreational uses which may include areas for activities such as group meetings, entertainment, boating, camping, swimming, and picnicking. Living facilities may also be located on site.

C. If a parcel is to be used primarily for the activities enumerated in this section by persons who do not own or reside on the parcel, it shall be subject to approval of a special notice permit for such activities, and shall be subject to the standards set forth in this section and in the permit. For purposes of this section, an ownership or equity interest in a corporation, partnership, limited liability company, or other business entity of any type, whether for profit or nonprofit, which owns a parcel shall not constitute ownership of the parcel by the individual holding such interest.

D. Private resorts shall provide for adequate access, parking, and screening from adjacent residential uses.

E. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, types of activities and locations for each recreational activity, other associated activities, and other existing or proposed improvements. A parking and traffic circulation plan shall also be submitted unless waived by the Director.

8.5.206: UTILITY COMPLEXES:

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

B. Lot coverage by buildings shall not exceed thirty-five (35) percent of the total lot area.

C. In determining whether a permit application should be approved, the Director shall consider the following factors:

1. The public convenience and the necessity of the facility;

2. 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.

D. Specific conditions with respect to emissions of noise, particulate matter, or vibrations, may deviate from the standards which would otherwise apply in the underlying zone in order to ensure consistency with applicable State and Federal standards.

E. Utility complexes in existence as of January 3, 1973 shall not be subject to permitting requirements, and shall be exempt from the standards set forth in this section. However, depending upon the underlying zone, a special notice permit may be required in conjunction with the creation of a new facility or the expansion of an existing facility involving a material increase in the facility's physical boundaries.

F. Notwithstanding anything contained in this code which may be construed to the contrary, an application for a utility complex justified in accordance with applicable federal law may not be denied, and the County's review shall be limited to the consideration of conditions of approval to mitigate potential adverse effects upon adjoining properties without hindering the operations of the facility.

G. Solid waste rural collection sites. The following shall apply to solid waste rural collection sites, whether permitted of right or with a special notice permit:

1 Parking: Solid waste rural collection sites with one or more structures shall have one parking space plus one additional parking space for persons with disabilities. Compliance with the standards set forth in Chapter 4, Article 4.7 of this title is not required.

2. Loading: Containers must be spaced so as to facilitate transfer of waste from private vehicles into containers and transfer of waste from containers into haulers. Compliance with the standards set forth in Chapter 4, Article 4.7 of this title is not required.

3. Exemptions: Solid waste rural collection sites may be located on a lot that is otherwise ineligible for building permits, and need not comply with the minimum lot size requirements for the zone in which it is located. (Ord. 514, 10-4-17)

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CHAPTER 6
LAND DIVISION AND PLATS

Article 6.1 Applicability, Exempt Divisions and Lot Consolidation

8.6.101: DESCRIPTION AND APPLICABILITY: The provisions of the chapter shall apply to the division of one or more parcels of land into two (2) or more lots, and to the reconfiguration, combination or change in status of a lot or right-of-way (e.g. conversion of a utility lot to a building lot), within the unincorporated areas of Kootenai County unless otherwise specified in an area of city impact ordinance adopted pursuant to section 67-6526, Idaho Code, and as set forth in chapter 10 of this title.

8.6.102: ZONES ALLOWED: Subdivisions are allowed in all zones with the exception of the Agricultural zone. Divisions of land which meet the requirements of one or more of the exemptions set forth in section 8.6.103 of this article are permitted in all zones.

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. Each parcel has legal access to a public road;

2. Each parcel meets the minimum size for the zone, and

3. 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 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. (Ord. 514, 10-4-17; Ord. 546, 10-22-19)

8.6.104: LOT CONSOLIDATION: Consolidation of lots may be accomplished through the filing of a completed application for lot consolidation with the Department and in the Office of the Kootenai County Assessor. The application shall be on a form approved by the Director and the Assessor. For purposes of this title, consolidation shall be effective upon filing and approval by the Department. Upon filing and approval, interior lot lines within the consolidated lot shall be disregarded for purposes of determining setbacks and building envelopes. Upon consolidation, no subsequently built structures shall materially interfere with any pre-existing easements or rights-of-way. Any subsequent re-division of any consolidated lot must be accomplished via the major subdivision or minor subdivision process, as appropriate.

Article 6.2 Major Subdivisions

8.6.201: DESCRIPTION: A major subdivision is one that proposes to create five (5) or more lots, or to re-divide land that has been subdivided in the previous five (5) years when the two subdivisions together will create five or more lots. The major subdivision process has three steps: preliminary subdivision approval, construction approval (including review and approval of plans prior to construction and as-built approval when construction is complete), and final subdivision approval followed by plat recordation.

8.6.202: GENERAL REQUIREMENTS:

A. Phasing of subdivisions and improvements is permitted, subject to the requirements of this article.

B. Subdivisions with lots of less than five (5) acres and natural slopes that equal or exceed 35%, must either be developed as a conservation subdivision in accordance with article 6.6 of this chapter, or must receive concurrent approval of a Planned Unit Development (PUD) permit, and must design the subdivision 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.

C. Applications for preliminary approval of a subdivision associated with a PUD shall be submitted concurrently with the PUD application.

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 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. 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. A title report or similar document containing the legal description, ownership and easements for the property.

8. 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 (¼) 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').

9. A groundwater quantity report, which must contain information sufficient to demonstrate the likelihood 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 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.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.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 (½) 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 (½) 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'). (Ord. 546, 10-22-19)

(Table 6-201 begins on next page)

Table 6-201
Form and Content of Major 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/ PLAN COMPONENT	PREL. PLAN	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
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 ≥ 0 and < 15%, ≥ 15% and < 35%, and ≥ 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	

(table continues on next page)

PLAT/ PLAN COMPONENT	PREL. PLAN	FINAL PLAT
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
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. The signature page for the plat, with the following unsigned certificates: 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. b. Certification of acceptance of rights-of-way or property conveyances. 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. 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. 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. 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. g. Certification, within 30 days prior to recording, by the County Treasurer that the taxes on the described property are current. h. Certification by the County Surveyor that the plat conforms to the requirements of *Idaho Code* Title 50, Chapter 13. i. Certifications by the Board of County Commissioners that the plat has been accepted and approved. j. Certification by the County Recorder that the plat has been accepted for recording, with the date of recordation.		X

(table continues on next page)

PLAT/ PLAN COMPONENT	PREL. PLAN	FINAL PLAT
18. *Existing Resource Report and Site Analysis Map in compliance with the requirements of section 8.6.905 of this chapter (conservation subdivisions only).	X	
19. All other items required by Title 50, Chapter 13, Idaho Code, or by the County Surveyor.		X
20. *If requested by PHD or DEQ for areas off the Rathdrum Aquifer, approved drainfield locations.		X
21. *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	
22. For subdivisions recorded prior to as-built approval of required infrastructure, a statement must be included on the plat that non-infrastructure building permits will not be issued until the infrastructure is completed and approved by the agencies with jurisdiction.		X
23. If required by the Board for subdivisions with common driveways, a statement must be included on the plat that common driveways may not serve, have the potential to serve, or be used to access 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 Ordinance and the *Highway Standards for the Associated Highway Districts, Kootenai County, Idaho* (with or without variances).		X

8.6.204: PROCESSING AND PRELIMINARY APPROVAL:

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. In conservation subdivisions, the applicant must also provide an existing resource report and site analysis map.

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 Board 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 preliminary plat. Surveying of lot lines shall not be necessary until after preliminary approval is granted. Conservation subdivisions must comply with the design procedure set forth in article 6.6 of this chapter. Applications for phased subdivisions must include a proposed completion schedule for each phase, and for the project as a whole. Each phase of a phased subdivision must include at least ten (10) lots.

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 8.6.203 and Table 6-201 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 may be required prior to recordation.

ii. Public Highway Agencies: Verification of whether the surrounding road system will be adequate for the expected increase in traffic from the subdivision at build-out.

iii. 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.

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

v. School District: Any measures which may be needed to mitigate the effect that new students from the subdivision will have on the district, so that there will be no substantial cost to existing residents.

vi. Fire Protection District: The minimum required fire flows in gallons per minute and duration.

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. Scheduling. After all required agency letters are received, the Department will review the application and schedule it for public hearing. Prior to scheduling, the applicant may make minor changes, but once the application is scheduled for hearing, the proposal cannot be significantly modified. If additional information is provided after hearing on the application has been scheduled, the Director or hearing body may require additional agency review or additional public notice, or both, and may reschedule or continue the hearing to allow time for the additional information to be reviewed.

8. Staff Report and Recommendation. Prior to the hearing, a Department planner will prepare a report on the proposal. The report shall include an evaluation of the proposal's compliance with the applicable provisions of this title, a recommendation of approval or denial, and the reasons for the recommendation. If the recommendation is for approval, the report shall include any recommended conditions of approval. If the recommendation is for denial, the report shall identify any actions which the applicant may be able to take to gain approval.

B. Hearing and Decision Making Process.

1. Notice. Notice of all public hearings on applications for preliminary subdivision approval shall be given in accordance with section 8.8.402 of this title.

2. Hearing. Hearings on applications shall be conducted in accordance with the provisions of chapter 8, article 8.4 of this title which apply to quasi-judicial public hearings.

3. Recommendation. The hearing body shall make a recommendation within thirty-five (35) days of the close of the hearing unless otherwise agreed to by the applicant.

4. Succession. In the event that a hearing body fails to carry out its responsibilities in accordance with the provisions of this title, the Board shall assume or reassign the duties of that hearing body.

C. Hearing Body Recommendation and Required Findings.

1. In making a recommendation to the Board on an application, the hearing body shall only consider the application materials which have been submitted and the relevant testimony and evidence in the record. 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.

2. To recommend preliminary approval of an application, the hearing body 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 application complies with the requirements of table 6-201 of this article.

c. The application complies with, or is capable of complying with, the requirements of this article and all other relevant requirements of this chapter.

d. The plan, project and lots proposed in the application are capable of complying with all other applicable provisions of this title without variances, or with such variances to, or deviations from, requirements or standards as may be recommended for approval by the hearing body.

e. The plan, project and proposed lots are capable of complying with the requirements of other agencies with jurisdiction or providing services.

f. The proposal will contribute to orderly development of the area. Proposed uses, design and density are compatible with existing homes, businesses, neighborhoods, and with the natural characteristics of the area. The subdivision will create lots of reasonable utility and livability, which are capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development are designated as open space.

g. The proposed subdivision will provide adequate open space for recreation, wildlife, agriculture or timber production where appropriate. Road construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion upon completion. The design adequately addresses site constraints or hazards and will adequately mitigate any negative environmental, social or economic impacts.

h. Services and facilities such as schools, electricity, water, sewer, stormwater management, garbage disposal, EMS, police and fire protection are feasible, available and adequate. The proposal includes on- and off-site improvements, or payments in lieu of such improvements, to mitigate the impacts of the subdivision so that it does not unduly compromise the quality, or increase the cost, of public services. Any request by an agency for actions to be taken, or fees to be paid, to mitigate impacts of a subdivision shall not be recommended as a condition of preliminary approval unless the proposed actions or fees are roughly proportional, both in nature and extent, to the impact of the proposed development.

i. Proposed roads, sidewalks and trails establish or adequately contribute to a transportation system for vehicles, bicycles and pedestrians that is safe, efficient and that minimizes traffic congestion.

j. The proposal is not anticipated to result in significant degradation of surface or ground water quantity or quality.

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

3. If the hearing body makes all of the findings set forth in paragraph (2) of this subsection, it shall recommend preliminary approval of the application. If the proposal cannot meet one or more of these requirements, or if insufficient information was provided to make that determination, the hearing body shall recommend denial.

4. Any requested variance or deviation from standards which would otherwise apply to the proposed subdivision shall not be recommended for approval 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.

5. The recommendation of the hearing body 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. If the recommendation is for approval, it shall include any recommended conditions of approval. If the recommendation is for denial, it shall identify any actions which the applicant may be able to take to gain approval.

D. Board Decision.

1. The Board shall make the final decision on applications for preliminary subdivision approval. Upon receipt of the recommendation of the hearing body, the Department shall schedule the application for deliberations before the Board. Deliberations shall be conducted in accordance with the Idaho Open Meetings Law, Title 74, Chapter 2, Idaho Code, but the Board shall not allow additional public testimony, nor shall it admit additional evidence into the record.

2. The applicant or any affected person may submit a request for a public hearing in writing before the Board at any time prior to the scheduled time for deliberations on an application. If the request is granted, the person requesting the public hearing shall be required to bear all costs of notice for that hearing unless the Board determines that the County should bear those costs.

3. After reviewing the evidence in the record and the standards for approval, the Board shall take one of the following actions:

a. Approve the request, with or without conditions;

b. Deny the request;

c. Remand the application to the hearing body or to the Department; or

d. Schedule its own public hearing to allow additional application materials, testimony and evidence to be entered into the record, and then make a decision.

4. To grant preliminary approval of an application, the Board must make all of the findings set forth in subsection (C), paragraph (2) of this section. If the Board makes all of those findings, it shall grant preliminary approval of the application. If the proposal cannot meet one or more of those requirements, or if insufficient information was provided to make that determination, the Board may either deny the application, remand the application to the hearing body or the Department, or schedule a public hearing to receive additional application materials, testimony and evidence.

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

6. The order of decision of the Board 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 hearing unless otherwise agreed to by the applicant.

7. Conditions of approval shall be roughly proportional, both in nature and extent, to the reasonably expected impacts of the proposed development. Any request by an agency for actions to be taken, or fees to be paid, to mitigate impacts of a subdivision shall not be required as a condition of preliminary approval unless the proposed actions or fees are roughly proportional, both in nature and extent, to the impact of the proposed development.

8. Preliminary subdivision approval shall be valid for two (2) years. For subdivisions done in conjunction with a PUD, or that include three (3) or more phases with a total of fifty (50) or more lots, an alternate completion schedule may be requested in the preliminary application, and may be approved by the Board. At any time prior to expiration of the approval, the Applicant may make a written request to the Director for a single extension of up to two (2) years, according to the extension process provided in section 8.6.204 of this article. For phased developments, one automatic two (2) year extension shall be granted upon recordation of the plat for the first phase. Subsequent extensions for phased developments may be requested in accordance with section 8.6.204 of this article.

E. Construction Approval.

1. Pre-Construction Plan Approval. After preliminary subdivision approval is granted, the applicant shall submit construction plans for review and approval by the Department and other agencies with jurisdiction. The Department will review those plans for conformance with the design standards contained in article 6.7 of this chapter (and, in the case of conservation subdivisions, article 6.6 of this chapter), and with any applicable conditions of approval. Construction plans may include, without limitation, plans for roads, water and sewer systems, trails, vegetation buffers, and stormwater, erosion and dust control. Issuance of development permits shall be governed by chapter 7 of this title and title 7, chapter 1 of this code, as appropriate. No construction, site disturbance or other development activity may commence until plans are approved and the appropriate development permits are issued by the Department.

2. Construction Approval. After construction plans have been approved and development permits have been issued, the applicant may either install the improvements, obtain written approval of the construction by the design professionals and applicable agencies, and apply for final subdivision approval, or, alternatively, may submit a financial guarantee and subdivision completion agreement which complies with the requirements of sections 8.6.711 and 8.6.903 of this chapter and are approved by the Director and agencies with jurisdiction, and then apply for final subdivision approval. If an agency is unable or unwilling to approve a financial guarantee, the Director may assume this authority.

8.6.205: TIME EXTENSION FOR PRELIMINARY SUBDIVISION APPROVAL:

A. Applicability. At any time prior to expiration of preliminary approval of a major subdivision, one extension of up to two (2) years may be requested according to the procedure set forth in this section. For phased developments, one automatic two (2) year extension will be granted when the first phase is recorded. Subsequent extensions for phased developments may be requested in accordance with this section.

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

1. The application form.

2. Fees as adopted by resolution of the Board.

3. A narrative which explains the following:

a. The reasons why the subdivision was not developed within the original timeline;

b. The status of compliance with the original conditions of approval; and

c. The anticipated time schedule for completion of the platting process.

4. The Director may require additional information to determine compliance with conditions of approval, applicable provisions of this title or title 7, chapter 1 of this code, or the requirements of other agencies.

C. Approval Requirements.

1. The Director may grant the extension upon the following findings:

a. A complete application was submitted;

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

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

2. The Director shall make a decision within thirty-five (35) days of receipt of a complete application 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.

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. 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. (Ord. 546, 10-22-19)

8.6.207: FINAL SUBDIVISION APPROVAL PROCEDURE: The procedure for final approval of a subdivision shall be as follows:

A. Application. The applicant shall submit one (1) complete application packet. The application and plat must meet the requirements of section 8.6.205 and Table 6-201 of this article, Title 50, Chapter 13, Idaho Code, any other applicable provisions of this title and title 7, chapter 1 of this code, and the requirements of all agencies with jurisdiction and those providing services. If the application is not complete, it will not be processed.

B. Director Recommendation and Required Findings. The Director shall review the application and the relevant facts and evidence in the record and issue a recommendation. 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 recommend final approval of a subdivision, the Director must make the following findings:

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

2. The plat complies with the requirements of Table 6-201 of this article and Title 50, Chapter 13, Idaho Code, and is substantially the same as was presented in the preliminary application.

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

4. The plat, the project and the lots comply 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 Board.

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

6. The subdivision creates lots of reasonable utility and livability, capable of being built upon without imposing an unreasonable burden on future owners.

7. Negative environmental, social and economic impacts have been or will be mitigated.

8. 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.

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

10. The applicant has demonstrated that all conditions of approval have been met.

11. Improvements are either complete and approved by all agencies with jurisdiction and those providing services, or construction plans have been approved and a financial guarantee approved by the Director and by all agencies with jurisdiction and those providing services, has been provided. If an agency is unable or unwilling to approve a financial guarantee, the Director may assume this authority.

12. 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.

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

14. For phased projects, the phase for which final approval has been applied complies with all of the requirements of this title and with those of other agencies and service providers.

15. Public notice has been given in accordance with the applicable provisions of Idaho Code and this title.

C. If the application and the subdivision comply with all of the requirements of subsection (B) of this section, the Director shall recommend approval. 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 recommend denial. The Director shall make a recommendation within thirty-five (35) days of the receipt of a complete application unless otherwise agreed to by the applicant.

D. Board Decision.

1. The Board shall make the final decision on applications for final subdivision approval. Upon receipt of the recommendation of the Director, the Department shall schedule the application for deliberations before the Board. Deliberations shall be conducted in accordance with the Idaho Open Meetings Law, Title 74, Chapter 2, Idaho Code, but the Board shall not allow public testimony, nor shall it admit additional evidence into the record.

2. After reviewing the evidence in the record and the standards for approval, the Board shall then take one of the following actions:

a. Approve the request;

b. Deny the request; or

c. Remand the application to the Director.

3. To grant final approval of an application, the Board must make all of the findings set forth in subsection (B) of this section. If the Board makes all of those findings, it shall grant final approval of the application. If the proposal cannot meet one or more of those requirements, or if insufficient information was provided to make that determination, the Board may either deny the application, remand the application to the Director, or schedule a public hearing to receive additional application materials, testimony and evidence.

4. The order of decision of the Board 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 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 hearing unless otherwise agreed to by the applicant.

8.6.208: RECORDATION OF PLAT: Within one (1) year of final subdivision approval, the applicant must submit the Mylar plat and any associated documents to the Department in a form ready to record. The applicant must obtain all signatures on the plat and associated documents, except County signatures, before submittal to the Department. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. The Department will check for compliance with the final subdivision approval and 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. An extension of the one (1) year 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 one (1) year, and a request for extension is not timely made and granted by the Director, the approval shall be null and void.

Article 6.3 Minor Subdivisions

8.6.301: DESCRIPTION AND APPLICABILITY: The minor subdivision process may be used to create four (4) or fewer lots if the property has not been subdivided within the past five (5) years, or if the previously divided subdivisions together will create four or fewer lots. This process results in an administrative decision by the Director, and does not require a public hearing.

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 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. 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 of this article 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 completed checklist of application requirements.

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

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

8. A groundwater quantity report, which must contain information sufficient to demonstrate the likelihood 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 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 nine (9) or fewer lots, documentation by an Idaho licensed 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.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 (½) 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 (½) 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 (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 (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 plat approval and recordation:

1. A large final plat containing any required revisions 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 of this article 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. (Ord. 546, 10-22-19)

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
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

(table continues on next page)

PLAT COMPONENT	INITIAL PLAT	FINAL PLAT
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 ≥ 0 and < 15%, ≥ 15% and < 35%, and ≥ 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
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

(table continues on next page)

PLAT COMPONENT	INITIAL PLAT	FINAL PLAT
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 *Highway Standards for the Associated Highway Districts, Kootenai County, Idaho* (with or without variances).		X
23. The signature page for the plat, with the following unsigned certificates: 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. b. Certification of acceptance of rights-of-way or property conveyances. 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. 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. 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. 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. g. Certification, within 30 days prior to recording, by the County Treasurer that the taxes on the described property are current. h. Certification by the County Surveyor that the plat conforms to the requirements of Title 50, Chapter 13, *Idaho Code*. i. Certifications by the chairman of the Board, or chairman *pro tem*, that the plat has been accepted and approved. j. Certification by the County Recorder that the plat has been accepted for recording, with the date of recordation.		X

(Ord. 546, 10-22-19)

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. The Department will also schedule the application for a thirty (30) day public comment period, which shall run concurrently with the agency comment period. The Department shall cause a Notice of Public Comment Period to be published in the *Coeur d'Alene Press* at the applicant's expense. The Department shall also cause notice to be mailed to all property owners required to be noticed under Table 8-401 of this title, 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. 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. (Ord. 546, 10-22-19)

8.6.304: FINAL APPROVAL AND RECORDATION OF PLAT: Within one (1) year of approval, the applicant must meet any conditions and submit the Mylar plat and any associated documents to the Department in a form ready to record. The applicant must obtain all signatures on the plat and associated documents, except County signatures, before submittal to the Department. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. A current title report, which may be an updated version of the title report originally submitted with the application, must also be submitted with the plat. The Department will check for compliance with any conditions of approval and will obtain signatures on the plat from the chairman of the Board 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. An extension of the one (1) year 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 one (1) year, and a request for extension is not timely made and granted by the Director, the approval shall be null and void.

Article 6.4 Minor Amendments

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. In addition, parcels created by court order may be validated through the minor amendment process.

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 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. With the exception of parcels created by court order, 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

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. (Ord. 546, 10-22-19)

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, plus additional packets for each agency which will be requested to review and comment on the proposal. Additional packets for each agency which will be requested to review and comment on the proposal shall also be submitted if 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 narrative which explains the proposed changes and responds to any questions from the Department.

6. The large 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 shall be submitted.

7. For validations of unplatted parcels created by court order, a large survey substantially complying with the requirements of paragraph (4) of this subsection shall be submitted in lieu of a large plat. (Ord. 546, 10-22-19)

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 8.6.402(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 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 (or survey, if appropriate) 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 8.6.401(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. (Ord. 546, 10-22-19)

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.

D. For approved validations of unplatted parcels created by court order, a record of survey which complies with Title 55, Chapter 19, Idaho Code shall be submitted in lieu of a Mylar plat. (Ord. 546, 10-22-19)

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. (Ord. 546, 10-22-19)

Article 6.5 Condominium Plats

8.6.501: DESCRIPTION AND APPLICABILITY: The procedure set forth in this article shall apply to approval of condominium plats when the proposed condominium is located on one or more existing lots and no further division of land on which the proposed condominium is located is proposed. If the condominium plat does not meet these criteria, it must be approved either as a major subdivision or a minor subdivision, as appropriate. The determination as to whether a proposed condominium constitutes a division of one or more existing lots shall be within the discretion of the director, subject to the appeal procedure set forth in chapter 8, article 8.5 of this title.

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 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 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. (Ord. 546, 10-22-19)

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 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. The Department shall also schedule the application for a thirty (30) day public comment period, which shall run concurrently with the agency comment period. The Department shall cause a Notice of Comment Period to be published in the *Coeur d'Alene Press* at the applicant's expense. The Department shall also cause notice to be mailed to all property owners required to be noticed under Table 8-401 of this title, 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. 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. (Ord. 514, 10-4-17; Ord. 546, 10-22-19)

8.6.504: FINAL APPROVAL AND RECORDATION OF PLAT: Within one (1) year of approval, the applicant must meet any conditions and submit the Mylar plat and any associated documents to the Department in a form ready to record. The applicant must obtain all signatures on the plat and associated documents, except County signatures, before submittal to the Department. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. A current title report, which may be an updated version of the title report originally submitted with the application, must also be submitted with the plat. The Department will check for compliance with any conditions of approval and 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. An extension of the one (1) year 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 one (1) year, and a request for extension is not timely made and granted by the Director, the approval shall be null and void.

Article 6.6 Conservation Subdivisions

8.6.601: PURPOSE: Kootenai County encourages the use of conservation designs for subdivisions. The purpose of a conservation subdivision is to fit the development to the land, to cluster homes on smaller lots, to minimize road construction, to reduce stormwater and water quality impacts, to make it possible to develop shared water and sewage systems, and to save large areas of green space for farming, pasture, timber production, wildlife habitat, recreation and other uses that benefit the community. This article outlines the requirements for conservation subdivisions.

8.6.602: DENSITY:

A. The maximum density allowed within a conservation subdivision shall be calculated by dividing the total acreage in the proposed subdivision by the minimum lot size permitted in the underlying zone. For example, the maximum density allowed within a two hundred (200) acre subdivision in the Rural zone would be forty (40) lots (200 ÷ 5 = 40).

B. If a conservation subdivision is to be located in more than one zone, the allowable density for the land in each zone shall be calculated separately and then added together to yield the maximum density allowed within the subdivision. In such cases, the distribution of lots within the subdivision need not conform to existing zone boundaries.

C. The minimum lot size for a building lot in a conservation subdivision shall be 8,250 sq. ft. (Ord. 518, 2-27-18)

8.6.603: CONSERVATION OF PROPERTY: Conservation subdivisions shall be designed to conserve at least twenty percent (20%) of the property within the subdivision.

8.6.604: GREEN SPACE: Green space is land with natural, cultural or historic resources of value to the community. Land that is to be preserved as green space must be a part of the land being divided, must be unencumbered by existing conservation easements, must be in good condition (e.g. stable, in conformance with applicable best management practices), and must fall into one or more of the following categories:

A. Actively managed pasture, farm or timber land, except such agricultural uses as may be incompatible with residential uses. Appurtenant structures, including residential structures, are permitted as set forth in the applicable provisions of chapters 2 and 3 of this title. However, if a residential structure is proposed to be built on a green space lot, that lot shall be counted as a building lot. If the proposed agricultural use requires irrigation, water rights sufficient to support the use must be retained with the land.

B. Wildlife habitat or wildlife corridors as identified by the Idaho Department of Fish and Game or Coeur d'Alene Tribe. These areas might include stream corridors, draws, wetlands, grassland, stands of mature timber, areas with snags, wintering areas, nesting and roosting sites, waterfront areas and travel corridors between habitat blocks and sources of food and water. Any fencing in these areas must allow for the safe movement of wildlife.

C. Areas with native vegetation, including native grass land, or unique vegetative communities as identified by the Idaho Conservation Data Center.

D. Recreational areas, including trails and wildlife viewing areas, except such areas as may be incompatible with residential uses.

E. Historic or culturally significant areas.

F. Natural landmarks and scenic areas.

G. Parks, playgrounds, picnic areas, community supported gardens and similar uses. Up to ten percent (10%) of the green space area may be used for structures appurtenant to such uses, in conformance with applicable provisions of this title and the requirements of other agencies with jurisdiction and those which will provide services.

H. Sensitive areas, as defined in section 8.9.403 of this title.

I. If public use of green space is proposed, up to two percent (2%) of such green space may be used for public parking.

J. Ridge tops and other prominent, natural features.

K. Stream and wetland protection buffers, and land adjacent to these areas.

L. Land preserved to protect drinking water supplies.

M. Sites for shared water, wastewater or stormwater systems.

N. Other land with natural, cultural or historic value.

8.6.605: PUBLIC ACCESS:

A. Green space lots where public access will be allowed, whether to residents of the subdivision only or to the public in general, may include one or more trails into, through, around or adjacent to those lots. Trails must be convenient and accessible to lots that are not adjacent to green space lots. Trails do not need to provide access to the entire site. Any proposed trails must be indicated as such on the subdivision plat, and those which do not already exist must be constructed as part of the subdivision infrastructure. All trails and associated easements must comply with the applicable requirements of article 6.7 of this chapter.

B. The Board may require installation of a parking area in conjunction with any green space lots where access by the general public will be allowed, and may require fencing or a vegetative buffer, or both, to separate those areas from nearby residences.

8.6.606: CONSERVATION SUBDIVISION DESIGN PROCEDURE: Conservation subdivisions shall be designed in accordance with the following procedure:

A. Identify potential green space areas that comply with the requirements of this article.

B. Develop an Existing Resources Report and Site Analysis Map in accordance with the requirements set forth in sections 8.6.203 and 8.6.905 this chapter.

C. Determine the underlying zone, maximum allowed density, and proposed numbers of building and green space lots. Building sites should be selected and positioned to avoid slopes in excess of fifteen percent (15%) and to take advantage of views and green space. *Note: Though building sites should be designed to avoid slopes, this is a recommendation, not a requirement.*

D. Align streets and trails to be compatible with topography, to minimize road length and site disturbance, to avoid drainageways, sensitive areas, green space lands, and slopes of fifteen percent (15%) or greater, and to meet the requirements of this chapter and of the highway district with jurisdiction.

E. Draw lot lines.

8.6.607: ADDITIONAL REQUIREMENTS FOR CONSERVATION SUBDIVISIONS:

A. To the extent possible, green space must be contiguous within the subdivision, and must be contiguous with that on adjacent properties, so as to eventually develop a network of interconnected open space.

B. Concurrent with recordation of the subdivision plat, a perpetual conservation easement meeting the requirements of section 8.6.904 of this chapter, and approved by the Director and the entity accepting the easement, must be recorded on the land that is to be conserved. Conservation easements must be tailored to each specific situation and must limit future development of the property, but need not affect the land owner's ability to sell the land or to use the land within the parameters of green space uses permitted in section 8.6.604 of this chapter and the terms and conditions set forth in the easement, whichever are more restrictive. Conservation easements shall be dedicated or conveyed to a land trust, a governmental body, or a conservation organization that meets the requirements of subsection 55-2101(2), Idaho Code and has expertise in managing the type of green space that is proposed. The applicant shall provide the conceptual boundaries of the conservation easement and the name of the entity that will receive and hold the future easement as part of the application for preliminary approval of a conservation subdivision. The applicant shall also provide a letter from the proposed holder of the easement as part of the application which indicates that the organization is willing to accept the conservation easement. Kootenai County shall not be named as a holder of a conservation easement. If the green space is located over the Rathdrum Aquifer, Panhandle Health District must be given an opportunity to approve and be a signatory to the easement, and must be granted third party right of enforcement.

C. Prior to application for final subdivision approval, any required payments must be made to the stewardship fund of the organization that will hold the conservation easement. The purpose of this payment is to cover the yearly costs for site inspections and any necessary enforcement by the easement holder.

D. Green space lands must be actively managed by the landowner, in conformance with applicable BMPs and approved land management plans.

E. If the green space is to be owned by a homeowners' association, documents establishing the association must be approved by the Director, must meet the requirements of section 8.6.902 of this chapter, and must be recorded concurrently with the plat.

F. Conservation subdivisions shall subject to all other provisions of this chapter. If any provision of this article is inconsistent with any other provision of this chapter, the provision of this article shall take precedence.

G. If necessary to bring the site into conformance with applicable BMPs, a land management plan must be developed and approved by the agency with jurisdiction.

8.6.608: OWNERSHIP OPTIONS FOR GREEN SPACE: Green space may be owned and managed by one of the following, so long as all green space is under the same ownership:

A. One or more individuals.

B. A corporation (for profit or non-profit).

C. An incorporated homeowners' or condominium owners' association established in conformance with section 8.6.902 of this chapter. The CC&Rs must state that the common green space cannot be encumbered, and that the association is responsible for upkeep, taxes, insurance and other ownership responsibilities.

D. A nonprofit conservation organization. If green space is to be held by a conservation organization, appropriate provisions must be made for transfer to another conservation organization or agency in the event that the organization becomes unwilling or unable to manage the land.

E. A public agency or governmental body.

Article 6.7 Design and Maintenance Standards

8.6.701: PURPOSE: The purpose of this section is to delineate the minimum on-site design requirements for major subdivisions, minor subdivisions and condominium plats. While off-site improvements may also be required to mitigate the effects of the development, these will be considered project by project.

8.6.702: GENERAL DESIGN REQUIREMENTS:

A. No land shall be subdivided which the Board finds to be unsuitable for building sites because of potential hazards, such as flooding, inadequate drainage, severe erosion potential, site contamination, excessive slope, rock fall, landslides, subsidence (sinking or settling), high ground water, inadequate water supply or sewage disposal capabilities, high voltage power lines, high pressure gas lines, poor air quality, vehicular traffic hazards, or any other situation that may be detrimental to the health, safety, or welfare of residents or the public, unless the hazards are eliminated or adequately mitigated.

B. Development of land shall occur in conjunction with services and facilities that are appropriate for the size and density of the development. Services and facilities necessary to serve the subdivision must be feasible, available and adequate, and the proposal must include such on- and off-site improvements as will mitigate the impacts of the development, so that the existing quality of services is not compromised and there is no substantial increase in the cost of services to existing residents. Mitigation of impacts may include on- and off-site improvements, or payments in lieu of such improvements, so long as they are authorized by law, are directly related to the proposed

subdivision, and are roughly proportional, both in nature and extent, to the impacts of the proposed subdivision.

C. Subdivisions located within the Airport Overlay zone must be in conformance with the then-current Airport Master Plan, and the plat must include an avigation easement which has been approved by the Airport Director.

D. For lots that will not be used for habitable structures, such as open space, unmanned utility lots and dock lots, the Board may waive any of the requirements for services and facilities listed in this article so long as the public, agencies, infrastructure, and future lot owners will not be negatively affected.

8.6.703: LEVELS OF SERVICE: The following levels of service are minimum requirements. Other services and facilities may be required on a project by project basis.

A. For lots of less than one (1.00) acre in size, the following services are required:

1. A sewage disposal system meeting the requirements of Panhandle Health District or DEQ, as appropriate.

2. A shared water system, approved by PHD or DEQ, as appropriate, that can provide adequate domestic fire flows or water storage, if required by the Fire District. The Director may waive the shared water system requirement, if the topography warrants a modification to the requirement.

3. Electrical service to each lot.

4. Fire protection from a fire protection district.

5. Road access to each new lot meeting the standards of section 8.6.707 of this article.

6. For subdivisions with thirty (30) or more lots, garbage collection service must be established after fifteen (15) homes have been constructed.

B. For lots between 1.00 and 4.99 acres, the following services are required:

1. A sewage disposal system meeting the requirements of Panhandle Health District or DEQ, as appropriate.

2. Reasonable assurance of an adequate and reliable water source for each lot.

3. Electrical service to each lot.

4. Fire protection from a fire protection district.

5. Road access to each new lot meeting the standards of section 8.6.707 of this article.

6. For subdivisions with thirty (30) or more lots, garbage collection service must be established after fifteen (15) homes have been constructed.

C. For lots of 5.00 acres or more, the following services are required:

1. A sewage disposal system meeting the requirements of Panhandle Health District or DEQ, as appropriate.

2. Reasonable assurance of an adequate and reliable water source.

3. Fire protection from a fire protection district.

4. Road access to each new lot meeting the standards of section 8.6.707 of this article.

5. For subdivisions with thirty (30) or more lots, garbage collection service must be established after fifteen (15) homes have been constructed.

D. The following services are required for subdivisions in the Commercial, Light Industrial and Industrial zones:

1. Adequate infrastructure for the proposed use, including treatment of non-domestic wastewater in a wastewater treatment plant approved by DEQ. No subsurface discharge of non-domestic wastewater is permitted.

2. A water system that meets the state requirements for a public water system and can provide fire flows as required by the fire protection district with jurisdiction.

3. Electrical service to each lot.

4. Fire protection from a fire protection district.

5. Publicly maintained road access to each lot, as approved by the highway district with jurisdiction.

6. Garbage collection service.

8.6.704: UTILITY AND SERVICE STANDARDS:

A. Domestic Water Systems.

1. Annexation, connection, or both may be required upon issuance of a "will serve" letter for a subdivision by a water district established pursuant to Title 42, Chapter 32, Idaho Code, an irrigation district established pursuant to Title 43, Idaho Code, or a public utility regulated under Title 61, Idaho Code. If water service is to be provided through a shared water system serving ten (10) or more lots and such service will not be provided by a water district, irrigation district, or public utility, the applicant must form a water association, corporation, limited liability company, or other lawful business entity, which may be either for-profit or non-profit, to own, operate and maintain the system. Water districts and utility corporations must be established in conformance with applicable law, and cooperative corporations such as homeowners' associations must also comply with the requirements of sections 8.6.710 and 8.6.902 of this chapter.

2. The new components of a water system and any necessary improvements to an existing system must be designed and constructed in conformance with the requirements of DEQ, the *Idaho Standards for Public Works Construction* promulgated by the Idaho Division of Public Works, the fire protection district with jurisdiction, and if applicable, the water district, utility or corporation which will be providing service. Distribution lines shall be installed to each lot.

B. Fire Protection Systems.

1. Subdivisions shall comply with the applicable requirements of the fire protection district with jurisdiction, including those pertaining to roads, driveways, fire flows, hydrants, water storage and defensible space. In addition, each lot shall have a building site capable of being accessed by a driveway which complies with the minimum standards of section 8.4.201 of this title, or alternatively, with the standards of the fire protection district with jurisdiction.

2. Subdivisions shall also minimize the hazards associated with wildfire, and major subdivisions in timbered areas shall provide a fire mitigation plan developed by a professional forester that complies with the requirements of section 8.6.901 of this chapter and is approved by the Director and the fire protection district with jurisdiction, or the Idaho Department of Lands, as appropriate. The fire mitigation plan must be implemented as part of the required improvements for the subdivision.

C. Sewage Disposal Systems. If a public sewage system is available and provides a "will serve" letter, connection shall be required. If a private, shared sewage system is available and provides a "will serve" letter, connection may be required, providing the cost of service is commensurate with that charged to existing customers. If connection to a shared system is required, collection lines shall be installed to each lot. All sewage disposal systems shall meet the standards of the Panhandle Health District and/or DEQ. If required, shared sewage systems shall be installed and approved, or the necessary improvements secured by a financial guarantee, prior to final approval of the subdivision. Individual septic systems may be installed after final subdivision approval, in conjunction with building permits.

D. Underground Utility Placement. Underground installation of utilities shall be required unless utility providers determine that site conditions would preclude or would render such installation impractical or cost prohibitive, taking into consideration such factors as terrain, available easements, safety, maintenance, repair, replacement and the like.

E. Stormwater Management. Lots shall be laid out to provide drainage away from building sites. Stormwater management and erosion control shall comply with the requirements of chapter 7, article 7.1 of this title, in accordance with best management practices approved by the County. Infiltration of stormwater in small quantities is preferred. The collection and concentration of stormwater in detention and retention basins, wet ponds, constructed wetlands or similar facilities is discouraged and shall only be allowed when there is no feasible alternative. The installation of curbing is also discouraged because it concentrates runoff. Discharge of untreated stormwater into streams, lakes, natural wetlands or groundwater is prohibited.

F. Under Road Utilities. Whenever a utility is proposed to be installed under a road, the utility's location and construction shall meet the requirements of the public highway agency with

jurisdiction for public roads, or the road owner for private roads. In all instances, placement of utilities shall be coordinated with proposed road improvements and shall be installed before the road is completed.

8.6.705: EASEMENTS AND RIGHTS-OF-WAY:

A. Utility Easements. A general utility easement of at least ten feet (10') in width shall be provided to each lot. Any shared components of sewage, water, stormwater or other infrastructure systems shall either be within the general utility easement, or within an easement dedicated or conveyed to the entity responsible for maintenance. Easements must also be provided for individual sewage lines and drainfields that will not be located on the same parcel as residences.

B. Roads. Rights-of-way for public roads shall meet the requirements of the public highway agency with jurisdiction. Private road easements shall be at least sixty feet (60') in width. Common driveway easements shall be at least forty feet (40') in width. Cut and fill slopes and stormwater systems adjacent to roads and driveways must either be shown as easements or rights-of-way in favor of the maintenance entity. When future access may be needed to adjacent parcels of land, road easements and rights-of-way shall extend to the property line of the subdivision. Except for private roads and common driveways approved by the Board, roads and associated rights-of-way shall be dedicated to the public highway agency with jurisdiction. Private roads and common driveways shall be dedicated to the maintenance entity.

C. Trails and Sidewalks. Public trail easements or rights-of-way may be required, depending on the location of the subdivision and the need for pedestrian trails or sidewalks. If required, they shall be dedicated or conveyed to Kootenai County or to the maintenance entity. The width of trail easements and rights-of-way shall be adequate for the intended use, and shall meet the requirements of the County and the maintenance entity. When future access may be needed to adjacent parcels of land, trail easements and rights-of-way shall extend to the property line of the subdivision.

D. Public Access, Parks and Facilities. Public access easements or the conveyance of land for public access, parks or facilities may be required for subdivisions that are contiguous to: a) public lands, b) streams, lakes, ponds, wetlands or similar areas, or c) for areas designated in a County facilities acquisition plan. If so required, the property owner shall be paid fair market value for the easement or land.

E. Other Requirements.

1. All required easements and rights-of-way shall be depicted on the face of the plat.

2. The Board or Director may also require that stream and wetland protection buffers be shown as easements or rights-of-way.

8.6.706: SUBDIVISION AND LOT DESIGN:

A. Subdivisions shall be designed to be compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area. Subdivisions shall minimize grading, road construction and disturbance of the terrain, vegetation, soils, and drainageways, and

shall prevent soil erosion. To achieve this, the Board may require building envelopes, no-disturbance zones, height restrictions and planting or retention of vegetation.

B. Lot Design. Subdivisions must result in lots of reasonable utility and livability. Subdivision designs shall not contain irregular configurations that result in unusable land or that may cause future land use conflicts. All building lots must have at least one building site that can meet required setbacks and be accessed with a driveway which complies with the standards set forth in section 8.4.201 of this title, or alternatively, those of the fire protection district with jurisdiction.

C. Lot Access. All new lots shall have frontage and direct access onto a road or common driveway meeting the standards of section 8.6.707 of this section. A previously existing lot with an existing residence shall not be considered a new lot. For irregularly shaped subdivisions, or sites with severe physical constraints, the Board may allow access to individual lots via an easement. Driveway approaches to public roads must be approved by the public highway agency with jurisdiction. No new accesses to individual lots are permitted from state highways or arterial roads as shown on the public highway agency's then-current Functional Classification Map. In some cases the public highway agency may require relocation, reconfiguration, consolidation or elimination of existing approaches.

D. Continuity. No single lot shall be divided by a right-of-way, road, municipal or county boundary line, or by another parcel of land. To the greatest extent possible, no single lot should be divided by a common driveway.

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 to the highway district with jurisdiction. Otherwise, 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 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.

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 sections 8.6.711 and 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 (1½) 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 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. (Ord. 546, 10-22-19)

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 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. (Ord. 546, 10-22-19)

Table 6-701
Stream and Wetland Protection Buffer Widths

Waterway Type	Required Width
Class I Streams	75 feet from the ordinary high water mark
Class II Streams	30 feet from the ordinary high water mark
Wetlands	Determined by the Board based on a wetland analysis

8.6.709: IMPROVEMENT REQUIREMENTS:

A. Installation of Improvements.

1. Before application for final approval of any plat, required improvements shall be either:

a. Installed and approved by the design professional who developed the plans and the agencies with jurisdiction or providing services; or

b. Secured by a financial guarantee and subdivision completion agreement which complies with the standards set forth in sections 8.6.711 and 8.6.903 of this chapter, and has been approved by the Director.

2. If a portion of the work has been completed and approved by the design professional and agencies with jurisdiction or providing services, only the remaining work will need be covered by the financial guarantee.

B. Plan Approval and Site Disturbance Permit.

1. No site disturbance, terrain modification, construction or clearing shall take place until preliminary subdivision approval has been granted, construction plans have been approved by all agencies with jurisdiction and those providing services, and a site disturbance permit has been issued by the Department.

2. All construction plans shall be stamped and/or signed by an Idaho-licensed professional engineer or other appropriate design professional.

3. Dust Control Required. Dust control is required on all construction sites, and a dust control plan must be submitted for review and approval by the Director prior to the start of any site work.

8.6.710: OPERATION AND MAINTENANCE REQUIREMENTS:

A. Operation and Maintenance Required. All subdivision improvements, common areas and green space shall be operated and maintained by the owner, in accordance with applicable best management practices and approved plans. An organization that will operate and maintain shared land and improvements must be, or have been, established prior to or concurrent with final approval and recordation of the plat. Organizational options include taxing districts (such as water or sewer districts), for-profit corporations, limited liability companies or other lawfully created business entities, non-profit corporations, limited liability companies or other lawfully created business entities, or cooperative corporations such as a homeowners' association. If private maintenance by a cooperative corporation is proposed, the documents establishing the organization must meet the minimum requirements outlined in section 8.6.902 of this chapter, must be approved by the Director, and must be recorded concurrently with the plat. In addition, if land or improvements are going to be owned and managed by a cooperative corporation, and the corporation ceases to exist, or fails to fulfill its obligations, the individual lot owners shall be responsible for operation and maintenance of the land and improvements.

B. County Authority to Maintain Private Systems. If a private maintenance organization fails to maintain commonly owned land, shared infrastructure or improvements in accordance with applicable BMPs and approved maintenance plans, the Department may perform, or contract for the performance of, the necessary maintenance, and the Director may bill individual property owners for the associated costs. Any unpaid assessments may result in termination of the service. Before any action may be taken, the Department shall notify the maintenance organization and the property owners within the subdivision of the deficiencies and the intended action via certified mail. Any notices sent via certified mail which are returned to the Department shall be re-sent via first class mail. The Department shall give the property owners and maintenance organization at least forty-five (45) days to correct the deficiencies before taking action. A property owner or affected person may appeal the proposed action in accordance with chapter 8, article 8.5 of this title. Nothing in this section shall obligate the County to provide maintenance of private systems.

8.6.711: FINANCIAL GUARANTEES:

A. Financial Guarantee in Lieu of Improvements. Financial guarantees may be provided in lieu of improvements upon review and approval by the Director and all affected agencies prior to

application for final approval of a subdivision. If an agency is unwilling or unable to approve a financial guarantee, the Director may assume this authority. The amount of the guarantee shall be one hundred fifty percent (150%) of the estimated cost of construction and the expiration date of the guarantee shall be at least sixty (60) days after the expected agency approval date for the improvements. Cost estimates shall be developed by the design professional who developed the construction plans. If it is anticipated that improvements will be completed over a period of time, separate financial guarantees should be provided (e.g. one for roads, another for the water system, etc.). Partial releases are not permitted.

B. Warranty. A separate financial guarantee is required as a warranty to ensure correction of any deficiencies identified within twelve (12) months of final agency approval of improvements. The amount of this warranty shall be ten percent (10%) of the total cost of construction. If improvements are completed and approved by applicable agencies and design professionals prior to application for final subdivision approval, the warranty shall be provided with the application. If improvements are to be completed after final approval, the warranty shall be provided prior to release of the financial guarantee for construction. If the applicant fails to provide this warranty, the Director may withdraw a portion of the construction guarantee to meet this requirement, or may take other enforcement action as authorized by law.

C. Subdivision Completion and Warranty Agreements. A subdivision completion and warranty agreement which complies with the requirements of section 8.6.903 of this chapter shall accompany each financial guarantee, and must be approved by the Director. These agreements shall be contractually binding on the Department and the property owner, and, if a party to the Agreement, the contractor. Financial guarantees shall provide for installation and agency approval of improvements within two (2) years from the date of final subdivision approval. Upon written request by the property owner, the Director may grant one extension of up to one (1) year for good cause shown.

D. Financial Guarantee for Property Corners and Street Monumentation. Interior monuments for a subdivision need not be set prior to the recording of the subdivision plat of the if the following conditions are met:

1. The land surveyor performing the survey work in connection with the plat certifies that the interior monuments will be set within one (1) year of the recordation of the plat; and

2. The applicant furnishes to the County a bond or cash deposit guaranteeing the payment of one hundred percent (100%) of the estimated cost of setting the interior monuments for the subdivision as provided in sections 50-1332 and 50-1333, Idaho Code.

E. Types of Financial Guarantees.

1. The County will accept the following types of financial guarantees:

a. An irrevocable letter of credit issued by a financial institution chartered by the federal government or a state government.

b. Cash deposit (cash, cashier's check, bank draft, or money order).

c. Certificate of Deposit or other similar bank account which provides that the Board and the Director have exclusive access to the account.

2. In addition, the Director may accept surety bonds for required warranties, and for a portion of financial guarantees for incomplete improvements, except those related to stormwater and erosion control. A surety bond will not be accepted for stormwater or erosion control work. If accepted for other incomplete improvements, at least $7,500 of the required financial guarantee must be provided in the form of a letter of credit, cash or a bank account.

F. Failure to Complete Improvements or Correct Deficiencies. Any failure to complete improvements or correct deficiencies in accordance with a subdivision completion or warranty agreement and approved plans shall constitute good and sufficient cause for the Director to take enforcement action in accordance with chapter 8, article 8.6 of this title or as otherwise authorized by law, and/or to draw on the funds and contract for completion of the work. In addition to direct costs to complete the work, the Director may also withdraw funds to cover the Department's administrative costs associated with such actions. Before any action may be taken, the Department shall give the property owner written notice via certified mail. Any notice sent via certified mail which is returned to the Department shall be re-sent via first class mail. The property owner shall permit the contractor and Department staff to access the property to complete the necessary improvements. If the Director or Board is unable to gain access to the funds, or if costs exceed the value of the financial guarantee, the property owner will be billed for the outstanding balance.

G. Release of Financial Guarantee. No financial guarantee shall be released until the associated improvements have been approved in writing by the agencies with jurisdiction or providing services, the developer's design professional and the Director. No partial releases are permitted.

Article 6.8 Miscellaneous Provisions

8.6.801: PLAT, ROAD, RIGHT-OF-WAY OR EASEMENT VACATIONS: Applications for vacation of existing plats, private roads, rights-of-way, easements, or other conveyances shall be submitted to, and processed by, the Department in accordance with Title 50, Chapter 13, Idaho Code. The procedure for notice and hearing of such applications shall be in accordance with section 50-1306A, Idaho Code, and chapter 8, article 8.4 of this title. Vacations of public roads and rights-of-way shall be administered by the public highway agency with jurisdiction.

8.6.802: LOT SALES AND BUILDING PERMITS: With the exception of one model home, no non-infrastructure building permits may be issued until the plat is recorded, and all improvements are complete and approved by all agencies with jurisdiction or providing services. A building permit for one model home may be issued if a financial guarantee is provided to ensure completion of infrastructure serving the home. No certificate of occupancy may be issued until the infrastructure serving the home has been completed and all necessary approvals have been obtained.

8.6.803: CONDITION MODIFICATION: At any time prior to expiration of preliminary subdivision approval, a modification of a condition of approval may be requested according to the following procedure:

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

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 explaining why the requested condition modification is necessary.

4. The Director may require additional information to determine compliance with applicable provisions of this title, or the requirements of agencies with jurisdiction or those providing services.

B. Approval Procedure.

1. For major subdivisions, the approval procedure and required findings shall be the same as those for preliminary approval of the subdivision, as set forth in section 8.6.204 of this chapter.

2. For minor subdivisions, the approval procedure and required findings shall be the same as the original approval procedure, as set forth in section 8.6.303 of this chapter.

3. For condominiums, the approval procedure and required findings shall be the same as the original approval procedure, as set forth in section 8.6.503 of this chapter.

8.6.804: PENALTY FOR SALE OF UNPLATTED LOTS:

A. In accordance with section 50-1316, Idaho Code, any person who shall dispose of or offer for sale any lots prior to recordation of a plat, as provided in sections 50-1301 through 50-1325, Idaho Code, shall pay $100.00 (one hundred dollars) for each lot and part of a lot sold or disposed of or offered for sale.

B. Notice of Penalty and Appeal.

1. A person upon whom a penalty is imposed shall receive written notice of intent to assess the penalty provided in this section, including the factual basis supporting the imposition of the penalty. Before any action may be taken, the Department shall give the property owner written notice via certified mail. Any notice sent via certified mail which is returned to the Department shall be re-sent via first class mail.

2. The penalty may be appealed to the Board in accordance with the provisions of chapter 8, article 8.5 of this title.

3. If the Board finds that a violation of this section occurred, or if the alleged violator fails to appear at the appeal hearing or fails to request a hearing, the violation shall be deemed to have been conclusively established, and the appropriate penalty shall be applied.

4. In addition, if the Board finds that a portion of property that is the subject of a subdivision application was divided prior to recordation of the plat, the underlying application shall be declared null and void in accordance with subsection 8.6.806(A) of this article.

C. Enforcement of the penalty provided in this section shall not preclude the Director or Board from taking additional enforcement action as set forth in chapter 8, article 8.6 of this title or as otherwise authorized by law.

8.6.805: EFFECT OF SALE OF PROPERTY ON APPLICATION:

A. If a portion of the property that is the subject of a subdivision application is divided prior to recordation of the plat, the application shall become null and void, and the owner will be required to submit a new application to the Department. If the property is not divided, but is sold in its entirety, a new application shall not be required, and the new owner may proceed through the applicable subdivision approval process with the existing application.

B. If any unit or interest in the property that is the subject of a proposed condominium plat is sold prior to recordation of the plat, the application shall become null and void, and a new application must be filed by the owner. If the property is sold in its entirety, a new application will not be required, and the new owner may proceed through the condominium plat approval process under the existing application.

8.6.806: SUNSETTING OF UNRECORDED PLATS: Any plats previously approved without recordation deadlines, and which have not been recorded as of the effective date of this title, are hereby declared to be null and void.

8.6.807: UNLAWFUL SUBDIVISION, RECORDATION OF PLATS, AND SITE WORK: As provided for in sections 67-6518 and 67-6527, Idaho Code, it shall be unlawful for any person, firm or corporation, or their agent, to knowingly and willfully cause a subdivision or condominium plat to be recorded, or to knowingly and willfully participate in constructing a road, installing utilities or otherwise developing a subdivision, except in conformance with this chapter. Any subdivision or condominium plat which is recorded in violation of the provisions of this chapter, or of Title 50, Chapter 13, Idaho Code, shall be deemed void *ab initio*. In addition to actions and penalties provided in Title 50, Chapter 13, Idaho Code, any person, firm, or corporation, or their agent, who knowingly and willfully commits, participates in, assists in or maintains any violation of this chapter may be subject to civil and criminal enforcement actions in accordance with the provisions of chapter 8, article 8.6 of this title.

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. (Ord. 546, 10-22-19)

Article 6.9 Documentation Standards

8.6.901: STANDARDS FOR WILDFIRE MITIGATION PLANS: The standards set forth in this section are the minimum standards for wildfire mitigation plans whenever such plans are

required to be submitted to the Department. Although not intended to be a comprehensive list, as each plan will be different and will need to be tailored to the needs of the particular subdivision to which it will apply, the following items, at a minimum, shall be included in all wildfire mitigation plans:

A. Site plan. A site plan must be submitted which shows the following:

1. The location of draws, ridges, steep slopes and other potentially hazardous physical features. Slopes shall be depicted according to the following categories:

≥ 0% and < 15%
≥ 15% and < 35%
≥ 35%

2. Aspect (i.e., north, south, east, west facing).

3. The location of existing structures, and the approximate location of proposed structures.

4. The location of any railroad lines.

5. Existing or proposed roads that could be used for emergency ingress and egress, with the slope and width of the roads noted. Two (2) means of access to the subdivision should be provided. Emergency access roads must comply with the standards for access driveways set forth in section 8.4.201 of this title, or alternatively, those of the fire protection district with jurisdiction. Turnarounds at the end of driveways must be at least fifty feet (50') from structures, and one pullout should be provided for every four hundred feet (400') of driveway length. Turnarounds must be located away from structures so they are accessible if the structures are on fire.

6. A fuel hazard rating map, broken out into the following categories:

a. Low Hazard: areas in which fuels consist of grass, weeds, and shrubs

b. Medium Hazard: areas in which fuels consist of brush, large shrubs and small trees

c. High Hazard: areas containing heavy accumulation of large fuels (timber, large brush)

7. The location of existing and proposed fire breaks.

8. The location of existing and proposed overhead power lines, propane tanks or other features that might cause or accelerate a wildfire.

9. The location of hydrants and emergency sources of water.

B. Report. A written report must be submitted which provides the following information:

1. An explanation of any features of the site that might help firefighting efforts, such as nearby water systems or fire stations.

2. An outline of how perimeter and internal fuel breaks will be designed, constructed and maintained.

3. Short and long term plans for eliminating dangerous vegetative and fuel conditions in and around proposed building sites. Canopy cover in these areas should be less than fifty percent (50%), lower branches should be pruned, the ground should be relatively free of debris, and ladder fuels and dead and dying trees must be removed. Snags that do not present a fire hazard should, however, be left standing to provide habitat for birds and wildlife.

4. Verification that power lines have been installed underground, or will be installed underground if required pursuant to the provisions of this code. If lines have not been or will not be installed underground, the report must include an explanation of why they cannot be installed underground, and it must include plans for routine trimming of overhanging tree limbs, and for removal of ground debris below the lines.

5. Confirmation that there will be safe and adequate emergency access for residents and emergency personnel entering and exiting individual lots and the general area.

6. Identification of sufficient and accessible emergency water supplies for firefighting purposes. Water sources cannot be located within fifty feet (50') of a structure, must be surrounded with defensible space, and should be clearly identified with signs approved by the fire district, IDL or Kootenai County.

7. A description of any modifications or appurtenances needed to allow use of water sources (e.g. pumps or hydrants). If pumps are served by above ground power lines, plans for emergency power generation may be required.

8.6.902: STANDARDS FOR DOCUMENTS ESTABLISHING COOPERATIVE ENTITIES TO OPERATE AND MAINTAIN SHARED LAND OR IMPROVEMENTS WITHIN SUBDIVISIONS OR CONDOMINIUMS:

A. General. Cooperative entities, such as homeowners' associations, condominium owners' associations, or road maintenance associations, may need to be established when commonly owned land, shared infrastructure, or improvements are privately maintained. The following are the minimum standards for the documents which establish these entities whenever such documents are required to be submitted to the Department and recorded. This is not intended to be a comprehensive list of all the necessary elements of these documents, as each entity established through these documents will be different and will need to be tailored to the needs of the particular development to which it will apply.

B. Required Governing Documents. A cooperative entity must be created with the following governing documents, and must be recorded concurrently with the plat:

1. Articles of incorporation, organization, or equivalent, filed with the Idaho Secretary of State, which establish the organization as a corporation, limited liability company or other lawful business entity. Articles of incorporation, organization, or equivalent must comply with the requirements of Title 30, Idaho Code which apply to the entity created, and must include the following:

a. The purpose and responsibilities of the entity;

b. Provisions for the membership of lot owners in the entity;

c. Authorization to levy assessments upon members, enforceable by civil action or lien upon real property to which membership rights are appurtenant;

d. A statement that the entity shall have perpetual duration and succession, and shall have the same powers as an individual to do all things necessary or convenient to carry out its affairs; and

e. If specific provisions are included for managing the affairs of the entity, collecting assessments, or defining the powers, rights, limitations or obligations of the entity, its board or members, those provisions must be consistent with the required elements of the CC&Rs and bylaws.

2. Covenants, Conditions, and Restrictions (CC&Rs) which create the obligations regarding the use and improvement of real property that are legally binding upon the cooperative entity and all lot owners, and which must run with the land. For condominiums, a Declaration of Condominium which complies with the requirements of section 8.6.502 of this chapter shall be sufficient to satisfy this requirement. Otherwise, the following are the required elements of CC&Rs:

a. A statement that the owner of any lot in the development, by acceptance of a deed or other conveyance, is deemed to consent to membership in the entity, and to covenant and agree to the terms and requirements of the CC&Rs, which constitute a contract between the entity and each lot owner.

b. A statement that use of the services provided by the entity is required.

c. A statement that each lot owner shall pay assessments made by the entity for the operation and maintenance of commonly owned land, shared infrastructure or improvements, together with applicable interest, late charges, attorney's fees, court and other collection costs. The CC&Rs must also state that assessments and other charges are the personal obligation of the owner of each lot at the time the assessment is due, and that his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

d. Effective methods of enforcing payment of assessments, which must include the authority to withhold service, to take civil action to recover a money judgment for unpaid assessments, and to assess, record and foreclose a lien against the real property of entity members. Other, optional methods of enforcing payment include late fees and restrictions on voting. Individual lot owners must also have the ability to enforce the CC&Rs.

e. A statement that commonly owned land and improvements shall be operated and maintained in conformance with applicable best management practices and approved land management plans.

f. A requirement that the governing board of the entity must maintain a capital replacement plan for improvements managed by the entity, and a statement that annual assessments

must be adequate to cover anticipated capital expenses. Funds collected as reserves for capital expenses must be deposited in separate accounts and held in trust.

g. A statement that if the entity, or individual lot owners, fail to operate and maintain commonly owned land, shared infrastructure or improvements in accordance with approved plans and applicable best management practices, that the County may contract for necessary operation and maintenance and bill the individual lot owners on a *pro rata* basis. If it is necessary for the County to assume this responsibility, the County shall have the same authority as the governing board of the entity, including the right to suspend service for non-payment of assessments.

h. Enforcement procedures, including recourse for improper use of common property.

i. Notification procedures.

j. Procedures for amending the CC&Rs and a requirement that amendments be recorded.

k. A statement that the entity shall not divest itself of responsibility for operating and maintaining common land or shared improvements except to the individual lot owners or a public agency or organization that agrees to assume the responsibilities. At a minimum, the individual lot owners must have a means of taking over the responsibilities and authorities of the governing board of the entity if it fails to carry out its obligations, and if that occurs each lot owner must be given an equal and undivided interest in property previously owned by the entity.

l. The CC&Rs of a cooperative entity that has operation or maintenance responsibilities must be of perpetual duration unless the individual lot owners, a public agency or other organization agrees to assume those duties.

m. A statement that until management of the entity is transferred from the developer to the governing board of the entity, the developer shall fulfill all of the duties and responsibilities of the entity, and shall have the authority to exercise all of the rights and powers of the entity. At the time that management of the entity is turned over to the entity's governing board, all commonly owned land and all components of shared improvements must be in good operating order and must be in compliance with applicable laws, regulations, conditions of approval, BMPs, and, if applicable, approved operation and maintenance (O&M) and land management plans. Before management of the entity is turned over to the entity's governing board, the developer shall ensure that the entity is fully funded and operational, and shall provide the entity with sufficient funds to meet anticipated expenses for one (1) year.

n. A statement of the location of the articles of incorporation, organization, or equivalent, bylaws, CC&Rs, rules, and any amendments to any of these documents.

o. A severability clause.

p. All required approval signatures.

q. A legal description of land to which the CC&Rs will apply.

3. Bylaws which govern the internal affairs of the cooperative entity, including voting rights, elections, officers, meetings, and the amendment process. Bylaws shall comply with the requirements of Title 30, Idaho Code which apply to the entity created. The bylaws, in conjunction with the articles of incorporation, organization, or equivalent, must establish a cooperative entity that can effectively collect assessments and maintain commonly owned land, shared infrastructure and improvements. The following are required elements of the bylaws for cooperative entities:

a. Name, Principal Office and Definitions.

i. Name of the cooperative entity.

ii. Address for the office of the entity and, if different, address of the registered agent for service of process.

iii. Definition of terms.

b. Membership, Meetings, Quorum, Voting, and Proxies.

i. A statement that membership in the cooperative entity is automatic and mandatory when property is purchased within the development. The bylaws must include a statement that the owner of any lot within the development, by acceptance of a deed or other conveyance, is deemed to consent to membership in the entity, to use the services furnished by the entity, and to abide by the terms and requirements of the entity. The bylaws should also inform members that the members of a cooperative entity, by dealing with the entity, acknowledge that the terms and provisions of the articles of incorporation and bylaws, as well as policies, rules and regulations, shall constitute and be a contract between the entity and each members, and both the entity and the members are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions.

ii. A statement of the place, time, and notice requirements of all regular and special membership meetings. The entity must hold at least one (1) membership meeting each calendar year at a time and place stated in, or fixed in accordance with the bylaws. Notice and conduct of meetings must comply with the requirements of Title 30, Idaho Code which apply to the entity created.

iii. A process by which the members may call for a special meeting in accordance with the requirements of Title 30, Idaho Code which apply to the entity created.

iv. A statement as to who is entitled to vote, how proxies are handled, what constitutes a quorum, and what majority is needed to enact resolutions, rules, amendments, and other actions.

v. Provisions regarding membership meetings which, at a minimum, require the president and chief financial officer to report on the activities and financial condition of the entity, and provide members with an opportunity to consider and act upon other matters.

vi. Provisions for actions that can be taken without a membership meeting, if any.

c. Governing board.

i. Composition of the governing board, including the number of directors, length of terms, and procedures for nomination, election, removal from office, and the filling of vacancies. The board must consist of at least three individuals.

ii. For both regular and special meetings, what constitutes a quorum, and what actions can be taken by the governing board with and without a formal meeting.

iii. Conduct of board meetings, including when meetings are required to be open and when they may be held in executive session.

iv. The duties of the governing board, which must include:

a) recording and retaining minutes of regular and special meetings;

b) retaining a record of actions taken by members, committees or directors without a meeting;

c) keeping accurate records of expenses and payments;

d) maintaining the names and addresses of members and officers, along with the number of votes they are entitled to cast;

e) maintaining a capital replacement plan for improvements managed by the entity; and

f) providing lot owners with information on the entity's finances.

v. The powers of the governing board, which must include:

a) authority and procedures for establishing budgets, adopting fees, billing and collecting assessments, borrowing money, making payments, and contracting for maintenance and repairs;

b) the ability to adopt rules for governing common property and improvements;

c) the ability to establish special committees to assist in management of the entity;

d) methods of enforcing the covenants, conditions, restrictions, or rules of the entity; and

e) the authority to levy and collect assessments, including effective methods of enforcing collections, including the authority to withhold service, to take civil action to recover a money judgment for unpaid assessments, and to assess, record and foreclose a lien against the real property of its members, as authorized in section 45-810, Idaho Code.

vi. Specific procedures must be included for regular, special and long term capital improvement assessments. Annual assessments must be adequate to cover anticipated

capital expenses, and funds collected as reserves for capital expenses must be deposited in a separate account held in trust for the purposes for which they are collected.

d. Officers.

i. Officers. The number of officers, the length of terms, and procedures for nomination, election, removal from office, and the filling of vacancies. It is recommended that cooperative entities have, at a minimum, a president, vice-president, secretary, and treasurer (or secretary/treasurer).

ii. Powers and duties of the officers.

e. Miscellaneous Provisions.

i. Procedures for the transfer of control of the entity from the developer to the governing board. Until management of the entity is transferred from the developer to the governing board of the entity, the developer shall fulfill all of the duties and responsibilities of the entity, and shall have the authority to exercise all of the rights and powers of the entity. At the time that management of the entity is turned over to the entity's governing board, all commonly owned land and all components of shared improvements must be in good operating order and must be in compliance with applicable laws, regulations, conditions of approval, BMPs, and, if applicable, approved O&M and land management plans. Before management of the entity is turned over to the entity's governing board, the developer shall ensure that the entity is fully funded and operational, and shall provide the entity with sufficient funds to meet anticipated expenses for one (1) year.

ii. The process for amendment of the bylaws must be specified including who may initiate an amendment, what majority is needed to pass an amendment, and who may sign an approved amendment.

iii. A cooperative entity that has operation or maintenance responsibilities must be of perpetual duration unless the individual lot owners, a public agency or other organization agrees to assume those duties.

iv. Provisions regarding default of the entity, including a statement of how system maintenance will be handled if the entity fails to fulfill its responsibilities. At a minimum, the individual lot owners must have a means of taking over the responsibilities and authorities of the governing board if it fails to carry out its obligations, and each lot owner must be given an equal and undivided interest in any property previously owned by the entity.

v. Provisions for the declarant to assign rights and responsibilities related to the development to another party upon transfer of ownership of the property.

vi. Fiscal year.

vii. How conflicts of interest are handled.

viii. Provisions regarding books and records, including a requirement that a third party financial audit must be conducted at least once every five (5) years.

ix. Notification procedures and requirements (to homeowners, lenders, etc.).

x. An indemnification statement for officers of the entity.

xi. A statement of the location of the articles of incorporation, organization, or equivalent, bylaws, CC&Rs, rules, and any amendments to any of these documents

xii. Signatures of all appropriate officials in accordance with law, the articles of incorporation organization, or equivalent, and the bylaws, if previously adopted.

xiii. A severability clause.

xiv. A legal description of land governed by the cooperative entity.

4. A summary of what will be owned by the cooperative entity, copies of recorded deeds, rights-of-way and easements allowing the cooperative entity access to property not within its ownership, and copies of easements on land that will be owned by the cooperative entity (e.g., conservation easements).

5. For major subdivisions, a capital replacement plan must be developed by the project engineer and must include an inventory, projected service life and estimated replacement cost for all components of all improvements that will be operated and maintained by the cooperative entity (e.g., water, sewer, and stormwater systems). This document will enable the cooperative entity to plan for periodic, major expenses associated with replacement of system components.

6. For major subdivisions, operation and maintenance (O&M) plans and manuals for infrastructure improvements. O&M plans must be developed by the project engineer, and must include:

a. A schedule of routine maintenance, performance checks and preventive practices;

b. Manufacturer's literature;

c. A contact list for system repairs; and

d. Operational procedures.

7. A budget which summarizes anticipated expenses and revenues over the first five (5) years of operation, including accrual of an emergency fund adequate to replace the largest system component, a cash operating fund adequate to operate the systems for two months in case there is a revenue shortfall, and a capital replacement fund which provides adequate funding for the capital replacement plan. This budget must include costs associated with any land owned by the cooperative entity such as taxes, insurance, upkeep, etc.

8. If property will be owned by the cooperative entity, a land management plan must be provided. This plan must conform to applicable BMPs, and must also ensure that any land

designated as green space will be owned and maintained in accordance with the applicable requirements of this chapter.

C. Recommended Documents. Optional, but recommended documents include separate rules and regulations governing the use of commonly owned land, shared infrastructure or improvements (e.g., a water system or recreation area).

8.6.903: STANDARDS FOR SUBDIVISION COMPLETION AND WARRANTY AGREEMENTS: The following are the minimum standards for subdivision completion and warranty agreements whenever such plans are required to be submitted to the Department. Although not intended to be a comprehensive list, as each agreement will be different and will need to be tailored to the needs of the particular subdivision to which it will apply, the following items, at a minimum, shall be included in all subdivision completion and warranty agreements:

A. The effective date of the agreement.

B. The name, mailing address and phone number of the property owner, the owner's representative, if applicable, and the Department. If a person or entity other than the property owner is providing the financial guarantee (such as a developer or contractor), that person or entity must also be included as a party to the agreement.

C. The subdivision name and case number.

D. A general description of the subdivision location, including section, township, and range, and the parcel numbers of each lot within the subdivision.

E. The size of the subdivision in acres.

F. A statement that all subdivision improvements shall comply with the standards set forth in this title, and shall conform to the approved plans on file with the Department (with the file number of those plans cited).

G. A cost estimate for required improvements, or for warranties, the actual cost of construction of required improvements, provided by the design professionals who developed the construction plans. This document shall be attached and referenced as Exhibit A to the agreement.

H. For financial guarantees in lieu of improvements, a statement that the applicant has established a financial guarantee to ensure completion of required improvements in the amount of one hundred fifty percent (150%) of the estimated cost, with the amount listed. Any improvements that have not been completed and approved by the applicable agencies and design professionals must be included in the cost estimate.

I. For warranties, a statement that the applicant has established a financial guarantee to ensure completion of required warranty repairs. Warranties shall be a separate financial guarantee required for all subdivisions and must cover ten percent (10%) of the actual cost of all required improvements.

J. The type of guarantee provided, with the original attached and referenced as Exhibit B to the agreement (or a copy of the check provided, plus a copy of the receipt).

K. A completion schedule for required improvements, attached and referenced as Exhibit C to the agreement.

L. Anticipated agency approval date for the improvements, which must be at least sixty (60) days before expiration of the financial guarantee.

M. For warranties on completed, approved infrastructure, the actual date of agency approval, and the deadline for completion of any warranty work. Warranties must cover a period of one (1) year after initial agency approval of improvements, and the deadline for completion of warranty work must be at least sixty (60) days before the expiration of the financial guarantee.

N. A statement that this agreement is contractually binding on the parties.

O. A statement that upon completion of the improvements and written approval by applicable agencies, design professionals, and the Director, the Department shall release the guarantee.

P. A statement that partial releases of financial guarantees are not permitted. If improvements are to be completed in phases, the applicant should provide separate financial guarantees with separate agreements.

Q. A statement that if the required improvements are not completed and approved by the appropriate design professionals and applicable agencies prior to the above date, or within the time allowed by a written extension granted by the Director, that the Director may withdraw necessary funds from the financial guarantee, hire a contractor, enter onto the property, and have the improvements completed. In addition to contracting costs, the Director may also withdraw funds to cover the Department's administrative costs, including attorney fees.

R. For warranties, a statement that any necessary repairs shall be completed in a timely manner, in accordance with deadlines established by the Director or other agency with jurisdiction. If repairs are not completed and approved by applicable agencies at least sixty (60) days prior to expiration of the warranty, the Director may withdraw funds adequate to pay for the repairs, along with the Department's administrative costs, including attorney fees.

S. A statement that the Department shall give written notice to the property owner and other parties to the agreement, via certified mail, before any action is taken to withdraw funds from the financial guarantee. Any funds remaining after completion of necessary improvements shall be returned to the party that provided the financial guarantee.

T. The process for renegotiation of the agreement.

U. The process by which the agreement may be transferred to the applicant's successor in interest, with the approval of the Director. If transferred, the agreement must be made binding on any successors in interest.

V. A statement that the laws of the State of Idaho shall govern the agreement, and that jurisdiction and venue for any dispute shall be in the First Judicial District Court, Kootenai County, Idaho.

W. Notarized signatures of all owners of the property and other parties to the agreement.

X. If the financial guarantee is provided by someone other than the property owner, the notarized signature of that party shall also be required.

Y. Signature lines for the Director and the Chairman of the Board, with an attestation by the Clerk for the Chairman's signature.

8.6.904: STANDARDS FOR CONSERVATION EASEMENTS: The following are the minimum standards for conservation easements whenever such plans are required to be submitted to the Department. Although not intended to be a comprehensive list, as each easement will be different and will need to be tailored to the needs of the parties to the easement and the particular parcel(s) to which it will apply, the following items, at a minimum, shall be included in all conservation easements:

A. Identification of Parties and Recitals.

1. The names of all grantors and grantees, including any governmental bodies or conservation organizations to be vested with a third party right of enforcement.

2. The effective date of the deed conveying the conservation easement.

3. A statement that the grantors are the sole owners, in fee simple, of the real property that will be covered by the easement, as legally described in an exhibit attached to the easement deed.

4. A description of the characteristics of the property that has been designated for protection, and the general purposes of the easement.

5. A reference to an attached baseline inventory that establishes the condition of the property at the time of conveyance.

6. The qualifications of the grantee which enable it to act as a lawful holder of the easement, or which authorize it to be vested with a third party right of enforcement. Holders of the easement and organizations with third party right of enforcement must meet the requirements of subsection 55-2101(2), Idaho Code.

7. A statement granting the easement, signed by all parties with an interest in the property.

8. A statement accepting the easement, signed by all holders of the easement and all organizations with third party right of enforcement.

9. A statement that the easement is being created pursuant to the Uniform Conservation Easement Act, Title 55, Chapter 21, Idaho Code.

B. Grant Provisions.

1. A detailed statement of purposes, which must include a statement that the land is to be preserved for one or more uses meeting the definition of green space set forth in section 8.6.604 of this chapter.

2. A requirement that the land be managed in conformance with applicable best management practices and approved land management plans.

3. A statement regarding the rights of the grantee, including the right to protect the conservation values of the land, to inspect the property to determine compliance with the terms of the easement, and the right to enforce the terms of the easement. This section must also outline notification and inspection procedures.

4. Procedures for enforcement of the terms of the easement, which must outline enforcement procedures, specific remedies available to the grantee to correct violations of the easement, and how enforcement costs will be handled.

5. Prohibited uses of the property, which must include further division of the land, any industrial or mining activities, and any uses that are inconsistent with the purposes of the easement. If a green space lot is to be included as an allowed residential lot, it may have residential structures in conformance with the applicable provisions of this code and the requirements of other agencies.

6. Permitted uses of the property, which may include any that meet the definition of green space set forth in section 8.6.604 of this chapter, including the construction of structures appurtenant to those uses, such as agricultural buildings.

7. Any reserved rights of the grantors.

8. If applicable, a designation of any entity which is to be granted a third party right of enforcement pursuant to subsection 55-2101(2), Idaho Code. Conservation easements pertaining to land over the Rathdrum Prairie Aquifer must grant Panhandle Health District a third party right of enforcement.

9. A statement that the easement shall be perpetual in duration.

C. Miscellaneous Provisions.

1. A requirement that any future deed or lease conveying an interest in the property shall refer to the conservation easement conveyed via the deed of easement, and that the easement holder shall be provided with the name and address of any new landowners.

2. A description of how costs and liabilities, such as taxes, will be handled.

3. Provisions in the event all or a portion of the property is acquired through eminent domain proceedings or a purchase agreement reached in lieu of, or to settle such proceedings.

4. A provision that the grantee may assign its rights and obligations to another conservation organization or government agency that agrees to enforce the terms of the easement.

5. Procedures for notification to or between the parties and contact information for each party, including, at a minimum, the names, addresses, and telephone numbers of all grantors and grantees.

6. A provision that all mortgages, liens or similar encumbrances on title to the property must either be discharged or subordinated to the easement so that the easement cannot be terminated in the event of foreclosure.

7. A requirement that the deed of easement shall be recorded in the Office of the County Recorder.

8. A statement that the laws of the State of Idaho law shall govern the easement.

9. A severability clause.

10. A provision that the covenants, terms, conditions and restrictions of the easement shall be binding upon, and inure to the benefit of the parties and their heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the land.

11. Amendment procedures.

12. Notarized signatures of all grantors and grantees.

D. Attachments.

1. A legal description of the property subject to the easement.

2. A baseline inventory of the property.

3. A site plan.

8.6.905: STANDARDS FOR EXISTING RESOURCE REPORTS AND SITE ANALYSIS MAPS: The following are the minimum standards for existing resource reports and site analysis maps whenever such plans are required to be submitted to the Department. Although not intended to be a comprehensive list, as each report and map will be different and will need to be tailored to the needs of the particular subdivision to which they will apply, the following items, at a minimum, shall be included in all existing resource reports and site analysis maps:

A. Existing Resource Report.

1. A brief paragraph containing a description of the subject site boundaries and an explanation of the proposed project.

2. An explanation of the different resources found on site that includes, at a minimum, any timbered areas, cultural resources, wildlife habitat, streams and other surface water areas that are present on the site.

3. A description of how the resources identified in the report will be impacted by the proposed project.

4. A listing of the classification of any streams found on the project site, and a complete delineation of stream and wetland protection buffers, as defined in sections 8.9.403 and 8.9.503 of this title, respectively, in accordance with the requirements set forth in subsection 8.6.708(C) of this chapter.

5. If the land lies within a timbered area, as determined by the Director, the report shall include a Wildfire Mitigation Plan prepared in accordance with section 8.6.901 of this article.

6. An explanation of the mitigation measures which will be implemented to minimize the project's impacts on the resources identified in the report.

B. Site Analysis Map.

1. The site analysis map must encompass the resources contained in the report, including those existing on the site and those on all parcels located within five hundred feet (500') of the site.

2. The site analysis map must show the following:

a. Woodlands and mature timber;

b. Active farm and pasture land;

c. Adjacent public lands and lands under Conservation Easement;

d. Habitat for rare, threatened or endangered plants or animals (if known);

e. Important wildlife habitat;

f. Historic or cultural features;

g. Areas with scenic views;

h. Hillsides and other areas visible to the public;

i. Disturbed areas;

j. Natural features such as streams, ponds, rock outcrops, unusual geologic formations, forested areas, and wetlands; and

k. Existing roads.

3. In addition to a paper copy, at least one clear overlay copy of the map shall be provided.

4. An aerial photograph of the site, with boundaries marked, shall also be submitted if available. If an aerial photograph is not available, a geospatial view of the site (from Google Earth or other similar service) may be substituted.

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CHAPTER 7
SENSITIVE AREAS

Article 7.1 Site Disturbances, Stormwater Control and Shoreline Development

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 (⅓) 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. (Ord. 546, 10-22-19)

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 will perform a site inspection to determine the risk categories as outlined in section 8.7.117 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. 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. (Ord. 546, 10-22-19)

8.7.103: GRADING:

A. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical (2:1), unless the design professional can demonstrate substantial evidence that steeper slopes are feasible, taking into account safety, stability, erosion control, revegetation, and overall water quality impacts. Subsurface drainage shall be provided as necessary for stability. All engineering reports are subject to review by the Director.

B. Fill slopes shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical (2:1), unless the design professional can demonstrate substantial evidence that steeper slopes are feasible, taking into account safety, stability, erosion control, revegetation, and overall water quality impacts. Fill slopes shall not be constructed on natural slopes of 40% (2.5 horizontal to 1 vertical) or steeper, without special treatment or design. In addition, the toe of fill slopes shall not be closer to the top of existing or planned downhill cut slopes than the height of that cut (e.g. if an 8-foot cut is planned, the toe of the uphill fill slope shall not be closer than 8 feet to the top of that cut), unless the design professional has demonstrated that comparable stability can be achieved with lesser setbacks.

C. Prior to placement of fill, the ground surface shall be prepared to receive fill by removing vegetation, topsoil, forest duff, and any other unsuitable material. The area to receive fill shall be scarified to provide a bond with the new fill. Fill shall not be placed until the area is prepared by constructing a level or slightly insloped toe bench into competent material at the base of the new fill. The Director may waive the benching requirement for minor fills which are not intended to support a road, driveway, or structure. In high risk areas, the position, width, and configuration of the bench shall be determined by a design professional. Fill slopes and the transition zone into natural terrain shall be configured to a generally smooth, planar configuration so that runoff traverses the area as sheet flow and is not concentrated. Fill material shall be free of organic material except as may be determined by a design professional to be suitable. Roadway fills shall be placed in lifts and compacted to a minimum of 95 percent (95%) of the maximum density as determined by the AASHTO T-99 or ASTM D-698 compaction procedure, or as specified in the design professional's report.

D. Except where roads or driveways cross property lines, the tops and toes of cut and fill slopes shall be set back from property boundaries one half of the height of the slope with a minimum of five (5) feet and a maximum of twenty (20) feet, unless the design professional has demonstrated that smaller setbacks provide a sufficient measure of safety and stability for activities which may occur on adjacent property.

E. Terracing shall be required on all cut or fill slopes which exceed fifty feet (50') in height. Spacing, width, and drainage requirements of the terrace(s) shall be determined by the design professional.

8.7.104: EROSION AND SEDIMENTATION CONTROL:

A. Erosion and sedimentation control BMPs for all sites must be sufficient to prevent sediment from leaving the site.

B. Stabilized construction entrances and driveways shall be required for all construction sites to minimize sediment tracking onto roadways. Such entrances and driveways shall be a minimum of six inches (6") thick, with a minimum rock size of three inches (3"), and a length sufficient to minimize off-site tracking of sediment. Parking of vehicles shall be restricted to paved or stabilized areas.

C. The erosion and sedimentation control BMPs must be installed or otherwise in effect, and the boundary of the area to be disturbed must be clearly marked, as indicated in the approved plan, prior to any site disturbance.

D. All surfaces where bare soil is exposed during clearing and grading operations, including spoil piles, shall be covered or otherwise protected from erosion when it will not be worked for more than four (4) days.

E. The property owner, contractor, and design professional shall be responsible for the design and construction of revised temporary erosion and sedimentation control if application of the approved plan fails. The Applicant shall immediately notify the Director of alterations to plans.

F. All cut and fill slopes shall be revegetated or otherwise protected from erosion to the greatest extent practicable.

8.7.105: STORMWATER DETENTION AND CONVEYANCE:

A. Stormwater conveyance mechanisms must be sized to convey runoff from a 50-year storm event without causing flooding or other damage to public or private property, the stormwater management system, or other improvements.

B. Culvert size within public rights-of-way shall be determined by the public highway agency with jurisdiction. All other culvert sizing shall be done by an appropriate design professional.

C. Stormwater systems shall provide for sufficient storage volume and detention time to result in no increase in the peak rate of runoff from the site for a 25-year storm. Runoff from impervious and pervious surfaces shall be considered in meeting this requirement.

D. Where treatment of stormwater runoff is required prior to infiltration over the Rathdrum Prairie Aquifer, the runoff shall be conveyed to treatment areas with limited infiltration prior to treatment.

8.7.106: STORMWATER TREATMENT:

A. Treatment of the first one-half inch (½") of stormwater runoff from the 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.

1. Subdivisions. Site disturbance management plans will be required for subdivisions utilizing calculations for detention and conveyance that include runoff from the proposed improvements.

2. 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 (½") 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.

3. Common driveways 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.

4. 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 (½") 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.

b. 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.

B. 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. (Ord. 546, 10-22-19)

8.7.107: GROUNDWATER AND SPRINGS: Springs and other groundwater sources that are encountered during grading or excavation activity shall be returned to subsurface flow where possible or conveyed through the site by an appropriate means of conveyance that shall be non-erosive, avoids sediment transport, and dissipates energy, all to be conducted in accordance with Best Management Practices. For high risk sites, the design professional shall ensure that the groundwater will not interfere with the implementation or function of the planned stormwater or erosion control improvements.

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. (Ord. 546, 10-22-19)

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. (Ord. 546, 10-22-19)

8.7.110: STREAM PROTECTION BUFFERS:

A. Purpose. The purpose of stream protection buffers is to ensure that prior to, during, and after construction operations, stream beds, streamside vegetation and other existing physical characteristics are protected in order to maintain water quality and to protect property and aquatic habitat.

B. Applicability. The requirements for stream protection buffers shall apply to all Class I streams, Class II streams, and naturally occurring drainage swales, but shall not apply to the shorelines of any recognized lake or the Coeur d'Alene River or Spokane River.

C. Dimensions.

1. Class 1 Stream Protection Buffer: The area encompassed by a slope distance of seventy-five feet (75') on each side of the ordinary high water mark.

2. Class 2 Stream Protection Buffer: The area encompassed by a minimum slope distance of thirty feet (30') on each side of the ordinary high water mark.

3. Naturally Occurring Drainage Swale Protection Buffer: The area encompassed by a minimum slope distance of five (5) feet on each side of the top of a naturally occurring drainage swale. In no case shall this protection buffer have a total width greater than thirty feet (30').

4. For parcels legally created prior to January 1, 1997, the width of any stream protection buffer may be reduced to forty percent (40%) of the dimension of the parcel which is intersected by the stream.

D. Standards.

1. Application of fertilizer to turf grass and storage of chemicals which may adversely impact water quality, such as petroleum products, pesticides, fertilizers and similar liquids or compounds, are prohibited in stream protection buffers.

2. No mechanical ground disturbance shall be permitted within stream protection buffers except at identified and permitted stream or river crossings. Only the use of hand tools shall be allowed when necessary to develop or establish a permitted use or activity unless they are to be performed within an identified and permitted crossing. When disturbance is necessary across or inside a stream protection buffer, it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. The extent of any such disturbance shall be clearly indicated in a site disturbance plan.

3. When a stream protection buffer must be crossed, adequate structures to carry water flow shall be installed. Crossings and their approaches shall be at right angles to the channel or otherwise configured to minimize the disturbance within the stream protection buffer or shoreline protection buffer. Construction of hydraulic structures in river channels shall conform to the requirements of the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. All temporary crossings shall be removed immediately after use.

4. Shading, wildlife cover, and water filtering effects of vegetation shall be maintained along all stream protection buffers as outlined in the IFPA and the Rules Pertaining to the Idaho Forest Practices Act, IDAPA 20.02.01 (IFPA Rules).

5. Large organic debris (LOD) shall be maintained along all stream protection buffers as outlined in the IFPA and the IFPA Rules.

6. Site improvements or conditions which lie within a stream protection buffer may be replaced or altered in a manner which complies with the following standards:

a. No addition or alteration encroaches farther into the stream protection buffer than the pre-existing improvements; and

b. Site disturbing activity within the stream protection buffer is minimized to the greatest extent possible; and

c. All other requirements of this article are met.

7. One stairway or walkway, associated stairway landings, and a tram may encroach within a stream protection buffer. Stairways and walkways shall not exceed four feet (4') in width. Stairway landings shall not exceed six feet (6') in width or length. Such structures shall not be constructed in a manner that is substantially parallel to the stream, except that switchback designs that provide access from higher elevations to lower elevations are permitted whenever such designs are necessary due to steep slopes.

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

9. Installation of water intake lines, power lines, and similar linear infrastructure is permitted, provided that site disturbing activities within the stream protection buffer are minimized and remediated to the greatest extent possible.

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

E. Development Exceptions within a Stream Protection Buffer.

1. Mechanical ground disturbances not associated with development and not otherwise permitted in subsection (D) of this section may be permitted within a stream protection buffer, so long as the applicant can adequately demonstrate the necessity of such activity through the submittal of a stream protection 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 a stream protection buffer for maintenance, repair or replacement of existing structures or improvements, or to remedy significant erosion, structural integrity, or bank stabilization problems, so long as the applicant can adequately demonstrate the necessity of such activities through the submittal of a stream protection 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;

b. The work proposed is the minimum necessary to control or remediate the erosion, structural integrity, or bank 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. (Renumbered per Ord. 546, 10-22-19)

8.7.111: 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):

Lake	Elevation
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 (⅓) 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 (⅓) 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. (Ord. 546, 10-22-19)

8.7.112: 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 the hazard. The Director shall give notice in writing to the owner specifying the period in which the hazard is to be corrected. The hazard shall be corrected within the period specified in the notice. 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. (Ord. 546, 10-22-19)

8.7.113: 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. (Ord. 546, 10-22-19)

8.7.114: MAINTENANCE: Maintenance requirements and responsibility shall be clearly identified for all projects where BMPs are employed, including BMPs for erosion and sedimentation control and stormwater management. When a stormwater system is designed to service more than one parcel, a maintenance agreement between all parties which benefit from the system must be established, including assurance of adequate funding. Easements across private

property for maintenance access to community stormwater systems shall also be required where necessary. All maintenance agreements must be approved by the Director.

In the event that appropriate maintenance of any stormwater system is not conducted, the County shall have the option of requiring the property owner or association to provide for maintenance, or take other enforcement measures as outlined in chapter 8, article 8.6 of this title. (Renumbered per Ord. 546, 10-22-19)

8.7.115: PROHIBITED CONDUCT: The following actions shall be violations of this article:

A. Where a permit is required, failure to obtain a permit prior to the start of grading activity;

B. Failure to call for inspections as required by this article;

C. Once grading activity has begun, failure to complete the grading activity and install the necessary erosion and sedimentation control, stormwater management, and slope stabilization measures, in a timely manner;

D. Failure to maintain temporary and permanent erosion and sedimentation control measures, the stormwater management system, or slope stabilization measures;

E. Conduct work on a site which exceeds the scope of work outlined in the approved plans;

F. Damage or otherwise impede the function of a stormwater system;

G. Export sediment from a site in a manner not authorized by this article;

H. Continue work at a site after a stop work order has been placed;

I. Discharge stormwater in a manner not authorized by this article;

J. Failure to correct a hazard as outlined in section 8.7.110 of this article; and

K. Engaging in construction activities within a stream protection buffer or shoreline management area other than those permitted in sections 8.7.108 or 8.7.109 of this article. (Renumbered per Ord. 546, 10-22-19)

8.7.116: 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. The design professional must submit a letter to the Department 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.

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 with the money from the associated financial guarantee. The Department may also take additional enforcement measures as provided by law. (Ord. 546, 10-22-19)

8.7.117: 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.

Gradient	Point Value
≤ 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.

K Factor	Point Value
≤ 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.

Distance	Point Value
> 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.

Disturbed Portion	Point Value
≤ 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:

Point Total	Risk Category
0 – 10	Low risk
11 – 20	Moderate risk
> 20	High risk

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.

Gradient	Point Value
≤ 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.

Permeability	Point Value
≥ 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.

Distance	Point Value
> 500’	0
> 200’ and ≤ 500’	7
≤ 200’	15

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

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

5. Total impervious area, expressed in square feet.

Coverage	Point Value
≥ 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:

Point Total	Risk Category
0-10	Low risk
11-20	Moderate risk
> 20	High risk

(Ord. 546, 10-22-19)

Article 7.2 Flood Damage Prevention

8.7.201: GENERAL PROVISIONS:

A. Applicability. The provisions of this article shall apply to all special flood hazard areas within the jurisdiction of Kootenai County. Nothing in this ordinance is intended to allow uses or structures that are otherwise prohibited by other provisions of this title.

B. Findings of Fact.

1. The special flood hazard areas of Kootenai County are subject to periodic inundation that results in the following adverse effects on the public health, safety, and general welfare:

a. loss of life and property;

b. health and safety hazards;

c. disruption of commerce and governmental services;

d. extraordinary public expenditures for flood relief and protection; and

e. impairment of the tax base.

2. These flood losses are caused by structures in flood hazard areas which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

3. Pursuant to the authorities set forth in section 8.1.102 of this title, local governments have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

C. Methods of Reducing Flood Losses. In order to accomplish its purposes, this article includes methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage;

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazard in other areas; and

6. Requiring adherence to the regulations pertaining to erosion and sediment control, and stormwater management, contained in article 7.1 of this chapter.

D. Basis for Special Flood Hazard Areas. The special flood hazard areas identified by FEMA in its Flood Insurance Study (FIS) for Kootenai County, Idaho, and Incorporated Areas, dated May 3, 2010, with accompanying Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are hereby adopted by reference and declared to be a part of this article. The FIS and the FIRM are on file with the Department. Additional special flood hazard areas may be designated in accordance with the procedures set forth in subsection 8.7.205(D) of this article.

1. Base Flood Elevations Established. For purposes of this article, base flood elevations for the following lakes shall be considered to be the following elevations, as established in the FIS, according to the North American Vertical Datum of 1988 (NAVD88):

Lake	Elevation (in feet)
Hauser Lake	2195.0
Spirit Lake	2448.1
Fernan Lake	2139.3
Hayden Lake	2246.8
Twin Lakes	2319.6
Lake Coeur d'Alene	2139.3
Lake Pend Oreille	2073.7*

* Base Flood Elevation for Lake Pend Oreille established in the Bonner County FIS, as referenced in FEMA product ID#16017CV00013.

2. Base flood elevations for other bodies of water shall be determined through consideration of information provided by FEMA or other authoritative sources. Any affected person contesting the location of the boundary shall be given a reasonable opportunity to appeal any such interpretations in accordance with chapter 8, article 8.5 of this title.

E. Establishment of Floodplain Development Permit. A floodplain development permit shall be required in conformance with the provisions of section 8.7.206 of this article before any floodplain development may begin.

F. Compliance. No structure or land within a special flood hazard area shall hereafter be located, constructed, developed, extended, converted, or altered in any way except in full compliance with the terms of this article and other applicable provisions of this title and Title 7, Chapter 1 of this code. This subsection shall not apply to routine maintenance of structures or to agricultural or forestry activities. (Ord. 545, 10-9-19)

8.7.202: DEVELOPMENT IN FLOODWAYS:

A. Description. Located within special flood hazard areas are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential.

B. Restrictions on Development in Floodways. No floodplain development shall be permitted in any designated floodway except new construction solely for the replacement or substantial improvement of an existing residential or commercial structure and accessory buildings in conjunction with an existing residential or commercial use, and except as provided in paragraph (6) of this subsection. Additionally, access roads may be permitted to cross the floodway where no alternative access ways which do not encroach on the floodway are possible. All floodplain development permitted in a floodway shall comply with the following standards:

1. Floodplain development based on a no-rise certification.

a. For approval of a floodplain development permit for floodplain development within a floodway based on a no-rise certification, a qualified professional engineer licensed by the State of Idaho must submit a no-rise certification which demonstrates, through hydrologic and hydraulic analyses prepared in accordance with standard engineering practice (with supporting technical data), that the proposed floodplain development would not result in an increase in flood levels during the occurrence of the base flood.

b. All foundations for new construction and substantial improvement shall be designed by a qualified engineer licensed by the State of Idaho and constructed to withstand the hydrodynamic and hydrostatic pressures during the discharge of the base flood. If flood velocities are excessive (greater than four feet (4') per second), foundation systems other than solid foundation walls are required so that obstructions to damaging flows are minimized.

2. Submittal of a Conditional Letter of Map Revision (CLOMR) approved by FEMA with a floodplain development permit application. A Letter of Map Revision (LOMR) must be

obtained within six (6) months of the start of construction of the proposed floodplain development.

3. On existing lots of record where sufficient lot area is available, all floodplain development, including fill, new construction, and substantial improvements to existing structures, shall occur outside of the floodway.

4. Construction pursuant to subsection 8.7.204(I) of this article (Alteration and Maintenance of Watercourses) is allowed in floodways with a floodplain development permit.

5. Encroachments.

a. A floodplain development permit shall be required for all encroachments, regardless of whether or not the encroachment is in aid of navigation.

b. All permits required by other agencies with jurisdiction shall have been issued before a floodplain development permit may be issued.

c. The Director shall issue a floodplain development permit for an encroachment if the applicable requirements of section 8.7.203 of this article have been met.

6. A structure that increases the level of the base flood may be constructed in the floodway only if the Director finds that the structure would serve a substantial public interest, and the applicant has applied for a conditional FIRM and floodway revision, has fulfilled applicable FEMA requirements for such revisions, and has received the approval of the Federal Insurance Administrator. (Ord. 545, 10-9-19)

8.7.203: GENERAL STANDARDS FOR FLOODPLAIN DEVELOPMENT:

A. Building sites shall be reasonably safe from flooding.

B. All floodplain development, including new construction and substantial improvements to existing structures, shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure.

C. All floodplain development, including new construction and substantial improvements to existing structures, shall be constructed with building materials and utility equipment that are resistant to flood damage. Below base flood elevation, materials must meet FEMA requirements for flood resistant materials. Information on flood resistant materials is outlined in FEMA publication FIA-TB-2.

D. All floodplain development, including new construction and substantial improvements to existing structures, shall use methods and practices that minimize or eliminate flood damages.

E. New and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, above ground storage tanks and other service facilities shall not be located below the base flood elevation.

F. Design and implementation of utility systems required for floodplain development are subject to approval.

G. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. If any portion of a public water system is in a special flood hazard area, an Emergency Flood Response Plan must be developed and provided to DEQ, Kootenai County and PHD. This plan must be implemented in the event that flood waters threaten to contaminate the water system, and must include:

1. Written instructions to the operator addressing circumstances necessitating shutdown of the water system,

2. Instructions for disinfecting and testing the system prior to start-up, and

3. A protocol for notifying DEQ, PHD and all users when the water system is at risk of being contaminated.

H. New community or individual sanitary sewage disposal systems shall be located outside special flood hazard areas.

I. For new construction and substantially improved structures, a fully enclosed area which is below the lowest floor shall:

1. Be constructed entirely of flood resistant materials to at least the flood protection elevation; and

2. In Zones A and AE, flood openings shall be included which automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect, or must meet or exceed the following minimum design criteria:

a. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

b. The total net area of all flood openings must be at least one square inch (1 sq. in.) for each square foot of enclosed area subject to flooding;

c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

d. The bottom of all required flood openings shall be no higher than one foot (1’) above exterior adjacent grade;

e. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

f. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and therefore, do not require flood openings. Masonry or wood underpinning,

regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

J. If there is no alternative to locating a replacement sanitary sewage disposal system within a special flood hazard area, the system shall be designed and located to minimize or eliminate both the infiltration of flood waters into the system, and discharge from the system into flood waters. The determination that there is no alternative will be made by the Director with input from PHD and/or DEQ.

K. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance approved pursuant to section 8.8.203 of this title. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated to at least the flood protection elevation and certified in accordance with the provisions of subsection 8.7.204(C) of this article.

L. All required Federal and State permits must be received before a County floodplain development permit, building permit, or site disturbance permit may be issued.

M. New floodplain development shall not increase flood heights except as permitted in this chapter.

N. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

O. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply. (Ord. 545, 10-9-19)

8.7.204: SPECIFIC FLOODPLAIN DEVELOPMENT STANDARDS:

A. Residential Structures.

1. New and replacement residential structures, accessory living units, and all improvements to residential structures, including manufactured homes and mobile homes, regardless of whether they meet the definition of a "substantial improvement," shall have the top of the lowest floor, including the floor of an attached garage or basement, elevated no lower than the flood protection elevation except as provided in paragraph (D)(1) of this section.

2. Solid perimeter foundation walls are allowable only if the lowest horizontal structural member is four feet (4') or less above interior grade (shown as "L" in Illustration 7-201). Enclosed foundation areas below the lowest floor that are subject to flooding are prohibited, except crawl spaces less than four feet (4') in height and meet or exceed the following criteria:

a. The interior grade of a crawl space below the BFE must not be more than two feet (2') below the lowest adjacent exterior grade (LAG), shown as "D" in Illustration 7-201.

b. A minimum of two openings on different sides of each enclosed area, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided. The bottom of all openings shall be no higher than one foot (1') above lowest adjacent exterior grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

d. Fill may be used to elevate the grade next to foundation walls so long as the fill meets the requirements of subsection (H) of this section.

e. The velocity of floodwaters at the site should not exceed five feet per second (5 ft/sec) for any crawl space. For velocities in excess of five feet per second (5 ft/sec), other foundation types should be used.

f. Below-grade crawl space construction in accordance with the requirements listed in this subsection will not be considered a basement.

3. If the lowest horizontal structural member is more than four (4) feet above grade, the residential structure shall not be built on solid foundation walls, but shall be constructed on piers, posts, or piles. With the exception of structural piers, posts or piles, the space below the lowest floor must be free of obstruction. Single layer open wood lattice work or light mesh insect screening is permissible below the lowest floor. Exceptions to the pier, post, or pile construction are as follows:

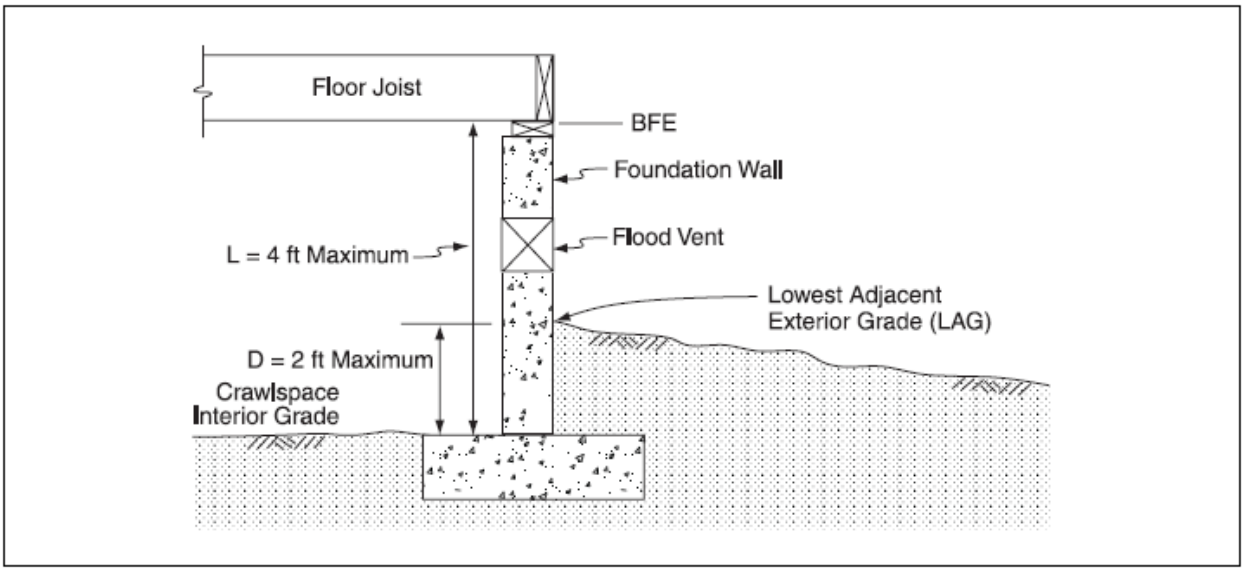
a. Solid foundations under masonry chimneys are permissible.

b. Solid perimeter foundation walls may be permitted for an enclosed access way to the structure. Such access ways must meet the same requirements for openings as crawl spaces.

c. Solid foundation walls that do not create an enclosed foundation area (one or two walls) are acceptable provided that the walls are engineered and constructed to withstand the hydrodynamic pressure of water velocity and debris and ice flow.

4. Where base flood elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building or location permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. In such locations, the top of the lowest floor of structures must be elevated at least four feet (4') above the highest adjacent grade.

Illustration 7-201
Construction Diagram



B. Residential Accessory Structures.

1. Separate structures which are accessory to a residential use (e.g. garage, barn) are not required to be elevated as outlined in subsection (A) of this section. For purposes of this article, accessory living units shall be considered to be residential structures, and shall comply with the applicable requirements of subsection 8.7.204(A) of this article.

2. Residential accessory structures shall be designed to comply with the requirements of paragraph 8.7.203(I)(2) of this article.

3. Crawl spaces and other enclosed foundation areas shall comply with the requirements of paragraph (A)(2) of this section.

4. As part of any addition to an existing residential accessory structure, the existing structure shall comply with the requirements for openings as outlined in paragraph (A)(2) of this section.

C. Nonresidential Structures.

1. New and replacement non-residential structures, and all improvements to non-residential structures, regardless of whether they meet the definition of a "substantial improvement," shall have the top of the lowest floor, including the floor of an attached garage or basement, elevated a minimum of three feet (3') above the base flood elevation.

2. Solid perimeter foundation walls are allowable only if the lowest horizontal structural member is four feet (4') or less above interior grade. Enclosed foundation areas below the lowest floor that are subject to flooding are prohibited except for crawl spaces less than four

feet (4') in height. Designs for meeting this requirement shall comply with the requirements of paragraph (A)(2) of this section.

3. If the lowest horizontal structural member is more than four feet (4') above grade, the structure shall not be built on solid foundation walls, but shall be constructed on piers, posts, or piles. With the exception of structural piers, posts or piles, the space below the lowest floor must be free of obstruction. Single layer open wood lattice work or light mesh insect screening is permissible below the lowest floor. Exceptions to the pier, post, or pile construction are as follows:

a. Solid foundations under masonry chimneys are permissible.

b. Solid perimeter foundation walls may be permitted for an enclosed access way to the structure. Such access ways must meet the same requirements for openings as crawl spaces.

c. Solid foundation walls that do not create an enclosed foundation area (one or two walls) are acceptable provided that the walls are engineered and constructed to withstand the hydrodynamic pressure of water velocity and debris and ice flow.

4. Where base flood elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. In such locations, the top of the lowest floor of structures must be elevated at least four feet (4') above the highest adjacent grade.

D. Additions and Improvements.

1. Structures originally constructed prior to March 1, 1982 (Pre-FIRM structures):

a. If additions and improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, do not constitute a substantial improvement, the additions and improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

b. If additions and improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, constitute a substantial improvement, both the existing structure and the additions and improvements must comply with the standards for new construction set forth in this article.

2. Structures originally constructed on or after March 1, 1982 (Post-FIRM structures):

a. Additions to post-FIRM structures that constitute a substantial improvement shall require only the addition to comply with the standards for new construction set forth in this article so long as there are no modifications to the existing structure other than a standard door in the common wall.

b. If additions and improvements to post-FIRM structures, in combination with any interior modifications to the existing structure, do not constitute a substantial improvement, only the additions and improvements will be required to comply with the standards for new construction set forth in this article; or

c. If additions and improvements to post-FIRM structures, in combination with any interior modifications to the existing structure, constitute a substantial improvement, both the existing structure and the additions and improvements shall be required to comply with the standards for new construction set forth in this article.

3. Any substantial improvement must comply with the standards for new construction set forth in this article. Improvements completed within the previous five (5) year period shall be counted cumulatively. If a structure has sustained substantial damage, any repairs shall be considered substantial improvements regardless of the actual repair work performed. The requirement does not, however, include either:

a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to ensure safe living conditions; or

b. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

E. Manufactured Homes and Mobile Homes.

1. All manufactured homes and mobile homes to be placed or substantially improved within A zones on the FIRM shall be elevated on a permanent foundation in compliance with section 8.7.203 of this article and subsection (A) of this section.

2. Manufactured homes and mobile homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by a certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety's *Idaho Manufactured Home Installation Standard* in accordance with subsection 44-2201(2), Idaho Code. Additionally, when the elevation of the chassis is thirty-six inches (36") or less above the elevation of the grade on site, the chassis shall be supported by reinforced piers or an engineered foundation. When the elevation of the chassis is above thirty-six inches (36") in height, an engineering certification shall be required.

3. All enclosures or skirting below the lowest floor shall meet the requirements of paragraph 8.7.203(I)(2) of this article.

4. An evacuation plan shall be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within special flood hazard areas. This plan shall be filed with and approved by the Director and the Kootenai County Office of Emergency Management.

F. Recreational Vehicles. Recreational vehicles and park model recreational vehicles shall not be used as dwellings, shall meet the applicable requirements of article 3.4 of this title, and, in addition, when placed on sites within A Zones on the community's FIRM shall be:

1. On site for fewer than 120 consecutive days within one year; and

2. Fully licensed and ready for highway use, be on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no attached additions.

G. Land Division, Mobile Home Parks, and Planned Unit Developments.

1. All lots created after September 14, 1999 shall have a building site that is a minimum of 4000 square feet in size and accessible by a driveway which meets the minimum standards of Chapter 3, Article 3.2 of this title, all located outside of any special flood hazard area.

2. If platted, the face of the plat shall indicate the location of any special flood hazard area within the boundaries of the plat and a note shall be placed on the plat restricting development to areas outside the designated special flood hazard area. Such areas shall be preserved as open space and left in their natural condition.

3. The following provisions shall also be met:

a. All projects shall be consistent with the need to minimize flood damage, and shall be reasonably safe from flooding.

b. All projects shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. If any portion of a public water system is in a special flood hazard area, an Emergency Flood Response Plan must be developed and provided to DEQ, Kootenai County and PHD. This plan must be implemented in the event that flood waters threaten to contaminate the water system, and must include:

i. written instructions to the operator addressing circumstances necessitating shutdown of the water system,

ii. instructions for disinfecting and testing the system prior to start-up, and

iii. a protocol for notifying DEQ, PHD and all users when the water system is at risk of being contaminated.

c. All projects shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data is not available either through the Flood Insurance Study or from another authoritative source, it shall be generated by the developer's engineer for projects which contain at least five (5) lots or five (5) acres (whichever is less).

e. All projects shall include a maintenance plan that includes the cleaning and maintenance of culverts, ditches, and drainage swales to reduce the risk of flood damage. Maintenance activities must be carried out in accordance with all Federal, State, and local regulations and all required permits must be obtained.

f. For each project, if a public entity will not be responsible for maintenance, a maintenance entity, such as a homeowners' association or utility corporation, shall be established. If maintenance requirements are not met, the County may contract to have the maintenance done at the expense of the responsible party. The County may also take enforcement measures as provided by law.

H. Placement of Fill in Special Flood Hazard Areas.

1. Fill must be placed and compacted in accordance with the requirements of the International Building Code and of Article 7.1 of this chapter. Such fill must be compacted for at least fifteen feet (15') beyond the limits of any structure placed on it; and

2. After placement and compaction, fill must be protected from erosion and scour by rip rap or sod forming grass or equivalent vegetation.

3. Compensatory Storage Required for Fill.

a. Fill within the special flood hazard area shall result in no net loss of natural floodplain storage. The volume of the loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site.

I. Alteration and Maintenance of Watercourses.

1. Stream and channel maintenance in special flood hazard areas may be necessary, for example, when rock and other debris restrict the flow of floodwaters. The cleaning of this debris and the creation of sediment pools will be carried out in accordance with all applicable Federal, State, and local regulations and all necessary permits shall be obtained with copies provided to Kootenai County.

2. The following are required before an alteration of any watercourse:

a. Notify adjacent property owners within one-half (½) mile upstream and downstream from the project boundaries, any affected cities, and the Idaho Department of Water Resources prior to any alteration, maintenance, or relocation of a watercourse, and submit evidence of such notification, along with any required permits, to the Federal Insurance Director and Kootenai County.

b. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

3. The provisions of this subsection do not apply to the routine removal of debris or navigational hazards.

J. Storage Tanks.

1. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

a. Underground storage tanks in special flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the base flood, including the effects of buoyancy (assuming the tank is empty);

b. Elevated above-ground storage tanks, in flood hazard areas shall be attached to, and elevated to or above, the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the base flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

c. Non-elevated above-ground storage tanks that do not meet the elevation requirements of this subsection shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

d. Storage tank inlets, fill openings, outlets and vents shall be:

i. At or above the flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the storage tanks during conditions of the base flood; and

ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

K. Development of Public Interest Projects. Floodplain development may occur within a special flood hazard area outside of a floodway without having to comply with the normally applicable requirements of this section if the Director finds that such floodplain development would serve a substantial public interest.

L. Other Activities. Floodplain development not specifically permitted in this article shall be prohibited unless the following criteria are met:

1. The activity shall not result in any decrease in flood storage capacity during discharge of the base flood; and

2. The activity shall not impair the natural and beneficial functions of the floodplain. (Ord. 545, 10-9-19)

8.7.205: ADMINISTRATION: The Director shall act as the Floodplain Administrator for purposes of administration and enforcement of the provisions of this article. Duties of the Director shall include, without limitation, the following:

A. Granting or denying floodplain development permits in accordance with section 8.7.206 of this article.

B. Review of Building and Site Disturbance Permits. The Director shall review all building, location and site disturbance permits associated with floodplain development to determine whether:

1. The applicable requirements of this article have been satisfied;

2. All necessary permits have been obtained from the federal, state, and local governmental agencies from which prior approval is required; and

3. The proposed floodplain development is located in a floodway. If located in a floodway, the Director shall ensure that the proposed floodplain development is allowed under, and complies with, the provisions of section 8.7.202 of this article.

C. Information to be Obtained and Maintained. For all floodplain development, the Director shall:

1. Prevent encroachments into floodways and special flood hazard areas unless the applicable certification and flood hazard reduction provisions of this article have been met;

2. Require fully completed construction drawings, building under construction, and finished construction elevation certificates, whenever applicable;

3. Obtain actual elevation, in relation to mean sea level, of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures whenever required under the provisions of this article.

4. Maintain fully completed finished construction elevation certificates; and

5. Maintain all records pertaining to the provisions of this article for public inspection.

D. Interpretation and Use of Other Data. The Director shall make interpretations, where needed, as to exact location of the boundaries of special flood hazard areas and floodways (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), and shall consider any information provided by FEMA or other authoritative sources. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal any such interpretations in accordance with chapter 8, article 8.5 of this title. (Ord. 545, 10-9-19)

8.7.206: FLOODPLAIN DEVELOPMENT PERMITS:

A. An application for a floodplain development permit shall be made to the Director before any floodplain development may begin.

B. Application Requirements. In addition to the items required by the provisions of section 8.8.204 of this title, the following items shall be submitted to the Director in conjunction with an application for a floodplain development permit:

1. A site plan drawn to scale which shall include, without limitation, the following specific details:

a. The nature, location, dimensions, and elevations of the area of floodplain development or disturbance, including, without limitation, existing and proposed structures, utility systems, grading and pavement areas, fill materials, storage areas, drainage facilities, and any other proposed floodplain development;

b. The boundary of the special flood hazard area as delineated on the FIRM or as set forth in paragraph 8.7.201(B)(1) of this article, or a statement that the entire lot is within the special flood hazard area;

c. The flood zone designation(s) of the proposed floodplain development area as determined pursuant to this article;

d. The boundary of any floodways or flood fringe areas;

e. The Base Flood Elevation (BFE) where provided as set forth in this article;

f. The old and new location of any watercourse that will be altered or relocated as a result of the proposed floodplain development; and

g. The certification of the plot plan by a registered land surveyor or professional engineer.

2. Proposed elevation, and method thereof, of all floodplain development, including, without limitation, elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.

3. Foundations within a special flood hazard area shall be designed by a qualified professional engineer licensed by the State of Idaho in accordance with standard engineering practice. A foundation plan, drawn to scale, shall be submitted which includes details of the proposed foundation system that ensure that all applicable provisions of this article are met. These details include, without limitation:

a. The proposed method of elevation, if applicable (e.g., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation, or on columns, posts, piers, piles or shear walls); and

b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with paragraph 8.7.203(I)(2) of this article when solid foundation perimeter walls are used in Zones A and AE.

4. A statement detailing the proposed uses of any enclosed areas below the lowest floor.

5. Plans detailing the methods to be used to protect public utilities and facilities, such as sewer, gas, electrical, and water systems, to be located and constructed to minimize flood damage.

6. A certification that all other local, state, and federal permits required have been received.

7. Documentation for placement of recreational vehicles, when applicable, to ensure that the provisions of subsection 8.7.204(F) of this article are met.

8. When applicable, a description of any proposed watercourse alteration or relocation, including, without limitation, the following:

a. An engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

b. A map showing the location of the proposed watercourse alteration or relocation, if not shown on the site plan.

C. Certification Requirements.

1. Elevation Certificates (FEMA Form 86-0-33).

a. Construction drawings. A construction drawings elevation certificate is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Director a certification of the elevation of the lowest floor in relation to mean sea level. The Director shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder before the start of construction.

b. Building under construction. An elevation certificate for a building under construction is required after the lowest floor is established. Within seven (7) calendar days of establishment of the lowest floor elevation, it shall be the duty of the permit holder to submit to the Director a certification of the elevation of the lowest floor in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Director shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately, and all necessary corrections must be completed before any further work is permitted to proceed.

c. Finished construction elevation certificates.

i. A final as-built finished construction elevation certificate is required after construction is completed and before a certificate of occupancy or equivalent may be issued. It shall be the duty of the permit holder to submit to the Director a certification of final as-built construction of the elevation of the lowest floor and all attendant utilities. The Director shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately, and all necessary corrections must be completed before a certificate of occupancy or equivalent may be

issued. In some instances, another certification may be required to certify corrected as-built construction.

ii. The engineer providing the finished construction elevation certificate shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days after the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in subsection (B) of this section. To the extent possible, these photographs should show the entire building including the foundation. If the building has split-level or multi-level areas, at least two (2) additional photographs showing side views of the building shall also be provided. In addition, when applicable, an additional photograph of the foundation showing a representative example of the flood openings or vents shall be provided.

d. Failure to submit any required certification or to make required corrections shall constitute good cause to issue a stop-work order for the project, to deny, revoke or suspend a floodplain development permit, or to deny, revoke or suspend any associated building, location, or site disturbance permit.

2. If a manufactured home is placed within Zone A or AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 8.7.204(E) of this article.

3. If a watercourse is to be altered or relocated, the following shall be submitted by the applicant before a floodplain development permit is issued:

a. A description of the extent of watercourse alteration or relocation;

b. A professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream;

c. A map showing the location of the proposed watercourse alteration or relocation; and

d. An approved Idaho stream channel alteration permit.

4. Certification Exemptions. If located within Zone A or AE, the following structures shall be exempt from the elevation certification requirements specified in paragraph (1) of this subsection:

a. Recreational vehicles which comply with the requirements of subsection 8.7.204(F) of this article; and

b. Residential accessory structures of less than 200 square feet in size which comply with the requirements of subsection 8.7.204(B) of this article.

D. Encroachments. Encroachments shall be exempt from the requirements of subsections (B) and (C) of this section. In lieu of those requirements, the applicant shall submit the encroachment

permit issued by IDL for the encroachment, all other permits issued by other agencies with jurisdiction, and the entire contents of each case file pertaining to such permits.

E. Approval Procedure. Applications for floodplain development permits shall be processed in accordance with this section and section 8.8.204 of this title, except that the issuance of an order of decision shall not be required.

F. Decisions made by the Director may be appealed to the Board in accordance with article 8.5 of this chapter. (Ord. 545, 10-9-19)

8.7.207: DISCLAIMER OF LIABILITY: The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside special flood hazard areas, or uses permitted within such areas, will be free from flooding or flood damage. This article shall not create liability on the part of Kootenai County, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. (Renumbered per Ord. 545, 10-9-19)

CHAPTER 8
ADMINISTRATION AND ENFORCEMENT

Article 8.1 Administration

8.8.101: ADMINISTRATIVE AUTHORITY AND REQUIREMENTS: The Director shall be responsible for administration of this title, including, without limitation, the following:

A. Fees. The Director is authorized to collect fees, as approved by resolution of the Board, for services associated with development activities authorized in this title.

B. Forms. The Director is authorized to develop and require the completion of forms to aid in the administration of this title.

C. Adoption of Criteria for Supporting Documents. The Board may adopt, by resolution, criteria for supporting documents that may be necessary in the administration of this title.

D. Interpretation. In applying this title to situations that are not specifically addressed, the actions taken shall be in conformance with the purpose and intent of the title, and shall be in the best interest of the public, but with due consideration for individual property rights.

E. Right to Inspect. The property owner or authorized applicant's signature on a permit application shall constitute approval for the Department to enter onto and inspect the property which is the subject of the permit application except in cases where construction standards are governed by codes other than those under the jurisdiction of the County, such as the National Electrical Safety Code (NESC), or where entry onto the property may be limited to qualified or certified personnel due to the nature of the use. In such cases, an application for a permit shall not constitute a waiver of the right to limit entry onto the subject property.

F. Abatement of Nuisances and Hazards. The Director shall have the authority to abate public nuisances and hazards as provided in Idaho law and in section 8.8.604 of this chapter.

8.8.102: FEES SET BY RESOLUTION: The Board shall adopt, by resolution, a schedule of fees for the Department.

8.8.103: INACTIVE APPLICATIONS: Upon filing of an application with the Department for any permit or approval authorized under this title, the applicant shall diligently pursue approval of the application. Failure to comply with this duty shall subject the application to dismissal for inactivity in accordance with the provisions of this section.

A. Inactivity Subjecting an Application to Dismissal. When an action by the applicant is required for further processing of an application, the application shall be subject to dismissal six (6) months after the date that the action is requested, if the applicant either:

1. Fails to take the required action;

2. Fails to request an extension of time pursuant to subsection (B) of this section; or

3. The Department has been unable to contact the applicant during the entirety of the six (6) month period.

B. Extension of Time. Upon written request of the applicant made before the expiration of the six (6) month period set forth in subsection (A) of this section, or before the expiration of an extension period previously granted pursuant to this subsection, the time for dismissal of an application may be extended by up to six (6) additional months. The total of all extension periods granted pursuant to this subsection shall not exceed two (2) years.

C. Notice of Intent to Dismiss. Upon the expiration of the six (6) month period set forth in subsection (A) of this section, the Department shall issue a notice of intent to dismiss the application which contains the reasons for the proposed dismissal. The notice shall be mailed via certified mail, return receipt requested, to the last known address of the applicant most likely to provide notice of intent to dismiss the application. If the certified mailing is returned undelivered or unclaimed, the notice shall then be sent via regular first class mail.

D. Dismissal for Inactivity. After the expiration of thirty (30) days after the mailing of a notice of intent to dismiss, the application shall be dismissed unless the applicant has commenced the action required to be taken, or has requested an extension of time pursuant to subsection (B) of this section.

E. Order of Dismissal. Upon dismissal of an application for inactivity, the Director shall issue an order dismissing the application which contains the reasons for the dismissal. The order shall be mailed via certified mail, return receipt requested, to the last known address of the applicant most likely to provide notice of dismissal of the application. If the certified mailing is returned undelivered or unclaimed, the order shall then be sent via regular first class mail.

F. Appeals. A dismissal for inactivity may be appealed in accordance with chapter 8, article 8.5 of this title.

8.8.104: MEDIATION:

A. Pursuant to section 67-6510, Idaho Code, the Board may require an applicant and affected persons objecting to an application made pursuant to any provision of this title to participate in at least one mediation session. Requests for mediation must be submitted to the Board in writing, and may be submitted by the applicant, an affected person, the Planning Commission, or a hearing examiner.

B. If required, the Board shall select and pay the expense of the mediator for the first meeting. Compensation of the mediator for additional meetings shall be determined among the parties at the outset of any mediation undertaking.

C. Mediation may occur at any point during the decision-making process or after a final decision has been made; however, if mediation occurs after a final decision, any resolution of differences must be the subject of another public hearing before the hearing body.

D. The mediation session shall not be a part of the official record for an application.

E. During mediation, any relevant time limitation on the application shall be tolled. Such tolling shall cease when the applicant or other affected person, after having participated in at least one mediation session, provides the County with a written statement that no further participation is desired, and the other parties are notified. If no mediation is scheduled, tolling shall cease twenty-eight (28) days from the date of the request.

Article 8.2 Permit Procedures and Required Findings

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. (Ord. 546, 10-22-19)

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 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. The Department shall also schedule the application 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.

F. Appeals. Decisions made by the Director may be appealed to the Board in accordance with article 8.5 of this chapter. (Ord. 546, 10-22-19)

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 (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 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.

3. 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.

4. 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.

5. 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. Good and sufficient cause exists for the variance. For purposes of this subsection, a variance is based on "good and sufficient cause" if:

i. The variance solely concerns site-specific physical characteristics which are uniquely inherent to the property that is the subject of the request and will not change or be significantly altered over time;

ii. The property possesses physical characteristics so unusual that full compliance with the provisions of this article would create an exceptional hardship related to the property, the surrounding property owners, or the community in general; and

iii. The unusual physical characteristics are unique to the property and are not shared by adjacent parcels or typical of other parcels in the community.

b. Failure to grant the variance would result in exceptional hardship to the applicant;

c. 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;

d. Adequate measures will be taken to minimize flood damage; and

e. 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 subject to enforcement action pursuant to article 8.6 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.

1. An administrative exception, not to exceed one 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. No administrative exception which constitutes a variance to flood damage prevention standards shall be granted.

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 8.7.111 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. (Ord. 545, 10-9-19; Ord. 546, 10-22-19)

8.8.204: ADMINISTRATIVE APPROVALS: The approval process for all permits requiring approval of the Director, other than special notice permits and building permits, shall be as follows:

A. Application. The Applicant must submit a complete application packet with sufficient copies for the review of other agencies, as determined by the Director. Incomplete applications will not be processed. The following items constitute a complete application:

1. Application Form. A completed application form with the property owner's signature or a notarized letter from the property owner authorizing the Applicant to act on the owner's behalf.

2. Fees as adopted by resolution of the Board.

3. Site Plan. A detailed site plan and description of the proposed use which contains information sufficient to demonstrate compliance with applicable standards, and any other

information reasonably requested by the Director, shall be submitted with the application. The site plan must be drawn to scale, showing a North arrow, lot boundaries, location of all existing structures and utilities, the location, dimension and purpose of existing easements, the location of any proposed temporary structures, and any other relevant information regarding the site and the request.

4. Photographs. At least four (4) photographs of the site must be submitted which were taken at various angles and depict the general character of the site. The photographs must be accompanied by a map showing their respective locations and orientations.

5. Narrative. A narrative must be submitted which thoroughly describes the current condition of the property and what is being proposed. The Narrative must explain why the request should be approved, how the proposal meets applicable provisions of this code, why approval would be in the public interest, and how approval would affect surrounding property owners and the public.

B. Agency Review. Upon submittal of a complete application, the Director may forward application packets to agencies with jurisdiction requesting their review and input within thirty (30) days of the date on which the application package was sent. The applicant shall be responsible for determining whether other agencies have any additional fee or submittal requirements. The applicant must comply with any such requirements.

C. Required Findings. To approve an application, the Director must make the following findings:

1. The Applicant has met the relevant application requirements.

2. 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.

3. The proposal is compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area.

4. The proposal adequately addresses site constraints or hazards, and adequately mitigates any negative environmental, social and economic impacts.

5. Services and facilities for the proposal are available and adequate.

6. The proposal will meet the duly adopted requirements of other agencies with jurisdiction.

D. Order of Decision.

1. After agency letters are received or the lapsing of thirty (30) days, whichever is earlier, the Director shall review the relevant evidence in the record, and shall issue an order of decision within fourteen (14) days after the expiration of the agency comment period, unless the applicant expressly waives this time period in writing.

2. The order shall comply with the requirements of section 67-6535, Idaho Code.

3. If the decision is an approval, the order shall include any conditions, restrictions, or limitations of approval. If the decision is a denial, the order shall include the actions which the Applicant could take to gain approval.

E. Conditions and Modification of Approvals.

1. Administrative approvals 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. 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. 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.

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

8.8.205: BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY: All permits for construction, alteration, or for occupancy, shall be processed in compliance with the provisions of Title 7, Chapter 1 of this code and the building codes adopted thereby.

A. Building Permits. It shall be unlawful to construct, alter, move, demolish, repair, or use any building or structure within Kootenai County, except in compliance with this title and Title 7, Chapter 1 of this code. The Director may attach specific conditions to any building permit related to land use functions, and to ensure compliance with the requirements and intent of this title and the protection of public health and safety.

B. Requirements for Binding Site Plans. Each building permit application will be accompanied by an 8 ½ x 11 site plan, drawn to scale, depicting the following information:

1. North arrow, scale, date;

2. Lot lines with dimensions and area;

3. Distances to property lines from all structures;

4. Existing and proposed easements, roads and road names;

5. Utility locations (including well and septic);

6. Location and setback from property lines of all existing and proposed structures;

7. Location of driveways and parking areas;

8. Location of lakes, ponds, wetlands, waterways and drainages;

9. Location of any special setback and/or building envelope requirements.

The work authorized by the approved building permit shall comply with the site plan approved by the Department. The contractor or property owner shall clearly mark the property corners to facilitate the measurement of setbacks. If site inspection by Department personnel reveals that construction on-site is not in compliance with the approved site plan, work at the site shall cease until a new site plan is submitted to, and approved by, the Department.

C. Additional Requirements for Development in Special Flood Hazard Areas. Before construction or development begins within any special flood hazard area, the applicant shall provide sufficient information to conclusively demonstrate compliance with the applicable provisions of chapter 7, article 7.2 of this title. At a minimum, this shall include the following:

1. A fully completed, pre- and post-construction elevation certificate for each structure;

2. A certification by a licensed professional engineer that any structural fill has been appropriately compacted;

3. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and

4. Any additional information required by the Director.

D. Certificates of Occupancy.

1. It shall be unlawful to use or occupy, or permit the use or occupancy, of any building or premises, or both, or part thereof thereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefor.

2. The request for a Certificate of Occupancy will state the proposed use of the building and/or the land, that the use conforms to the requirements of this title, and with any or all conditional provisions that may have been imposed, and shall be accompanied by approval signatures of those agencies having jurisdiction over the use or structure.

3. The Department will not issue a Certificate of Occupancy until all building permit requirements and/or conditions of approval have been met and all necessary agency signatures

and approvals are obtained. The Department shall have the right to inspect the site prior to approval of the Certificate of Occupancy.

E. The provisions of this section may be temporarily waived or modified to allow for the repair or replacement of structures damaged as a result of a natural disaster pursuant to resolution of the Board, but only to the extent necessary to remedy damage actually or proximately caused by the natural disaster. Such waiver or modification shall not constitute a waiver or estoppel of the County's ability to enforce any violations of this title, or of any other provision of this code, existing on any parcel.

Article 8.3 Establishment of Hearing Bodies

8.8.301: PLANNING AND ZONING COMMISSION:

A. Establishment. A planning and zoning commission ("the Commission") is hereby established in and for the County pursuant to section 67-6504, Idaho Code. Such Commission shall consist of seven (7) members, appointed by the Chairman, and confirmed by a majority vote of the Board. Members shall be selected without regard to political affiliation and shall serve without compensation, provided, however, that actual and necessary expenses shall be allowed if approved by the Board.

B. Qualifications. Commission members shall meet the requirements of section 67-6504, Idaho Code.

C. Terms of Office. The terms of office for Commission members shall conform to the requirements of section 67-6504, Idaho Code, and shall be for three (3) years. Expired or vacant positions shall be filled within ninety (90) days. Terms shall begin on January 1 and conclude on December 31. The Board may set term limitations for members of the Commission by resolution.

D. Removal of Members. Any member of the Commission may be removed for cause by a majority vote of the Board. Any member who is absent from any series of three (3) consecutive regular and/or special meetings and study sessions, without the formal consent of the Commission, or who fails to attend at least seventy five percent (75%) of such regular and special meetings and study sessions, in any one calendar year, may be removed by the Board.

E. Chair. Once every year, at the regular meeting held in February, or the first regular meeting thereafter, the Commission shall select one of its members as Chair of the Commission and one of its members as Vice Chair. In the case of the absence of the Chair and Vice Chair, the members present at any meeting shall select one member to act as Chair *pro tem*.

F. Meetings.

1. Time of Meetings. Once each year, the Director shall publish the Commission's monthly meeting schedule for the following year. Special meetings may be called at any time by the Chair of the Commission or by the Director, subject to the notification requirements set forth herein.

2. Quorum. A majority of the filled positions on the Commission shall constitute a quorum for the purpose of conducting the Commission's business, provided there are at least three (3) filled positions. For purposes of determining a quorum, a member who is present, but who cannot hear or deliberate on an application because of a conflict of interest, shall be counted as a member present for quorum purposes.

3. Record of Proceedings: Minutes shall be kept of all Commission proceedings, and a transcribable recording of all Commission proceedings shall be made. The Director shall ensure that recordings of Commission proceedings are transcribed when required by law, and may provide for transcription of recordings of Commission proceedings at any other time.

4. Voting: Each member of the Commission which does not have a conflict as defined in section 67-6506, Idaho Code, including the Chair, Chair *pro tem* and Vice Chair, shall be entitled to one vote on each matter before the Commission.

G. Powers and Duties. The Commission shall act in an advisory capacity to the Board, and shall perform such duties as may be imposed upon it by the Board.

H. Procedural Rules. The Commission may adopt such bylaws or rules of procedure as it may deem necessary to properly exercise its powers and duties. Such rules shall be kept on file with the Department and a copy thereof shall be furnished to any person upon request.

I. Liability. Neither the Commission, nor any person connected with the Commission, shall incur any financial liability in the name of the County.

8.8.302: HISTORIC PRESERVATION COMMISSION:

A. Establishment. An historic preservation commission is hereby established in and for the County pursuant to section 67-4603, Idaho Code. Such Commission shall consist of seven (7) members, appointed by the Chairman, and confirmed by a majority vote of the Board. Members shall be selected without regard to political affiliation and shall serve without compensation, provided, however, that actual and necessary expenses shall be allowed if approved by the Board.

B. Purpose. This section establishes a program of historic preservation to promote the use and conservation of the County's historical resources for the education, inspiration, pleasure and enrichment of the citizens of Kootenai County:

1. To designate, preserve, promote and perpetuate those sites, areas, buildings, districts, structures and objects which reflect significant elements of the County's, state's, and nation's cultural, architectural, archeological, historic and other heritage;

2. To foster civic pride in the beauty and accomplishments of the past;

3. To protect and enhance the County's tourism industry by stabilizing and improving the economic vitality and values of landmarks, sites, districts, buildings, structures and objects;

4. To promote the continued use of outstanding sites, districts, buildings, structures and objects for the education, inspiration and welfare of the people of Kootenai County;

5. To promote and continue private incentive for ownership and utilization of landmark buildings, sites, districts, structures and objects; and

6. To assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of landmark buildings, sites, districts, structures and objects.

C. Powers, Duties and Responsibilities. Subject to Idaho law and the procedures described hereunder, the historic preservation commission shall have and may exercise, in addition to any other powers specifically enumerated in this section, the following powers, duties and responsibilities:

1. To function as the County agency responsible for developing and coordinating the County's historic preservation activities;

2. To conduct a survey of County historic properties;

3. To advise and assist owners of historic property on physical and financial aspects of historic preservation and on procedures for inclusion in the National Register of Historic Places;

4. To recommend ordinances to the Board and otherwise provide information for the purposes of historic preservation to the county;

5. To promote and conduct an educational and interpretive program regarding historic properties within the County's jurisdiction;

6. To assist in the conduct of land use and other planning processes undertaken by the County or municipalities in the County;

7. To adopt its own bylaws and procedural rules, subject to the approval of the Board;

8. To offer advice to the Board as to the administration of gifts, grants and money as may be appropriate for the purposes of this section;

9. To cooperate with federal, state and local governments in the pursuit of historic preservation objectives; and

10. To undertake any other action or activity necessary and appropriate to the implementation of its powers and duties, to the implementation of the purpose of this chapter, or to any other functions which may be designated by the Board.

11. The historic preservation commission may recommend to the Board, within the limits of its funding, the employment or the contracting for the services of a qualified person to act as County historic preservation officer. The historic preservation commission may also recommend to the Board, within the limits of its funding, the employment or contracting with technical experts or other persons as it deems necessary to carry out its essential functions.

D. Qualifications. All members of the historic preservation commission shall have a demonstrated interest, competence or knowledge in historic preservation. The Board shall endeavor to appoint

members who have professional training or experience in the disciplines of architecture, history, architectural history, planning, archeology, and other fields relating to historic preservation.

E. Terms of Office. The terms of office for historic preservation commission members shall be for three (3) years. Expired or vacant positions shall be filled within ninety (90) days. Terms shall begin on January 1 and conclude on December 31. The Board may set term limitations for members of the historic preservation commission by resolution.

F. Removal of Members. Any member of the historic preservation commission may be removed for cause by a majority vote of the Board. Any member who is absent from any series of three (3) consecutive regular and/or special meetings and study sessions, without the formal consent of the historic preservation commission, or who fails to attend at least seventy five percent (75%) of such regular and special meetings and study sessions, in any one calendar year, may be removed by the Board.

G. Chair. Once every year, at the regular meeting held in February, or the first regular meeting thereafter, the historic preservation commission shall select one of its members as Chair of the Commission and one of its members as Vice Chair. In the case of the absence of the Chair and Vice Chair, the members present at any meeting shall select one member to act as Chair *pro tem*.

H. Meetings.

1. Time of Meetings. Once each year, the Director shall publish the historic preservation commission's meeting schedule for the following year. Special meetings may be called at any time by the Chair of the historic preservation commission or by the Director, subject to the notification requirements set forth herein.

2. Quorum. A majority of the filled positions on the historic preservation commission shall constitute a quorum for the purpose of conducting its business, provided there are at least three (3) filled positions. For purposes of determining a quorum, a member who is present, but who cannot hear or deliberate on an application because of a conflict of interest, shall be counted as a member present for quorum purposes.

3. Record of Proceedings: Minutes shall be kept of all historic preservation commission proceedings, and a transcribable recording of all such proceedings shall be made. The Director shall ensure that recordings of such proceedings are transcribed when required by law, and may provide for transcription of recordings of such proceedings at any other time.

4. Voting: Each member of the historic preservation commission which does not have a conflict as defined in section 67-6506, Idaho Code, including the Chair, Chair *pro tem* and Vice Chair, shall be entitled to one vote on each matter before it.

I. Procedural Rules. The historic preservation commission may adopt such bylaws or rules of procedure as it may deem necessary to properly exercise its powers and duties. Such rules shall be kept on file with the Department and a copy thereof shall be furnished to any person upon request.

J. Liability. Neither the historic preservation commission, nor any person connected therewith, shall incur any financial liability in the name of the County.

K. Special Restrictions. In addition to any power or authority vested in the Board, the Board shall be empowered, pursuant to section 67-4612, Idaho Code, to provide by ordinance, special conditions or restrictions for the protection, enhancement and preservation of historic properties.

L. Exemption from Building Codes. In order to promote the preservation and restoration of historic properties within the County's jurisdiction, and pursuant to section 67-4618, Idaho Code, the Board may exempt an historic property from the application of certain standards contained in Title 7, Chapter 1 of this code, if the board, upon recommendation of the historic preservation commission, determines that compliance with those standards would prevent or seriously hinder the preservation or restoration of that property.

M. Variances from Land Use Regulations. In order to promote the preservation and restoration of historic properties within the County's jurisdiction, and pursuant to section 67-6516, Idaho Code, the Board may approve a request pertaining to an historic property for a variance from the application of certain standards contained in this title. The process for approval of such variance requests, including required findings, shall be in accordance with section 8.8.203 of this chapter, except that the historic preservation commission shall be the initial hearing body.

8.8.303: HEARING EXAMINERS:

A. Establishment. The position of hearing examiner is hereby established in and for the County pursuant to section 67-6520, Idaho Code. One or more hearing examiners shall be appointed by the Chairman, and confirmed by a majority vote of the Board of County Commissioners, and shall serve at the Board's discretion.

B. Qualifications. Hearing examiners may be professionally trained or licensed planners, attorneys, engineers, or architects, who are experienced in land use matters.

C. Meetings:

1. Time of Meetings. Once each year, the Director shall publish the hearing examiners' monthly meeting schedule for the following year. Special meetings may be called at any time by a hearing examiner or the Director, subject to the notification requirements set forth herein.

2. Record of Proceedings. Minutes shall be kept of all proceedings before the hearing examiner, and a transcribable recording of all such proceedings shall be made. The Director shall ensure that recordings of Commission proceedings are transcribed when required by law, and may provide for transcription of recordings of Commission proceedings at any other time.

D. Powers and Duties. Hearing examiners shall act in the same advisory capacity to the Board as the Commission, and shall perform such duties as may be imposed upon them by the Board in accordance with Idaho Code.

E. Liability. No hearing examiner shall incur any financial liability in the name of the County.

Article 8.4 Public Hearings

8.8.401: TYPES OF HEARINGS: For purposes of this article, a legislative hearing is held for applications or proposals of a general nature, such as those affecting county wide ordinances or plans. Quasi-judicial hearings are held for situation or site specific requests, including applications for zone changes, subdivisions, conditional use permits, variances, and appeals of Department decisions.

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, 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 be published in a newspaper of general circulation in Kootenai County, and shall ensure that the notice is 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 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 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 8-401 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 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'
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. (Ord. 517, 1-31-18; Ord. 546, 10-22-19)

8.8.403: PROCEDURES FOR LEGISLATIVE PUBLIC HEARINGS: All legislative hearings shall comply with the following requirements:

A. Notice of the hearing pursuant to section 8.8.402 of this article;

B. The hearing to be open to the public pursuant to the Open Meetings Law, Title 74, Chapter 2, Idaho Code;

C. A transcribable record shall be maintained in accordance with section 67-6536, Idaho Code;

D. The hearing body to accept a report from staff, including an evaluation of the request, proposed findings of fact, and, if applicable, recommended conditions or other considerations;

E. Every person wishing to testify to properly identify themselves for the record;

F. Every exhibit to be marked and entered into the record;

G. Decisions and recommendations to be provided in writing in accordance with Title 67, Chapter 65, Idaho Code; and

H. Decisions and recommendations to be based on the standards and criteria set forth in federal and state laws and regulations, applicable County ordinances, and the Comprehensive Plan.

8.8.404: PROCEDURES FOR QUASI-JUDICIAL PUBLIC HEARINGS: All quasi-judicial hearings shall comply with the following requirements:

A. Notice of the hearing pursuant to section 8.8.402 of this article;

B. A determination that the application is complete for purposes of hearing. The Director shall not schedule an application for hearing until he or she makes a determination that the application is reasonably sufficient to allow the hearing body to determine whether to approve or deny of the application. No application shall be scheduled for hearing until:

1. The application satisfies all application requirements enumerated in the substantive County ordinance(s) governing the application;

2. The application includes all necessary agency comments. Agency comments are necessary if the agency's approval or disapproval of the proposed action may reasonably determine or otherwise significantly influence the approval or disapproval of the application; and

3. The application includes any other information or documentation the Director deems necessary for the hearing body's review of the application.

C. The application shall be entered into the official record once it is determined to be complete for purposes of hearing;

D. Exhibits, presentations or other documents intended to be relied upon during oral testimony at the hearing, including agency comments not previously received, must be submitted at least fourteen (14) days prior to the hearing, or may be submitted at the hearing;

E. Written public comments in response to the contents of the application file must be submitted at least seven (7) days prior to the hearing, or may be submitted at the hearing;

F. The hearing shall be open to the public pursuant to the Open Meetings Law, Title 74, Chapter 2, Idaho Code;

G. A transcribable record shall be maintained in accordance with section 67-6536, Idaho Code;

H. Every person wishing to testify shall properly identify themselves for the record;

I. Every exhibit shall be marked and entered into the record;

J. The hearing body shall declare any potential conflicts, or economic interests in the proposed action, in accordance with section 67-6506, Idaho Code. A member with a conflict may not deliberate on, nor participate in the proceeding or action;

K. The hearing body shall accept a report from staff, including an evaluation of the request, proposed findings of fact, and, if applicable, recommended conditions or other considerations;

L. The hearing body shall allow the applicant the opportunity to present the application.

M. The hearing body shall provide an opportunity for all interested parties to present oral testimony, including testimony from the applicant rebutting previously submitted testimony and evidence. The following order of presentation should be observed:

1. Testimony by those in favor of the application;

2. Testimony by those neutral with respect to the application;

3. Testimony by those opposed to the application;

4. Rebuttal testimony by the applicant. Rebuttal shall be limited to testimony which responds directly to issues raised in previous testimony;

N. The hearing body shall make a recommendation or decision to approve or deny the application, or to remand the application to the Department, based only on the official record.

1. Once a hearing is closed, the hearing body shall not allow any additions or modifications to the official record.

2. Decisions and recommendations shall be provided in writing in accordance with Title 67, Chapter 65, Idaho Code, and shall be based on the standards and criteria set forth in federal and state laws and regulations and applicable County ordinances.

3. If the hearing body determines that the official record is incomplete or that the application needs additions, amendments or modifications, the hearing body may remand, or recommend the remand of, the application to the Department.

a. If the application is remanded, the applicant may resubmit the application with the necessary additions, amendments or modifications, or may withdraw the application and submit a new application.

b. If the applicant elects to resubmit a remanded application with the necessary additions, amendments or modifications, the Director must determine that the application is complete for purposes of hearing pursuant to subsection (B) of this section before a new hearing may be scheduled.

c. The hearing body may limit future hearings on a previously remanded application to particular issues of fact.

O. The applicant or any affected person may submit a request for a public hearing in writing before the Board at any time prior to the scheduled time for deliberations on an application. If the request is granted, the person requesting the public hearing shall be required to bear all costs of notice for that hearing unless the Board determines that the County should bear those costs.

P. A recommendation or decision shall be made within thirty-five (35) days of the close of the public hearing, or in the case of the Board, within thirty-five (35) days of the receipt of a hearing body recommendation, unless otherwise agreed to by the applicant. If the Board has held a public hearing on an application, the Board shall make a decision within thirty-five (35) days of the close of the final public hearing unless otherwise agreed to by the applicant.

Q. In the event a hearing body fails to carry out its responsibilities according to these regulations, the Board shall assume the hearing body's duties.

8.8.405: DISCRETIONARY PROCEDURES FOR ALL PUBLIC HEARINGS: In every legislative or quasi-judicial hearing to which this chapter applies, the hearing body may:

A. Require or allow persons wishing to testify to state their position in writing before the hearing;

B. Limit the time that each person wishing to testify may speak, provided that the following minimum time periods shall apply:

1. Applicant's presentation in chief – thirty (30) minutes;

2. Public testimony – five (5) minutes;

3. Group presentations, in which one (1) person speaks for a group of ten (10) or more persons, including the speaker – fifteen (15) minutes;

4. Applicant's rebuttal – fifteen (15) minutes;

C. Take notice of its own knowledge and experience as to a particular issue;

D. Take notice of decisions of federal and state courts and agencies, and of other local governmental entities;

E. Require that persons wishing to testify be sworn; or

F. Continue a hearing to allow time for submission and/or review of new information that has been requested by the hearing body.

8.8.406: DELIBERATIONS: The hearing body may discuss and vote on an application or issue at the same meeting at which testimony is taken, or at a later meeting.

Article 8.5 Hearings on Appeals and Requests for Reconsideration

8.8.501: ADMINISTRATIVE APPEALS: Any applicant or affected person, as defined in section 8.9.101 of this title, may appeal a Department action by submitting, within twenty-eight (28) days of the decision, a written request for a public hearing before a hearing examiner, an explanation of the grounds for the appeal, and applicable fees. The hearing and public notice shall be conducted according to the provisions of this article, and any other applicable provisions of this title. The appeal shall be initially heard by a Hearing Examiner, who shall make a recommendation to the Board for a decision. The final decision on the appeal shall be made by the Board. Decisions made by the Board may be appealed to the district court as provided by law.

8.8.502: REQUESTS FOR RECONSIDERATION: Any applicant or affected person, as defined in section 8.9.101 of this title, may make a request for reconsideration of a final decision of the Board by submitting, within fourteen (14) days of the decision, a written request for reconsideration which includes an explanation of the grounds for the request. Requests for reconsideration shall be limited to the grounds set forth in section 67-6535, Idaho Code. The hearing and public notice shall be conducted according to the provisions of this article, and any other applicable provisions of this title. The request shall be heard by the Board, which will then make a decision on the request. Decisions made by the Board on reconsideration may be appealed to the district court as provided by law.

8.8.503: FILING OF NOTICE OF APPEAL OR REQUEST FOR RECONSIDERATION; PAYMENT OF FEES: An appeal or request for reconsideration shall be perfected by serving the Department with a written notice of appeal or request for reconsideration specifically setting forth the grounds of appeal or reconsideration and the relief sought. The appropriate appeal fee must be paid before an appeal may be processed.

8.8.504: NOTICE OF HEARING: Upon receipt of the notice of appeal or request for reconsideration, the Department shall inform the appropriate hearing body of the appeal and set a date for a hearing on the matter. The Department shall provide written notice of the time and place of the hearing to the hearing body, to the appellant, to the property owner if the owner is not the

appellant, and to any persons who have lodged verbal or written complaints in the matter who have indicated that they wished to received such notice, at least twenty-eight (28) days prior to the hearing. The appellant shall be responsible for payment of all costs associated with such notice. In addition, notices of regular and special meetings, including the posting of agendas, shall be given in accordance with section 74-204, Idaho Code.

8.8.505: STANDARD OF REVIEW; BURDEN OF PROOF: Appeals shall be based upon the grounds set forth in the written notice of appeal or request for reconsideration and shall be heard and acted upon by the hearing body in a *de novo* proceeding. The burden of proof shall fall upon the appellant to establish, by a preponderance of the evidence, that the Department or Board action was erroneous.

8.8.506: CONDUCT OF HEARING: The following rules shall govern the conduct of all hearings of appeals of an administrative decision, appeals of the issuance of a notice of violation, and requests for reconsideration:

A. Hearings shall be open to the public according to the provisions of the Idaho Open Meetings Law, Title 74, Chapter 2, Idaho Code, but shall not be considered "public hearings" under the Local Land Use Planning Act, Title 67, Chapter 65, Idaho Code, and article 8.4 of this chapter.

B. The hearing shall be informal and strict rules of evidence shall not apply. The appellant and the Department may be represented by counsel and present testimony and evidence at the hearing. The Hearing Examiner or the chairman of the Board shall regulate the course of the proceedings to assure that there is a full disclosure of all relevant facts and issues.

C. Testimony and submission of evidence shall be limited to the appellant, representatives of the Department, and other affected persons. As a general rule, the following order of presentation should be observed:

1. Introduction of appeal or request by staff;

2. Appellant's case in chief;

3. Testimony and/or evidence in support of the appellant;

4. County's case in chief;

5. Testimony and/or evidence in support of the County; and

6. Appellant's rebuttal.

D. A transcribable record of the hearing in its entirety shall be made by mechanical, electronic or other means. Any party may cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption. Any party may request preparation of a transcript of the hearing. Any transcript prepared at the request of the Board or the Hearing Examiner shall be at County expense. Any transcript prepared at the request of any other party shall be at that party's expense. Expenses for any transcript prepared for purposes of judicial review shall be paid in accordance with Rule 84 of the Idaho Rules of Civil Procedure.

E. At the close of the hearing, the hearing body may take action on the appeal or request for reconsideration, or may take it under advisement for a period not to exceed fourteen (14) days. If it is taken under advisement by a Hearing Examiner, the Hearing Examiner shall issue a written recommendation to the Board within fourteen (14) days after the conclusion of the hearing. If it is taken under advisement by the Board, the Board shall issue a written decision within fourteen (14) days after the conclusion of the hearing.

8.8.507: ACTION ON APPEAL:

A. The Hearing Examiner may recommend that the Department action be affirmed, reversed or modified based on substantial and competent evidence presented at the hearing.

B. After receiving a recommendation from the Hearing Examiner, the final decision on the appeal shall be made by the Board. The Board may summarily issue a final decision approving the recommendation from the Hearing Examiner after conducting deliberations on the matter, or may conduct an additional *de novo* appeal hearing prior to making a final decision.

C. If an additional hearing is held before the Board, the Board may affirm, reverse or modify the Department action based on substantial and competent evidence presented at the hearings held before the Hearing Examiner and the Board. In the event the Board finds that the Department action was erroneous, it may reverse or modify the Department action, or it may remand the matter to the Director or Hearing Examiner for further proceedings, as may be appropriate.

D. The recommendation to the Board by the Hearing Examiner, and the decision of the Board on appeal, shall be in writing, shall include a concise and explicit statement of the underlying facts of record, and shall include a reasoned statement in support of the decision. All parties to the appeal shall be provided with a copy of the recommendation and/or decision.

E. The decision of the Board on appeal shall be binding upon the Department. If the Department action is reversed, the Director shall comply with the decision of the Board upon expiration of the time for filing of a petition for judicial review with the District Court, or such longer period as the Board may permit.

F. If the Board remands the matter to the Director or Hearing Examiner for further proceedings, the decision of the Board shall specify the actions to be taken by the Director or Hearing Examiner on remand.

8.8.508: ACTION ON REQUEST FOR RECONSIDERATION:

A. All decisions on requests for reconsideration shall be made by the Board. The Board may affirm, reverse or modify its prior decision based on substantial and competent evidence presented at the hearing held before the Board. The Board may also remand the matter to the Director or Hearing Examiner for further proceedings as may be appropriate.

B. The decision of the Board on reconsideration shall be in writing, shall include a concise and explicit statement of the underlying facts of record, and shall include a reasoned statement in support of the decision. All parties to the request shall be provided with a copy of the decision on reconsideration.

C. If the Board remands the matter, the decision of the Board on reconsideration shall specify the actions to be taken by the Director or Hearing Examiner on remand.

Article 8.6 Enforcement

8.8.601: ENFORCEMENT:

A. It shall be the duty of the Director to enforce the provisions of this title. The Department shall not issue permits unless existing and intended structures, the parcel of land, and uses of the buildings and land, conform in all respects with the provisions of this title and other applicable provisions of this code, with the following exceptions:

1. When the purpose of the permit is to correct a violation of this title or other county ordinances.

2. To allow for the repair or replacement of structures damaged as a result of a natural disaster pursuant to resolution of the Board, but only to the extent necessary to remedy damage actually or proximately caused by the natural disaster. This shall not constitute a waiver or estoppel of the County's ability to enforce any violations of this title, or of or of any other provision of this code, existing on any parcel.

B. Whenever any construction or site work is not in compliance with this title, specific Conditions of Approval, or other related laws, ordinances or requirements, the Director may issue a Notice of Violation and order any work stopped by written notice. Such Notice of Violation or Stop Work Order shall be served on any persons engaged in doing or causing such work to be done, and persons shall forthwith stop such work until authorized by the Director to proceed.

C. A copy of the Notice of Violation or Stop Work Order shall be mailed to the property owner of record and any known holder of any legal interest in the property, if applicable, via certified mail, return receipt requested. The notification shall include:

1. The property owner and the legal description of the parcel;

2. A detailed description of the nature of the violation;

3. A detailed description of all remedial actions that must be undertaken to resolve the violation; and

4. The length of time allotted to resolve the violation.

D. The property owner shall have 45 days from the date the Notice of Violation was mailed to resolve the violation. If resolution does not occur within those 45 days, the Notice of Violation shall be filed in the Office of the County Recorder, with a copy mailed to the Owner via certified mail.

E. The Notice of Violation or Stop Work Order shall also advise the owner of the process for appeals of Notices of Violation and Stop Work Orders. An owner or a holder of any legal interest

in the property may appeal a Notice of Violation or Stop Work Order pursuant to section 8.8.503 of this chapter. The appeal shall be heard in accordance with article 8.5 of this chapter. If the appeal is denied (i.e., the action is affirmed), the Board shall specify an exact number of days to gain compliance with this title before the Notice of Violation is recorded, and may add or remove conditions of remedial action. If the appeal is approved (i.e., the action is reversed), the Board shall specify actions to be taken by the Director to release the violation.

F. Prior to or at such time as a violation is resolved, the owner shall pay the fee specified in the current adopted fee schedule unless the enforcement action was reversed by the County or a court of competent jurisdiction. Upon payment of such fees or a determination that payment of fees is not necessary, the Director shall cause a Release of Notice of Violation to be recorded in the Office of the County Recorder. The Release shall contain all of the information contained in the Notice of Violation, as well as the corrective action taken to resolve the violation. A copy of the Release shall be mailed to the owner, via certified mail, return receipt requested.

8.8.602: VIOLATIONS: Any person may file a written complaint alleging that a violation of this title has occurred. Such complaint, stating fully the causes and basis thereof, shall be filed with the Director. The Director shall immediately investigate the allegations made in the complaint, and, if it appears that there is reasonable cause to find that the alleged violation did occur, shall take action thereon as provided in this article.

8.8.603: PENALTIES: Penalties for failure to comply with or violations of the provisions of this title shall be as follows:

A. Violation of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor punishable as set forth in section 1-4-1 of this code, with the exception of those provisions which state that a violation thereof shall constitute an infraction punishable as set forth in section 1-4-1 of this code.

B. Each day on which a violation continues shall be considered a separate violation for purposes of both civil and criminal action. The landowner, tenant, subdivider, builder, or any other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense. Nothing herein contained shall prevent the Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of Idaho Code.

C. The Prosecuting Attorney or other attorney who represents the County may also take civil action in district court on behalf of the County to prevent, restrain, correct, or abate any action taken, or which may be taken, in violation of this title, to vacate any subdivision or condominium plat recorded in violation of this title, or to otherwise enforce the provisions of this title. In addition to other actions that may be ordered by the Court, if the County prevails, the violator shall pay to the County all fees associated with the violation then due and owing. The County may also seek the imposition of a civil penalty in an amount not to exceed $1,000.00 per violation per day, with a total maximum penalty of $10,000.00.

D. In cases where multiple individuals, firms, corporations or agents participated in violating this title, they may be held jointly and severally liable for any remedies, penalties or payments.

E. The Director may withhold issuance of permits, including building permits and certificates of occupancy, for subdivisions, lots, or parcels of land that are in violation of any provision of this title. Withholding of permits may be appealed in accordance with article 8.5 of this chapter.

F. Applications for approvals authorized by this title will not be scheduled for hearing until all violations of this title or title 7, chapter 1 of this code are corrected, except when the purpose of the approval is to correct the violations of this title or title 7, chapter 1 of this code then existing. If any un-permitted site disturbance or subdivision development has previously occurred (e.g. construction of roads, driveways, building pads), a site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems meeting the requirements of chapter 7, article 7.1 of this title, and applicable BMPs, must be installed and approved before an application will be accepted. These requirements may be appealed in accordance with article 8.5 of this chapter.

8.8.604: ABATEMENT OF NUISANCES AND HAZARDS:

A. Nuisances. Nothing in this chapter shall be deemed to restrict the power and duty of the County to abate public or moral nuisances, as defined in Title 52, Chapter 1, Idaho Code. If the Director determines that a structure or use constitutes a public or moral nuisance, as defined in Title 52, Chapter 1, Idaho Code, the Director may require the property owner to abate the nuisance, and may require that such structure shall not thereafter be used, restored, repaired or rebuilt, or that such use shall not thereafter continue, except in conformity with this title. The Director shall give notice in writing to the owner, owner's agent, or other person in control of the property. Upon receipt of such notice, the owner, owner's agent, or other person in control of the property shall abate the nuisance within the time period specified in the notice or such other time period to which the Director may agree. Failure to complete the required abatement by the specified date shall constitute a violation governed by the provisions of this article, and in such cases, the County may contract to complete the work necessary to abate the nuisance at the owner's expense.

B. Hazards. Whenever the Director determines that there exists a condition or situation on private property that is not defined as a public or moral nuisance under Title 52, Chapter 1, Idaho Code, but which has become a hazard to life and limb, or endangers other property, or adversely affects the safety, use, or stability of public or private property, or adversely affects any public or private access or drainageway, the Director may require the property owner to abate the hazard. The Director shall give notice in writing to the owner, owner's agent, or other person in control of the property. Upon receipt of such notice, the owner, owner's agent, or other person in control of the property shall abate the hazard within the time period specified in the notice or such other time period to which the Director may agree. Failure to complete the required abatement by the specified date shall constitute a violation governed by the provisions of this article, and in such cases, the County may contract to complete the work necessary to abate the hazard at the owner's expense.

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. (Ord. 546, 10-22-19)

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. (Ord. 546, 10-22-19)

Article 8.7 Nonconformities

8.8.701: GENERAL: Within Kootenai County there exist parcels of land, structures and uses which were lawful prior to adoption of this title or under previously adopted ordinances, but which no longer conform to the regulations for the zoning district in which they are located. It is the intent of this title to permit these nonconformities to continue until they are substantially destroyed, removed or brought into conformance with this title, providing the nonconformity is not enlarged or expanded. Nonconformities shall be regulated according to the provisions of this chapter.

8.8.702: NONCONFORMING STRUCTURES:

A. Nonconforming structures shall not be expanded or enlarged in a way that increases the nonconformity. For example, a home that does not meet the rear setback requirement to the property line may not construct a deck or addition to any portion of the house that further encroaches into that setback. An addition may, however, be constructed to the front of the house.

B. A nonconforming structure that is completely demolished, removed, or relocated from the parcel on which it was previously located may be replaced within twelve (12) months of its demolition, removal, or relocation, provided that no portion of any replacement structure shall increase the previously existing nonconformity. Otherwise, any subsequently built structures shall conform to the provision of this title.

C. Ordinary repairs and additions may be performed on a nonconforming structure, including but not limited to repair or replacement of the roof, walls, fixtures, wiring, or plumbing, provided that such work does not increase the nonconformity.

8.8.703: NONCONFORMING USE OF STRUCTURES, LAND, OR STRUCTURES AND LAND IN COMBINATION:

A. The nonconforming use of a structure, land, or structure and land in combination, shall not be enlarged or expanded beyond that which lawfully existed on the effective date of this title or previously adopted applicable ordinances. The criteria to be used to determine the fundamental and primary use of the property, and whether such use has been enlarged or expanded, may include, without limitation, hours of operation, square footage of structures or area used, traffic generated, volume of goods handled, number of dwelling units, and the International Building Code classification of uses. Mere intensification of an existing nonconforming use shall not constitute an unlawful enlargement or expansion of the use. A nonconforming use shall not be used as justification for expanding or adding nonconforming uses other than the fundamental and primary use of the property then existing.

B. Upon written request to, and approval by, the Director, a nonconforming use may be changed to another nonconforming use, providing the new use would result in the same or greater conformity to this title, and providing the previous use is permanently abandoned. For example, a nonconforming business that produces noise and emissions could be replaced by another nonconforming business that is quieter and does not produce emissions. If a nonconforming use is replaced with a permitted use, nonconforming uses shall not thereafter be allowed.

C. When any nonconforming use is discontinued for a period of twelve (12) consecutive months, any subsequent use shall conform to this title. Nonconforming uses that are discontinued are also governed by the requirements of section 67-6538, Idaho Code.

D. Ordinary repairs and additions may be performed on a structure housing a nonconforming use, including, without limitation, repair or replacement of the roof, walls, fixtures, wiring or plumbing, provided that such work does not enlarge or expand the nonconformity.

E. A structure housing a nonconforming use that is completely removed may not be replaced unless the use and structure are in conformance with this title. (Ord. 514, 10-4-17)

8.8.704: NONCONFORMING PARCELS OF LAND:

A. A parcel of land shall not be modified in any manner that results in it becoming a nonconforming parcel, or that expands or enlarges an existing nonconformity, unless the modification resulted from the exercise of eminent domain.

B. Upon written request to, and approval by the Director, a nonconforming parcel may be changed, providing the modification results in the same or greater conformity with this title. Nonconforming parcels must progress toward conformity. For example, the lot line of a lot that does not meet the minimum size could be adjusted to increase the size of the lot, but it could not be adjusted in a manner that would make the lot smaller.

CHAPTER 9
DEFINITIONS

Article 9.1 Definitions A-D

8.9.101: DEFINITIONS – A:

ACCESS: The primary means of vehicular ingress/egress to a parcel or structure.

ACCESSORY BUILDING OR USE: A building or use which is dependent to that of the main building or use on the same lot or parcel.

ACCESSORY LIVING UNIT: A building or portion(s) of a building, located on the same lot, but separate from the principal dwelling with at least 220 square feet of habitable space, with plumbing for a sink, toilet or bathing facilities and which does not meet the definition of a storage unit.

ADDRESS: The official county assigned unique identification number for a parcel and/or structure that uniquely defines its location within the county. This address may be used for mail delivery.

ADMINISTRATIVE DECISION: A decision made by the Director pursuant to authority provided in any provision of this Code to which the provisions of this chapter pertain.

AFFECTED PERSON: A person or legal entity having a *bona fide* interest in real property which may be adversely affected by Department or Board action.

AGENT: One who acts for or in the place of another.

AGENCY: Any municipal corporation or political subdivision of the State, including, without limitation, cities, counties, school districts, highway districts, water districts, sewer districts, irrigation districts, or recreational water and sewer districts, or any regional health district, or any agency of State government, or any agency of the United States government.

AGRITOURISM: Tourist activities which center around the act of visiting a working farm, ranch, or any agricultural, horticultural or agribusiness operation for the purposes of enjoyment, education, or active involvement in the activities of the farm or rural operation. Agritourism activities may allow visitors to become acquainted with various landscapes and farming systems, such as crops, fruit trees or vines and livestock, and locally produced products, and may include bed and breakfast facilities, cabins, or guest houses.

AIRCRAFT PARKING AREAS: Those areas designated as parking areas for parking and maneuvering aircraft while on the ground. "Tie-down" areas shall also mean aircraft parking areas and will be marked by "tie-down" to denote this area.

AIRPORT: Any area of land or water designed and set aside for landing and take-off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

AIRPORT ADVISORY BOARD: The Board consisting of members as defined by current by-laws to provide information and recommendations to the Airport Manager and County Commissioners pertaining to airport flight-line operations and development in the Airport Overlay zone.

AIRPORT DEVELOPMENT CONTROL COMMITTEE: A committee consisting of members as defined by current by-laws to provide information and recommendations to the Airport Manager and County Commissioners pertaining to development in the Airport Overlay zone.

AIRPORT HAZARD: Any structure, or tree, or use of land which obstructs the airspace required for the flight of aircraft in landing and taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

AIRSTRIP: An improved or unimproved landing area used by pilots to land, park, takeoff, unload, load and taxi all types and styles of aircraft.

ALIQUOT PART: A description of an unplatted parcel by one or more fractions of a section.

AMPLITUDE: The vibration intensity measured in inches of earth borne vibration. The amplitude is one-half (1/2) the total earth displacement, as measured with a three-component measuring system.

ANTENNA: A device used in the sending and receiving of electromagnetic waves.

APARTMENT HOUSE: Any building or portion thereof, which is designed, built, rented, leased, let, or hired out to be occupied as the home or residence of three or more families living independently of each other and doing their own cooking in said building, and shall include flats, apartments, and multi-family dwellings. An apartment house is the same as a "multiple family dwelling." "Apartment Houses" and "Multiple Family Dwellings" refer to buildings or portions thereof, which are built, rented, leased, let, or hired out to be occupied on a permanent basis, as distinguished from a transient occupancy basis.

APPELLANT: An applicant or affected person who files an appeal of Department action or who makes a request for reconsideration of a final decision of the Board.

APPLICANT: Any person, corporation, partnership, or other legal entity, who owns, or has an ownership interest, in the real property which is the subject of an application for a permit or approval made pursuant to this title, or any representative thereof.

APPROACH: The point of intersection or connectivity for a private road, common driveway or driveway with a publicly dedicated and maintained road for which approval has been given by the appropriate public highway agency.

APRON: The portion of an aircraft parking area (or tie-down area) used for access between taxiways, aircraft parking positions, hangers, and storage facilities. An apron is outside the normal area of movement for aircraft.

AREA OF SPECIAL FLOOD HAZARD: *See* SPECIAL FLOOD HAZARD AREA.

ASPHALT OR CONCRETE BATCH PLANT: A facility where asphalt or cement is mixed with aggregate to create hot mix asphalt or concrete paving materials. Such facilities do not include the actual manufacture or storage for resale or distribution of asphalt tars and oils or Portland cement.

AUTOMOTIVE HOBBY: An accessory use involving the restoration maintenance, and/or preservation of motor vehicles. (Ord. 514, 10-4-17)

8.9.102: DEFINITIONS – B:

BASE FLOOD: This is the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION: Height of floodwaters during discharge of the base flood as indicated on the FIRM, or as designated in accordance with the procedures set forth in subsection 8.7.205(C) of this title based on the greatest flood of record or the best available data available from FEMA or other authoritative sources, whichever is higher. The base flood elevation is measured in feet using the North American Vertical Datum of 1988 (NAVD88).

BASEMENT: Any area of a structure, including a crawl space, having a floor, finished or unfinished, below grade (ground level) on all sides.

BED AND BREAKFAST INN: An owner-occupied single family dwelling which provides up to five (5) rooms for lodging and meals for paying guests.

BEST MANAGEMENT PRACTICES (BMPs): Physical, structural, and land management practices which have been approved by the State of Idaho, Kootenai County, or other public agency with jurisdiction, that are designed to maintain or enhance water quality, to prevent or reduce water pollution and soil erosion, and to minimize the discharge of sediment and other pollutants. The Director may from time to time promulgate a list of publications that are recognized as BMPs.

BOARD: The Board of County Commissioners of Kootenai County, Idaho.

BOARDING KENNELS: *See* KENNELS.

BOARDING STABLE: A structure designed for the feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises receives compensation. Boarding stables may include training and scheduled events such as horse shows, workshops and clinics.

BUFFER STRIP: A vegetated area that slows stormwater runoff and provides filtration. The effectiveness of buffer strips is determined by several factors that include soil type, slope, width and vegetation type.

BUILDING: *See* STRUCTURE.

BUILDING ENVELOPE: A designated area shown on a plat within which all structures must be located.

BUILDING HEIGHT: The vertical distance at the center of the building's front measured from the average elevation of the finished grade along the front of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof, excepting chimneys and steeples.

BUILDING LINE: A line denoting the outer perimeter of a structure that is permanently affixed to the land.

BUILDING RESTRICTION LINE: A line established by the Federal Aviation Administration across which no structural development may occur. These lines normally connect in such a fashion as to enclose an area in which no structures may be built, except those necessary and incidental to airport operations. (Ord. 514, 10-4-17)

8.9.103: DEFINITIONS – C:

CAMPGROUND: One or more parcels of land which provide three (3) or more sites for cabins, yurts, or tents, or provide for the placement of tents, as temporary living quarters for recreation, camping, or vacation purposes. This definition shall not include sites meeting the definition of a recreational vehicle park.

CHILD CARE: Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, marriage or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes.

CHILD CARE CENTER: A place or facility providing daycare services for compensation to seven (7) or more children not related to the provider, or to a total of thirteen (13) or more children.

CHURCH: *See* PLACE OF WORSHIP.

CITY ADDRESS PROTECTION AREA: That area within which a city will have the authority to designate addresses utilizing an address grid system that meets the needs of the city. All unincorporated parcels within a city address protection area shall be addressed as if they were within the city associated with that address protection area.

CLEARING: The removal of vegetation by manual, mechanical, or chemical methods.

CLEAR ZONE or CLEARWAY: An area beyond the stop end of a runway, not less than five hundred feet (500’) wide, centered on the extended centerline of the runway, and controlled by airport authorities.

COLLOCATION: The placement of additional antennas on an existing transmission tower or structure.

COMMERCIAL: A business enterprise which involves the purchase, sale or rental of goods or services, or is otherwise carried on for profit. The sale or rental of goods or services conducted by nonprofit entities shall also be included within this definition.

COMMERCIAL KENNEL: A kennel facility which includes one or more of the following activities:

1. Breeding for sale of more than two (2) litters each year; or

2. Offering a service for compensation in conjunction with the operation of the kennel, including, without limitation, training, grooming, boarding, or breeding; or

3. Raising of competition dogs for purposes of compensation, greyhound racing, sled dog racing, dog pulls or any other events; or

4. Any pet shop regularly selling dogs.

COMMERCIAL RESORT: A privately owned indoor and outdoor recreation area which is operated for profit. Activities which may be permitted as part of a commercial resort shall include those set forth in section 8.5.110 of this title.

COMMERCIAL RIDING ARENA or EQUINE TRAINING CENTER OR FACILITY: Land, or a building or a part thereof, dedicated to clinics, workshops and training of horses. An equine training center or facility may include boarding stables.

COMMISSION: The Kootenai County Planning and Zoning Commission established under section 8.8.301 of this title.

COMMON DRIVEWAY: A driveway that provides legal and physical access from a public or private road to between two (2) and four (4) parcels of land.

COMMUNITY STORMWATER SYSTEM: A BMP or series of BMPs for stormwater drainage and treatment which serves more than one parcel.

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.

CONDITIONAL USE: A use in which the issuance of a conditional use permit is required before the use may be established. Conditional uses are those which have been determined to be suitable for location in one or more particular zones, but require a special degree of review to ensure that the use will be compatible with other permitted uses within that zone, and that the use will not impose excessive demands upon public services and utilities.

CONDOMINIUM: Shall be as defined in section 55-101B, Idaho Code.

CONDOMINIUM PLAT: A plat setting forth a division of units for condominium ownership purposes where there is no subdivision of the land upon which the units sit.

CONSERVATION SUBDIVISION: A subdivision design that maximizes the conservation of open space and the natural, cultural or historic characteristics of an area.

CONSERVATION EASEMENT: Shall be as defined in section 55-2101, Idaho Code.

CONSERVATION ORGANIZATION: Any governmental entity or charitable corporation, association, or trust which may act as a holder of a conservation easement, as those terms are defined in section 55-2101, Idaho Code.

CONSTRUCTION: The process by which an improvement to any property, including, without limitation, any new structure or any additions or improvements to an existing structure, is made.

CONTIGUOUS: Describes parcels or other areas which share a mutual boundary line. Parcels or other areas which meet only at a common corner point shall not be considered to be contiguous.

CONTRACTOR STORAGE: Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trade or building craft.

CONVEY: To grant or transfer title to any interest in land to another person or legal entity.

CONVEYANCE: May mean either of the following, as the context may indicate:

1. A mechanism for transporting water from one point to another, including pipes, ditches, and channels; or

2. The transfer of title to, or grant of an interest in, real property. Conveyances may include land, improvements, easements, rights-of-way, or any other conveyable interest in real property.

COOPERATIVE CORPORATION: Any nonprofit corporation, partnership, limited liability company, or other nonprofit legal entity which operates on a cooperative basis, is owned, operated, organized and maintained by its members, and is operated for the purpose of providing goods or services to its members.

COTTAGE INDUSTRY: A commercial use of a residential parcel which is more intensive than a home occupation but is still incidental to the residential use of the site. Cottage industries are subject to the standards contained in section 8.4.504 of this title.

COUNTY: Kootenai County, Idaho.

CRAWL SPACE: The area inside an enclosed foundation area between the top of the grade and the lowest horizontal structural member.

CUT: To excavate into a hillside to create a flat area, or to steepen or flatten a bank. (Ord. 546, 10-22-19)

8.9.104: DEFINITIONS – D:

DATUM: A base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Vertical Datum of 1929

(NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

DAY CARE CENTER or DAY CARE FACILITY: *See* CHILD CARE CENTER.

DECIBEL: A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in decibels.

DECLARATION OF CONDOMINIUM: A document, other than a condominium plat, which meets the relevant requirements of sections 55-1504 and 55-1505, Idaho Code.

DEPARTMENT: Kootenai County Community Development.

DEPARTMENT ACTION: The action from which an appeal has been taken, such as an administrative decision made by the Director, the issuance of a notice of violation by the Department, or the actions determined by the Department to be necessary to remedy a violation for which a notice of violation has been issued.

DEPENDENT PERSON: A person who is incapable of living independently and without daily care as a result of a physical or mental impairment.

DESIGN PROFESSIONAL: A professional engineer, landscape architect, or geologist, registered for their respective profession by the State of Idaho, or a Certified Professional in Erosion and Sediment Control (CPESC) as determined by the Soil and Water Conservation Society and the International Erosion Control Association.

DETAIN or DETENTION: The temporary storage of stormwater runoff, used to control the peak discharge rates and provide gravity settling of pollutants.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. For purposes of all provisions of this title other than Chapter 7, Article 7.2 thereof, this definition shall apply only to those activities which require a permit or approval pursuant to this title or Title 7, Chapter 1 of this code.

DIRECTOR: The Director of Kootenai County Community Development, or his or her designee.

DIRECT ACCESS: A driveway or common driveway that directly intersects with a public or private road.

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.

DRAINAGE WAY or DRAINAGEWAY: A watercourse that does not meet the definition of a Class I or Class II stream.

DRIVEWAY: A means of vehicular access providing legal access to one (1) parcel which has an approach to a public road or connects to a private road or common driveway.

DWELLING: A building in which the primary use is residential in nature. Types of dwellings include the following:

1. Multiple Family Dwelling: A building or portion thereof which contains more than two (2) dwelling units.

2. Single Family Dwelling: A building which contains one dwelling unit or which meets the definition of a group home.

3. Two-Family Dwelling: A site-built structure containing two (2) dwelling units, which have either a common interior wall or a common roofline with a common exterior wall.

This definition shall not include hotels, motels, resort lodges, or similar facilities.

DWELLING UNIT: One or more rooms physically arranged so as to create habitable space that includes sleeping, eating, and sanitary facilities sufficient for occupancy by one family. (Ord. 545, 10-9-19; Ord. 546, 10-22-19)

Article 9.2 Definitions E-J

8.9.201: DEFINITIONS – E:

EARTH-BORNE VIBRATIONS: Cyclic movement of the earth due to energy propagation.

EASEMENT: A legal encumbrance of real property which conveys a right of use, usually for a certain stated purpose. Easements include, without limitation, the following:

1. Drainage Easement: A legal encumbrance which secures access to or across real property for the purpose of enabling the maintenance of drainage facilities, or which reserves other specified rights for the users and beneficiaries of drainage facilities contained within the boundaries of the easement.

2. Public or Private Easement: A grant or dedication of a legal encumbrance of real property by the owner to specific persons, or to the public, which authorizes the use of the encumbered property for one or more specified purposes. This definition also includes any easement acquired by eminent domain, prescription, necessity, prior use, or other legal theory, which has been adjudicated by a court of competent jurisdiction.

ECOTOURISM: Tourist activities involving travel to natural areas that is intended to minimize environmental and social impacts, build environmental awareness, respect local cultures, and aid in improving the welfare of local populations.

ELEVATION CERTIFICATE: A form supplied by FEMA which is used to document important elevation information for buildings within special flood hazard areas. It is used to determine the proper flood insurance premium rate and to document elevation information necessary to ensure compliance with community floodplain management regulations. It may also be used to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision Based on Fill (LOMR-F).

ENCLOSED FOUNDATION AREA: Any area consisting of three or more solid foundation walls that create an enclosed area below the lowest floor.

ENCLOSURE: an area enclosed by solid walls below the BFE or FPE or an area formed when any space below the BFE or FPE is enclosed on all sides by walls or partitions. Insect screening or open wood lattice used to surround space below the BFE or FPE is not considered an enclosure.

ENCROACHMENT: Any structure located below the ordinary high water mark of a navigable lake, river, or other body of water which is subject to the permitting authority of the Idaho Department of Lands.

EROSION: The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

EROSION AND SEDIMENTATION CONTROL: Describes those BMPs which are employed to prevent or reduce erosion or sedimentation and are typically necessary when ground disturbance occurs.

EXCAVATE: Any act by which earth, sand, gravel, rock, or other earthen material is cut into, dug, uncovered, displaced, or relocated. (Ord. 545, 10-9-19)

8.9.202: DEFINITIONS – F:

FAMILY: One or more persons who occupy a dwelling unit and live as a single housekeeping unit, or those persons who reside in a group home. This definition shall not be applied in a manner which discriminates on the basis of race, color, ethnicity, religion, sex, national origin, disability, or familial status in violation of federal or state law.

FAMILY DAY CARE HOME: A home, place, or facility providing child care for six (6) or fewer children.

FEEDLOT: An enclosed area where livestock are confined for the purpose of resale or slaughter.

FILL: A solid material which increases the ground surface elevation or the act of depositing such material by mechanical means.

FINAL PLAT: The final drawing of a subdivision and associated conveyances, to be recorded in the Office of the County Recorder.

FINANCIAL GUARANTEE: An irrevocable letter of credit, cash deposit, bank account, or surety bond, pledged to secure the performance of an obligation.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry areas from the overflow of inland water or the unusual and rapid accumulation of runoff or surface waters from any source.

FLOOD CONTROL STRUCTURE: A man-made feature designed or constructed to reduce damage caused by flood events, including, without limitation, a dam, dike, channel, levy, or similar device.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration has delineated the special flood hazard areas and the risk premium zones applicable to the County. This term also includes Digital Flood Insurance Rate Maps (DFIRM).

FLOOD INSURANCE STUDY (FIS): The Flood Insurance Study for Kootenai County, Idaho, and Incorporated Areas, dated May 3, 2010, with accompanying Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data. The FIS includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOOD PLAIN or FLOODPLAIN: Any land area susceptible to being inundated by water from any source (*see* definition of FLOOD).

FLOODPLAIN DEVELOPMENT: Any development occurring within a special flood hazard area. Floodplain development shall be subject to the regulations and permitting requirements set forth in chapter 7, article 7.2 of this title regardless of whether any other permit or approval would be required pursuant to this title or Title 7, Chapter 1 of this code.

FLOOD PROTECTION ELEVATION: An elevation corresponding to the elevation of the base flood (one hundred year flood), plus any increased floor elevation attributable to floodway encroachment, plus any required freeboard. In Kootenai County, the Flood Protection Elevation shall be the base flood plus three (3) feet.

FLOOD RESISTANT MATERIALS: Any building materials capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Flood resistant materials are outlined in FEMA publication FIA-TB-2.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

FOOT-CANDLE: A measure of the amount of light cast onto a given point. One foot-candle is equivalent to one lumen per square foot. Foot-candles may be measured in a horizontal or vertical plane, at a specified height, or with no direction or height specified.

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

FREEBOARD: A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway

conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be three feet (3').

FRONTAGE: The portion of a parcel that adjoins the road used to access the parcel.

FRONTAGE LENGTH: The length of the portion of a parcel that adjoins the right-of-way, or if no defined right-of-way exists, the road used to access the parcel.

FUNCTIONAL CLASSIFICATION: The classification of roads based on their function with respect to both mobility and access. Functional classifications include interstate and state highways, principal and minor arterials, collectors and local streets. (Ord. 545, 10-9-19; Ord. 546, 10-22-19)

8.9.203: DEFINITIONS – G:

GATED COMMUNITY: A subdivision with more than ten (10) residential lots which contains one or more controlled entrances for pedestrians, bicycles, and automobiles. Gated communities may be staffed by full-time, private security guards, may lead into one or more small residential streets, and there may be walls or fences surrounding the perimeter of the development. Gated communities may also have various amenities which make it possible for residents to stay within the community for day-to-day activities.

GENERAL FARMING AND FORESTRY: The production of crops, timber and/or animals.

GRADE:

1. Ground level.

2. The slope of a road specified in percent (%).

GRADING: Any excavation, filling or movement of earth for the purposes of changing the shape or topography of the land.

GREEN SPACE: Shall be as defined in section 8.6.604 of this title.

GREENHOUSE: An establishment where flowers, shrubbery, vegetables, trees, and other horticultural products are grown in the open and/or in an enclosed building. Greenhouses include the following:

1. Commercial Greenhouse: A greenhouse which offers horticultural products for sale to the general public on a retail basis.

2. Wholesale Greenhouse: A greenhouse which offers horticultural products for sale on a wholesale basis. Any retail sales on the premises shall be limited to those occurring on an occasional and incidental basis.

GROSS ACREAGE: The size of a lot or parcel including one-half (½) of adjoining rights-of-way.

GROUND COVER: Low-growing plants, or plants that grow horizontally on the ground, which are used to cover bare earth in order to prevent erosion, deter the growth of weeds, and create a uniform appearance.

GROUNDWATER: Water in a saturated zone or stratum beneath the land surface or a surface water body.

GROUP HOME: A single family dwelling in which eight (8) or fewer unrelated elderly persons or persons with disabilities reside and who receive on-site supervision in connection with their disability or age related infirmity. Resident staff, if employed, need not be related to each other or to any of the other persons residing in the group home. No more than two (2) of such staff members shall reside in the dwelling at any given time.

GUARANTEE OF FINANCIAL SURETY: A surety bond, cash deposit, or escrow account, irrevocable letter of credit, or other means acceptable to or required by the County to guarantee that infrastructure or improvements are completed in compliance with the project's approved plans.

8.9.204: DEFINITIONS – H:

HEARING BODY: The entity charged with the conduct of a public hearing and a decision or recommendation on an application or appeal pursuant to the provisions of this title. The hearing body may be a hearing examiner, the Planning Commission, the Historic Preservation Commission, or the Board, as appropriate.

HEARING EXAMINER: Any person serving as a hearing examiner for Kootenai County, as established in section 8.8.303 of this title.

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.

HIGHEST ADJACENT GRADE (HAG): The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the FEMA Elevation Certificate for HAG related to building elevation information.

HIGH WATER MARK, ORDINARY: *See* ORDINARY HIGH WATER MARK.

HIGHWAY: *See* ROAD.

HIGHWAY DISTRICT: A public agency which has jurisdiction over public roads within Kootenai County pursuant to Title 40, Chapters 13, 14, and/or 17, Idaho Code.

HISTORIC PRESERVATION: The research, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of this county, its communities, the state or the nation.

HOME OCCUPATION: An occupation, profession, or craft which is clearly incidental to the residential use of a site. Home occupations are subject to the standards contained in section 8.4.501 of this title.

HOSPITAL: A facility which meets the definition set forth in subsection 39-1301(a), Idaho Code, and has been duly licensed by the State of Idaho pursuant to Title 39, Chapter 13, Idaho Code.

HOTEL or MOTEL: One or more buildings where lodging for a period of thirty (30) or fewer days is offered for compensation. This definition shall not include bed and breakfast inns, resort lodges, retreat centers, guest ranches, short-term rentals, group homes, or child care centers, nor shall it include facilities such as jails, hospitals, residential care facilities, prisons, or other similar medical or penal facilities. (Ord. 545, 10-9-19; Ord. 546, 10-22-19)

8.9.205: DEFINITIONS – I-J:

IMPACT NOISE: A short duration or rapidly changing sound which causes fluctuations of the sound level meter needle in excess of plus or minus two (2) decibels and is, therefore, incapable of being accurately measured on a sound level meter.

IMPERVIOUS SURFACE: Any hard surface area which prevents or retards the entry of water into the soil mantle, or causes water to run off the surface in greater quantities or at an increased rate of flow, when compared to natural conditions prior to development. Common impervious surfaces include, without limitation, roofs, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel and compacted native surface roads, compacted earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

INFRASTRUCTURE: Support facilities for a subdivision including, without limitation, water, sewage treatment, roads, fire protection, stormwater, and other utility systems. This term includes both project support facilities, and public system facilities serving the area.

JUNKYARD: Any outdoor space where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, stored or handled, including, without limitation, inoperable motor vehicles, vessels, or farm equipment, organic waste, lumber or other building materials, or structural steel materials and equipment. This definition shall not include parcels where such uses are conducted entirely within a completely enclosed building, such as pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment, nor shall it include parcels used for the sale of automobiles which are in operable condition, or the storage and sale of salvage materials incidental to lawful manufacturing operations.

Article 9.3 Definitions K-O

8.9.301: DEFINITIONS – K-L:

KENNEL: Any parcel or combination of parcels, or any building, structure, or enclosure on such parcel or combination of parcels, in which a total of six (6) or more dogs, six (6) months of age or over, are kept or maintained by one or more persons. The term “kennel” shall not include any

veterinary hospital, office or clinic operated by a veterinarian licensed by the state of Idaho. A non-commercial kennel is a kennel that does not meet the definition of "commercial kennel" set forth in section 8.9.103 of this chapter.

LABORATORY: A place devoted to scientific or experimental study such as testing and analysis.

LADDER FUEL: Shrubs, brush and woody debris that can carry a fire into the tree canopy.

LAKE: A body of perennial, standing open water, larger than one (1) acre in size. Lakes include the bed, banks and wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, or settling or gravel ponds.

LAND DISTURBING ACTIVITY: Any man-made change to the land surface, including the removal of vegetation and topsoil, filling, and grading. This definition shall not include landscaping or agricultural land uses such as planting, cultivating and harvesting of crops or trees.

LANDFILL: A facility to which solid waste is brought for final disposal. Landfills may also include recycling facilities or energy generation facilities.

LANDSCAPE DESIGNER: An individual skilled in the trade of nursery operation or landscape design, to include the drafting of landscape plans and construction details, development of plant material lists, and construction material selection. Landscape designers do not need to have completed the State of Idaho qualifications necessary to be classified as a Landscape Architect.

LARGE ORGANIC DEBRIS (LOD): Live or dead trees, and parts or pieces of trees, that are large enough or long enough, or sufficiently buried in the stream bank or bed, to be stable during high flows. Pieces longer than the channel width, or longer than twenty (20) feet, whichever is shorter, are considered stable. LOD creates a diverse fish habitat and stabilizes stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form.

LETTER OF MAP CHANGE (LOMC): A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished via the issuance of an official letter by FEMA. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F), each of which is further defined as follows:

1. Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued whenever a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

2. Letter of Map Revision (LOMR): An official modification to an effective Flood Insurance Rate Map (FIRM), a Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the SFHA. The LOMR

officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

3. Letter of Map Revision Based on Fill (LOMR-F): FEMA's modification of an SFHA as shown on the FIRM based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.

4. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective FIRM or FIS. Upon submission and approval of certified as-built documentation, a LOMR may be issued by FEMA to revise the effective FIRM. Neither building permits nor flood development permits may be issued based on a CLOMR because a CLOMR does not change the NFIP map.

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. This definition does not include domestic fowl or potbellied pigs kept as pets.

LOT: A platted parcel of land which has been legally created.

LOWEST ADJACENT GRADE (LAG): the lowest point of the ground level next to the structure. Refer to the FEMA Elevation Certificate for LAG related to building elevation information.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including a basement, which is used for living purposes, including, without limitation, working, storage, cooking and eating, recreation, or any combination thereof. This definition also includes any floor that could be converted to such a use, including a basement or a crawl space that does not comply with the requirements of subsection 8.7.204 of this title. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor. A crawl space is not considered a building's lowest floor so long as it complies with the requirements of subsection 8.7.204 of this title.

LOWEST HORIZONTAL STRUCTURAL MEMBER: The bottom of the lowest floor joist of the lowest floor, the bottom of the concrete slab for slab on grade structures, or similar structural floor member, whichever is lowest.

LUMEN: A measure of the amount of light emitted by a light source. (Ord. 514, 10-4-17; Ord. 545, 10-9-19; Ord. 546, 10-22-19)

8.9.302: DEFINITIONS – M:

MAJOR RECREATIONAL EQUIPMENT: Includes, without limitation, boats, boat trailers, travel trailers, "fifth wheel" trailers, pickup campers or coaches designed to be mounted on motor vehicles, motorized dwellings, tent trailers, and similar equipment, and cases or boxes used for transporting any such equipment, regardless of whether or not such equipment is actually contained therein.

MAJOR SUBDIVISION: A subdivision that proposes to create five (5) or more lots, or to re-divide land that has been subdivided in the previous five (5) years when the two subdivisions together will create five or more lots.

MAINTENANCE ENTITY: A private organization, such as a homeowners' association, water company or association, or road maintenance association, that provides maintenance for land, infrastructure or shared improvements within a subdivision.

MANUFACTURED HOME: Shall include any structure meeting the definition of either a manufactured home, as defined in subsection 39-4105(8), Idaho Code, or a mobile home, as defined in subsection 39-4105(9), Idaho Code. This definition shall not include park trailers (also known as park models) or recreational vehicles. For purposes of this title, manufactured homes are classified as follows:

1. Class A: A manufactured home that satisfies the following additional criteria:

   a. The home has a minimum living space of one thousand (1,000) square feet.

   b. The home shall have a pitched roof, except that no standards shall require a slope of greater than one (1) foot in height for each four (4) feet in width.

   c. The exterior siding of the home consists of wood, hardboard, or aluminum comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction. Carports or garages shall be constructed of like materials.

   d. The home is placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve (12) inches above grade.

   e. The tongue, axles, transporting lights, and removable towing apparatus are removed from the home after placement on the lot and before occupancy.

2. Class B: A manufactured home that does not satisfy the criteria necessary to qualify as a Class A manufactured home.

MANUFACTURED HOME PARK: A parcel of land under single ownership on which three or more manufactured homes are occupied as residences. A manufactured home park may include special facilities for common use of the occupants, such as recreational buildings, swimming pools, common open space, laundry facilities, and incidental commercial uses.

MECHANICAL GROUND DISTURBANCE: The use of mechanized or mechanically powered equipment in a manner that creates a disturbance within a stream protection buffer or the shoreline management area, regardless of whether the equipment itself is physically located within the applicable area. For example, a crane located outside a stream protection buffer which is operating a bucket with its boom in a manner that creates a disturbance within the stream protection buffer would be deemed to be causing a mechanical ground disturbance.

MEDICAL OR DENTAL CLINIC: A building or portion of a building containing offices for the provision of medical, dental, or psychiatric services for outpatients only.

MINI-STORAGE FACILITY: A storage facility which contains multiple individual units available for sale or lease and meets the performance standards set forth in section 8.5.117 of this title.

MINOR SUBDIVISION: A subdivision that proposes to create four (4) or fewer lots. Property that has been subdivided within the previous five (5) years cannot be re-divided as a minor subdivision unless the two subdivisions together will create four (4) or fewer lots.

MITIGATE: To cause to become less harsh or hostile, to make less severe, or to lessen the negative consequences of an action.

MODULAR BUILDING: Shall be as defined in subsection 39-4301(10), Idaho Code.

MOTEL: *See* HOTEL or MOTEL.

8.9.303: DEFINITIONS – N:

NATURAL GRADE: The natural state of the land before any manmade alterations, including, without limitation, dredging, filling, excavation, or drilling operations.

NATURAL SLOPE: The slope of the land prior to any man-made disturbance.

NATURALLY OCCURRING DRAINAGE SWALE: Natural drainage conveyances that provide for the discharge of stormwater to Class 1 or Class 2 streams, but have beds and banks which are stable and have vegetative cover.

NET ACREAGE: The size of a parcel excluding any portion of adjoining rights-of-way.

NOISE COMPATIBILITY AREA: Land surrounding the Coeur d'Alene Airport within the 2028 65-decibel day-night average sound level (65 DNL) noise contour delineated in the then-current Airport Master Plan.

NONCONFORMING PARCEL: A parcel that was lawfully established prior to the adoption of this title or previously applicable ordinances, and which was in compliance with land development regulations then in effect, but which no longer conforms to the regulations for the zone in which it is located. Examples include lots that do not meet the minimum lot sizes or open space requirements, or lots that have a substandard access driveway.

NONCONFORMING STRUCTURE: A building, sign, or other structure that was lawfully constructed prior to the adoption of this title or previously applicable ordinances, but which no longer conforms to the regulations for the zone in which it is located. Examples include signs and buildings that do not meet required setbacks to property lines or that exceed height or size requirements.

NONCONFORMING USE: The use of a parcel or structure that was lawfully established prior to the adoption of this title or previous applicable ordinances, and which was in compliance with land use regulations then in effect, but which no longer conforms to the regulations for the zone in which it is located. Examples include residing in a second home on a parcel which has not been approved as an accessory living unit, using a parcel in a manner that does not meet landscaping,

parking or lighting requirements, using a parcel or structure for a business that is no longer allowed, or a permitted use which does not comply with applicable standards or permitting requirements.

NONDOMESTIC WASTE WATER: Any waste water that is not produced as sanitary wastewater from restroom facilities, showers, or kitchens.

NONPROFIT TRADE OR BUSINESS ASSOCIATION: A public or private facility such as those utilized by business leagues, boards of trade, or other associations of persons having some common business interest, that is recognized by state and federal taxing authorities as a *bona fide* nonprofit entity. In order to be recognized as a nonprofit trade or business association, the entity's purpose must primarily relate to the promotion of such common business interest, and shall not be related to the regular transaction of business of a kind ordinarily carried on for profit.

NONRESIDENTIAL STRUCTURE: Any structure which is not used for residential purposes and is not considered accessory to a residential use (garage, barn, etc.). Examples of nonresidential structures include, without limitation, commercial, industrial, and community buildings. This definition shall not include encroachments.

NO RISE CERTIFICATION: A certification by a licensed engineer that a project will not cause a set increase (0.00 feet) in flood heights.

NOTICE OF VIOLATION: A notice, issued by Department staff, of the existence of any violation of any provision of this title.

NOXIOUS MATTER: A material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

NOXIOUS WEED: Any plant which has the potential to cause injury to public health, crops, livestock, land or other property, and been designated as a noxious weed by the director of the Idaho Department of Agriculture.

NUISANCE: Anything which is injurious to health or morals, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, stream, canal or basin, or any public park, square, street or highway.

NURSING HOME: A home, place, or institution for the care of children, the aged or infirm, or a place of rest for those suffering bodily disorders. This definition shall not include facilities for the treatment of sickness or injuries or for surgical care. (Ord. 545, 10-9-19)

8.9.304: DEFINITIONS – O:

OCTAVE BAND: A prescribed interval of sound frequencies which permits classifying sound according to its pitch. Octave bands specified are those adopted by the American Standards Association as "Preferred Frequencies for Acoustical Measurements," S1.6-1960.

OCTAVE BAND FILTER: An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

ODOROUS MATTER: Any material, whether gaseous, liquid, or solid, that produces a response in the normal human nose.

OPEN SPACE: Any open area which may include, without limitation, areas such as parks, yards, playgrounds, beaches, waterways, parkways, patios, gazebos, walkways, driveways, or roads.

ORDINARY HIGH WATER MARK: The line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its vegetation and destroy its value for agricultural purposes.

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.

OUTDOOR STORAGE: The placement or storage of items outdoors for a period of more than thirty (30) days. This definition includes storage within a structure that is open or not entirely enclosed.

OWNER: The legal property owner of record, based on information provided by the Office of the Kootenai County Assessor or the Office of the Kootenai County Recorder.

OWNER OCCUPIED: Real property actually occupied by the record owner of the property, according to the records of the Kootenai County Assessor or the Kootenai County Recorder, or at least one member of the record owner's immediate family. If the owner of such property is a corporation, partnership, limited liability company, estate, trust, or other legal entity, it shall be actually occupied by one or more persons who, in the aggregate, have at least a twenty percent (20%) share of ownership of the entity. (Ord. 546, 10-22-19)

Article 9.4 Definitions P-S

8.9.401: DEFINITIONS – P:

PARCEL: Any portion of land that is separately described in a deed of conveyance. Parcel size shall be determined as set forth in section 8.4.1104 of this title.

PARK MODEL RECREATIONAL VEHICLE: A vehicle meeting the definition of park model recreational vehicle, as defined in section 49-117, Idaho Code.

PARK TRAILER or PARK MODEL: *See* PARK MODEL RECREATIONAL VEHICLE.

PERPETUAL or IN PERPETUITY: Continuing forever; valid for all time.

PERSONAL STORAGE BUILDING: A structure used solely for the storage of personal property.

PLACE OF ASSEMBLY: Any building, other than a place of worship, which is used as a facility for the holding of events, including, without limitation, meetings, weddings, wedding receptions, community meetings, and other types of group gatherings. A place of assembly shall be owner occupied unless it is owned by a *bona fide* charitable, fraternal, benevolent, cultural, religious, or educational organization.

PLACE OF WORSHIP: An institution that people regularly attend to participate in or hold services, meetings, and other activities related to religious or spiritual worship. This term shall include all buildings in which any religious services or activities are held. In addition, a place of worship may include a rectory, parsonage, or other building containing the residences or offices of one or more clergy members or worship leaders. The application of this definition and the provisions of this title related to places of worship shall be applied in a manner which does not discriminate on the basis of religion, does not infringe upon the free exercise of religion, and does not constitute an establishment of religion or of any particular religion.

PLANNED UNIT DEVELOPMENT: An integrated design for development of residential, commercial or industrial uses, or combinations of such uses, under single ownership or control, in which the standards set forth in this title may be varied from those which would otherwise apply. PUDs allow for the creation and approval of development plans which provide flexibility and creativity in site and building design and location, so long as such plans are determined to be in accordance with the goals and policies of this title and the Comprehensive Plan.

PLAT: The drawing, map or plan of a subdivision, cemetery, townsite or other tract of land, including certifications, descriptions, approvals, and associated conveyances.

PLAT AMENDMENT: A plat which makes changes to a previously recorded plat.

POST-FIRM: Floodplain development in which the start of construction occurred on or after March 1, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM).

PRELIMINARY SUBDIVISION PLAN: A map or drawing illustrating a preliminary subdivision proposal.

PRE-FIRM: Floodplain development in which the start of construction occurred before March 1, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM).

PRESCHOOL: A school, whether public or private, and whether for profit or nonprofit, which provides pre-kindergarten or kindergarten educational instruction to children under seven (7) years of age. A Head Start facility is a preschool which provides educational instruction as part of the national Head Start program.

PRIMARY ACCESS POINT: That primary point designated on a public or private road, or common driveway, from which a driveway to a parcel or structure intersects the road or common driveway.

PRIVATE RESORT: A privately owned, non-commercial indoor and outdoor recreation area which complies with the standards set forth in section 8.5.205 of this title.

PRIVATE ROAD: *See* ROAD.

PROFESSIONAL FORESTER: An individual with at least a bachelor's degree in forestry from an institution of higher education accredited by the Society of American Foresters, or registration or licensure as a professional forester in any state, or certification as a professional forester by the Society of American Foresters, Association of Consulting Foresters, or similar organization.

PROFESSIONAL WILDLIFE BIOLOGIST: An individual with at least a bachelor's degree in wildlife biology, or who has been designated as a certified wildlife biologist or an associate wildlife biologist by the Wildlife Society.

PROPERTY LINE: A series of lines which, when connected, denote the outer perimeter of a parcel. A "metes and bounds" legal description describes the physical layout of property lines for one or more parcels of real property in accordance with generally accepted professional surveying practice.

PUBLIC HIGHWAY AGENCY: The Idaho Transportation Department, a highway district, or other state agency or political subdivision of the state with jurisdiction over public highways, public roads, and public rights-of-way.

PUBLIC OFFICE BUILDING: A structure used as the office or for the purpose of conducting official business by one or more agencies of the federal government, the State of Idaho, or any political subdivision of the State of Idaho.

PUBLIC ROAD: *See* ROAD.

PUBLIC SAFETY FACILITY: A facility operated by the County or a city, fire protection district, ambulance district, or other similar public entity associated with the provision of firefighting, law enforcement, emergency medical, emergency communications, or emergency management services. Such facilities may include any of the following: offices, equipment storage, personnel quarters, meeting rooms, operations centers, training facilities, detention or correctional facilities, repair or maintenance facilities, or other support facilities or operations.

PUBLIC SERVICE FACILITY: A public facility operated by the County or any city, taxing district, or other public entity which is not a public safety facility or utility.

PUBLIC UTILITY: A public or private enterprise regulated by the federal government, the State of Idaho, or any political subdivision or taxing district, which provides to the public a utility service deemed necessary for the public health, safety, and welfare. Public utilities may include, without limitation, systems for the delivery of natural gas, electricity, telecommunications services such as telephone, television, or Internet, water, wastewater treatment and disposal, stormwater treatment and disposal, or solid waste disposal and recycling.

PUBLIC UTILITY COMPLEX FACILITY: A public utility facility of major importance involving construction of facilities of a complex nature including, but not limited to: station houses

or station grounds, pumping stations, dam structures, water storage facilities which hold more than 100,000 gallons or are greater than 25 feet in height, solid waste transfer stations, landfills, telephone transmission stations, sewage disposal or storage stations, railroad transportation lines, spurs, or classification yards, or other structures principally used in interstate transmission of electricity, natural gas, or fuel. This definition shall not include wireless communication facilities.

PUBLIC WATER SYSTEM: A water system serving ten (10) or more residences, or twenty-five (25) or more people, for more than sixty (60) days per year. (Ord. 514, 10-4-17; Ord. 545, 10-9-19)

8.9.402: DEFINITIONS – Q-R:

RATHDRUM PRAIRIE AQUIFER: A groundwater aquifer located beneath the Rathdrum Prairie and the Purcell Trench in portions of northern Kootenai County and southern Bonner County. The Rathdrum Prairie Aquifer is that portion of the larger Spokane Valley-Rathdrum Prairie Aquifer which is located in Idaho. It has been recognized by the U.S. Environmental Protection Agency as a sole source aquifer under federal law, and by the Idaho Department of Environmental Quality as a sensitive resource aquifer under Idaho law.

RECOGNIZED LAKES: Coeur d'Alene Lake, Fernan Lake, Hauser Lake, Hayden Lake, Pend Oreille Lake, Spirit Lake, Upper Twin Lake, Lower Twin Lake (including the "mid-channel" area), Rose Lake, Bull Run Lake, Killarney Lake, Cave Lake, Medicine Lake, Swan Lake, Black Lake, Blue Lake, Thompson Lake, and Anderson Lake.

RECREATIONAL BUILDING: Any building which provides indoor recreational activities for use by the general public including, but not limited to, non-profit or public buildings, such as libraries, museums, art galleries, etc.

RECREATIONAL FACILITY: Any facility which provides indoor or outdoor recreational activities for use by the general public.

RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The types of recreational vehicles are camping trailers, fifth wheel trailers, motor homes, travel trailers, and truck campers, each of which is defined in subsection 39-4201(2), Idaho Code.

RECREATIONAL VEHICLE PARK: A parcel of land upon which three (3) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles, or tents, as temporary living quarters for recreation, camping, or vacation purposes.

REGULATORY FLOOD: A flood determined to be representative of large floods known to have occurred in Idaho and which may be expected to occur on a particular stream because of like characteristics. The regulatory flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the watershed. In inland areas, the flood frequency of the regulatory flood is once in every one hundred (100) years; this means that in any given year there is a one percent (1%) chance that a regulatory flood may occur or be exceeded.

REGULATORY FLOODWAY: *See* FLOODWAY.

RENTAL WAREHOUSE: A storage facility available for sale or lease, with or without individual units, that does not meet the standards set forth in subsection 8.5.117(C) of this title.

RESIDENTIAL ACCESSORY STRUCTURE: A structure which is accessory to, and detached from, a residential structure, including, without limitation, garages, barns, or storage sheds. This definition shall not include accessory living units, temporary hardship uses, or encroachments.

RESIDENTIAL CARE FACILITY: A facility in which nine (9) or more unrelated elderly persons or persons with disabilities reside, generally on a long-term basis, and receive on-site supervision in connection with their disability or age related infirmity. The facility may also provide short-term rehabilitation services for such persons. Resident staff, if employed, need not be related to each other or to any of the other persons residing in the facility.

RESIDENTIAL STRUCTURE: Any building that contains living facilities, including provisions for sleeping, eating, cooking and sanitation. This definition includes accessory living units and temporary hardship uses, but shall not include encroachments.

RESIDENTIAL ZONE: Refers to the Agricultural, Rural, Agricultural Suburban, Restricted Residential, and High Density Residential zones.

RESORT LODGE, RETREAT CENTER, OR GUEST RANCH: An owner occupied facility, including a lodge and/or resort cabins with or without food service, which serves as a destination point for visitors and relies on its rural location and the natural environment to provide recreational facilities and activities for the use of guests such as horse riding, hiking, fishing, and boating. Temporary use of these facilities meetings, recreation, or education is permitted as an accessory use. Wedding and reception facilities are also permitted as an accessory use.

RETENTION: The holding of runoff in a basin without release except by means of evaporation, transpiration, infiltration, or emergency bypass.

RIGHT-OF-WAY: Land conveyed, dedicated, reserved, or otherwise acquired for use as a road. In addition to the roadway, a right-of-way may also incorporate curbs, utilities, lawn strips, sidewalks, parking lanes, or lighting and drainage facilities, and may include special features such as grade separation, landscaped areas, viaducts and bridges. Types of rights-of-way include the following:

1. Private Right-of-Way: Land conveyed, dedicated, or reserved for use as a private roadway for one (1) or more parcels of land, and which may also incorporate public or private utilities or service areas.

2. Public Right-of-Way: Land conveyed to a public highway agency, dedicated to a public highway agency or to the public, or acquired by a public highway agency by eminent domain, prescription, or other legal cause of action, which are under the jurisdiction of a public highway agency.

ROAD: A roadway, plus all necessary culverts, sluices, drains, ditches, waterways, embankments, retaining walls, bridges, tunnels, grade separation structures, roadside improvements, adjacent lands or interests lawfully acquired, pedestrian facilities, and any other structures, works or fixtures incidental to the preservation or improvement of the roadway. This definition shall not include driveways or common driveways. Types of roads include the following:

1. Private Road: A road which has not been accepted for maintenance by a public highway agency and which does not meet the definition of a driveway or a common driveway. Owners of property served by a private road are able to lawfully exclude persons from using the road who do not have either the legal right or permission to use the road unless the road is located within a public right-of-way.

2. Public Road: A road which has been accepted for maintenance by a public highway agency and which may be used by the public at large.

ROADWAY: A surface which has been designed and constructed, or has been improved, or is ordinarily used, for vehicular travel.

RUNWAY: A defined rectangular area on an airport prepared for the landing and takeoff of aircraft. (Ord. 514, 10-4-17; Ord. 545, 10-9-19)

8.9.403: DEFINITIONS – S:

SANITARY RESTRICTIONS: Water and sewer requirements imposed on a subdivision plat in accordance with section 50-1326, Idaho Code.

SCARIFY: To break up or loosen the ground surface of an area.

SCHOOL: Any land, building or part thereof, whether publicly or privately owned, which is used for the provision of education, instruction or training in any branch of knowledge. This definition shall include schools providing instruction for any grades between first and twelfth grade (and may also include pre-kindergarten or kindergarten), and shall also include colleges, universities, and professional, vocational, technical, or trade schools.

SEDIMENT: Fragmented material that originates from weathering and erosion of rocks or unconsolidated deposits and is transported by, suspended in, or deposited by water.

SEDIMENTATION: The deposition of sediment on ground surfaces and in water courses.

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

6. Special flood hazard areas; or

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

SETBACK: A line governing the placement of buildings and other structures with respect to parcel lines, roads, runways, or taxiways.

SEWAGE DISPOSAL SYSTEM: A system of piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat or dispose of wastewater. This definition includes individual sewage disposal systems such as a septic system and drainfield.

SEXUALLY ORIENTED BUSINESS:

1. A commercial establishment that devotes a significant or substantial portion of its business to any one or more of the following:

a. The sale, rental or viewing of any printed, audio, or visual materials, whether in physical, mechanical, or electronic format, which are characterized by an emphasis upon the depiction, display or exhibition of specific sexual activities or specific anatomical areas, whether or not such materials are constitutionally protected; or

b. The sale or rental of instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specific sexual activities; or

2. A commercial establishment that devotes a significant or substantial portion of its stock in trade, floor space, shelf space, storage space, advertising, or marketing to the items listed in subsection (1) of this definition, or that derives a significant or substantial portion of its revenues from the items listed in subsection (1) of this definition.

3. Related definitions include the following:

a. Specific Anatomical Areas: Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus, or female breasts below a point immediately above the top of the areola. This definition shall also include human male genitals in a discernibly turgid state, even if completely and opaquely covered.

b. Specific Sexual Activities: Includes any of the following:

i. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;

ii. Sexual acts, whether actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;

iii. Flagellation, mutilation or torture for purposes of sexual arousal, gratification, pleasure, or abuse;

iv. Human genitals in a state of sexual stimulation or arousal; or

v. Excretory functions as part of or in connection with any of the activities set forth in this definition.

SHORELINE: Land adjacent to, and landward of, the ordinary high water mark of a recognized lake, the Coeur d'Alene River, or the Spokane River.

SHORELINE MANAGEMENT AREA: The area within twenty-five feet (25') in slope distance landward of the ordinary high water mark of all recognized lakes and the Coeur d'Alene and Spokane Rivers.

SHORELINE STABILIZATION: The use of structures, riprap, vegetation, or other land management practices to provide shoreline protection along lakes, rivers, and streams from current and continued erosion.

SIGN: Any device, structure, fixture, display, painting or visual image using words, graphics, symbols, numbers, letters or lights to convey information or attract attention. Signs include their structure and component parts, and typically identify a residence or place of business, provide information, or direct attention to a subject matter, product, service, event, place, activity, institution, or organization. Signs may contain constitutionally protected speech or expression. Related definitions include the following:

1. Animated Sign: A moving sign or display, or a sign depicting action or motion, through electrical or mechanical means.

2. Awning or Canopy Sign: A sign located on an awning or canopy that is attached to a building.

3. Banner: A sign or display on lightweight fabric or similar material.

4. Electronic Message Center: A variable message sign using computer generated messages or some other electronic means of changing copy.

5. Flashing Light, Sign or Display: A sign, light or display with lighting or messages that change more than once every four (4) seconds.

6. Illuminated Sign: A sign illuminated internally through its face by a light source contained inside the sign, or externally by reflection of a light aimed at its surface.

7. Monument Sign: A sign with low overall height, supported by a footing in the ground, the sole purpose of which is to support the sign, where the entire base of the sign is in contact with the ground.

8. Off-Premise Sign: A sign that is not accessory to or associated with a permitted structure or use on a parcel of land, such as a sign that directs attention to a business, product, service, entertainment, event or other activity that is conducted, produced, furnished, sold, or offered at another location.

9. On-Premise Sign: A sign that is located on the same parcel of land as the owner or lessee's business, organization, product, service, event, activity, or residence, and that is accessory to or associated with an allowed structure or use.

10. Pole Sign: A sign, other than a monument sign, that is supported by a footing in the ground, the sole purpose of which is to support the sign.

11. Portable Sign: A sign capable of being carried or easily moved.

12. Projecting Sign: A sign, other than a wall sign, that projects from and is supported by the wall of a building or structure with the face of the sign perpendicular to the building.

13. Roof Sign: A sign erected upon the roof of a building or the top of a structure.

14. Sign Face: The surface of a sign on which a message is displayed.

15. Temporary Sign: An easily removable sign, constructed of plywood or other non-durable material, which is displayed for a short period of time.

16. Wall or Building-Mounted Sign: A sign painted on, applied to, or attached to the exterior surface of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall, and where no part of the sign structure extends more than sixteen inches (16") out from that surface.

SITE: The parcel of land on which development is occurring, will occur, or is proposed to occur. A right-of-way shall be considered a separate site from adjacent properties.

SITING AREA: That portion of a parcel that contains the transmission tower, and related buildings and equipment, required for the operation of a wireless communication facility.

SLOPE: An incline, described by the vertical change in elevation that occurs in 100 feet of horizontal distance (rise divided by run), expressed in percent (%). Slope is measured perpendicular to the contour of the land, and is the maximum incline for a given area.

SOLID WASTE RURAL COLLECTION SITE: A facility at which solid waste may be disposed and held while awaiting transfer to a solid waste transfer station or to a landfill.

SOLID WASTE TRANSFER STATION: A facility at which solid waste may be disposed, separated and held while awaiting transfer to a landfill, recycling facility, energy generation facility, or other final disposal site. Transfer stations may also include recycling facilities or energy generation facilities.

SOUND LEVEL METER: An instrument, including a microphone, amplifier, output meter, and frequency weighing network, for the measurement of noise and sound levels in a specified manner.

SOUND PRESSURE LEVEL: The intensity of sound measured in decibels (dB), as recorded or indicated on a sound level meter.

SPECIAL FLOOD HAZARD AREA: The land within a floodplain which is subject to a one percent (1%) or greater chance of flooding any given year. The boundaries of the special flood hazard area shall include all areas designated as Zone A or AE on the FIRM, and shall also include all areas designated in accordance with the procedures set forth in subsection 8.7.205(C) of this title based on the greatest flood of record or the best available data available from FEMA or other authoritative sources.

SPECIAL EVENT: Any outdoor public assembly in which persons are gathered together for commercial, civic, or social functions, recreation, or for food or drink consumption, including, without limitation, outdoor musical concerts, festivals, fairs, or carnivals, which may be expected to have or have five hundred (500) or more people at any given time. The Kootenai County Fairgrounds shall be exempt from the provisions of this title which pertain to special events and special event locations. Permitting requirements for special events shall be in addition to the permitting requirements for marine events regulated under section 67-7030, Idaho Code.

SPECIAL EVENT LOCATION: A site that has been approved to hold one or more special events. This definition shall also include stadiums and arenas, as defined in this section.

1. An annual special event location is a site that has been approved to hold one (1) special event for a period of no greater than five (5) consecutive days in any given calendar year.

2. This definition shall not include the Kootenai County Fairgrounds or commercial riding arenas.

SPOIL PILE: Soil or rock excavated from an area which may be used for backfill or final grading on site.

STABILIZED CONSTRUCTION ENTRANCE: A stabilized pad of clean, crushed rock located where traffic enters or leaves a construction site.

STADIUM or ARENA: A field or court which is fully or partially enclosed by a building or structure with tiers of seats (which may be seats, bleachers, risers, or stands) for one thousand (1,000) or more spectators.

STORAGE UNIT: A non-habitable building or portion of a building used for storage of equipment or materials associated with a primary or accessory use of the site. Storage units are typically distinguished from habitable space by having a door at least 8 feet in width to access the storage area.

STORMWATER: That portion of precipitation that does not naturally percolate into the ground, evaporate, or transpirate, but instead flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed infiltration facility.

STORMWATER CONTROL: Those BMPs which are employed to convey, direct, treat, or dissipate stormwater and are typically necessary when impervious areas are created or natural drainage is interrupted.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story for the purpose of this title when more than one-half (½) of such basement height is above the established curb level or above the finished lot grade level where curb level has not been established.

STREAM: A water course of perceptible extent with a definite bed and banks which confines and conducts continuously or intermittently flowing water. A definite bed is a bed having a sandy or rocky bottom which results from the scouring action of water flow. This definition shall include both natural or man-made channels, but shall not include dead-end streams (streams which infiltrate into the ground prior to reaching a larger body of water) which do not support fish or other beneficial uses. This definition shall not include the Coeur d'Alene River, Spokane River, or any recognized lake. For purposes of this title, streams are classified as follows:

1. Class 1 Stream: A stream which is used for domestic water supply or by fish for spawning, rearing, or migration. Such waters will be considered to be Class 1 upstream from the point of domestic diversion for a minimum distance of 1,320 feet.

2. Class 2 Stream: A stream that does not provide fish habitat. Class 2 streams are usually found in headwater areas or minor drainages, and their principal value lies in their influence on water quality or quantity downstream in Class 1 streams.

STREAM PROTECTION BUFFER: The area encompassed by a slope distance of seventy-five feet (75’) on each side of the ordinary high water mark of a Class 1 stream, or thirty feet (30’) in slope distance on each side of the ordinary high water mark of a Class 2 stream.

STREET: *See* ROAD.

STRUCTURAL ALTERATION: Any change, other than ordinary maintenance or repairs, which is intended to prolong the life of the supporting members of a building, such as the bearing walls, beams, or girders.

STRUCTURE: That which is built or constructed; an edifice or building of any kind, or any piece of work artificially built up or composed or parts joined together in some definite manner. This definition includes structures for which a building permit is required and structures which are exempt from building permit requirements. This definition shall also include storage tanks for liquid or gaseous materials that are principally above ground.

SUBDIVISION: The division of a parcel of land into two (2) or more parcels through the recordation of a plat or deed effectuating the division.

SUBSTANTIAL CHANGE: Any change that will likely cause a material or directly relevant bearing on the decision making process or on the reasonable expectations of the public, or of one or more agencies, with respect to information provided at the time of application.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure in which the cost of restoring the structure to its previous condition would equal or exceed fifty percent (50%) of its market value before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term also includes structures which have incurred "substantial damage," regardless of the type or cost of the actual repair work performed.

1. For purposes of this definition, the start of construction shall be deemed to be the date on which the building permit was issued so long as actual construction, repair, reconstruction, placement, or other improvement begins within one hundred eighty (180) days after that date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

2. The market value of the structure shall be the market value of the structure before the start of the initial repair or improvement, or in the case of damage, the market value of the structure before the damage occurred. Market value of the existing structure shall be considered to be the most current value of the structure as determined by the Office of the Kootenai County Assessor, or in an appraisal from an Idaho licensed or certified appraiser. The value of the proposed work shall be determined using the Department's valuation as figured in establishing building permit fees.

3. This definition shall not include the following:

a. Any project for improvement of a structure to comply with then-currently adopted building codes; and

b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, providing the alteration will not preclude the structure's continued designation as an historic structure.

SURFACE MINE: An area where minerals are extracted by removing the overburden above and adjacent to natural deposits of minerals, and mining the deposits thereby exposed.

SURFACE MINING: Activities performed within a surface mine as part of the process of extracting minerals from the ground, including the excavation of pits, removal of materials, disposal of overburden, and the construction of haul roads. For purposes of this title, extraction of rock or fill material, or the processing of rock or other road materials, by a highway district shall not be considered surface mining activity when the activity is carried on within a public right-of-

way or an immediately adjoining property during temporary construction activity associated with publicly maintained roadways.

SURFACE WATER: All lakes, rivers, streams, wetlands, and similar features, and any feature which acts as a conveyance of water to a surface water feature. Conveyance features may include natural or man-made ditches. This definition shall not include ponds, springs, or similar features that are entirely contained within a parcel of land, nor shall it include conveyance features that infiltrate the water being conveyed, such as dead-end streams. (Ord. 514, 10-4-17; Ord. 545, 10-9-19; Ord. 546, 10-22-19)

Article 9.5 Definitions T-Z

8.9.501: DEFINITIONS – T:

TAXIWAY: A defined path from one part of an airport to another for the taxiing of aircraft to and from a runway.

TEMPORARY HARDSHIP USE: A temporary residence which is used as a dwelling unit for a dependent person when such use is located on the same parcel as the dwelling of the owner of the property. Such use, when permitted, shall be considered an accessory use that is personal to the then-current owner, and shall not be transferrable upon the sale or lease of the property.

TOPOGRAPHY: The configuration of the ground surface.

TOPOGRAPHIC MAP: A map with lines of equal elevation, showing the relief and configuration of the ground surface.

TOPSOIL: The darker colored, more friable upper position of the soil, down to such restrictions as claypans, hardpans, coarse sand and gravel, or rock.

TOXIC MATERIALS: Materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

TRANSITIONAL GROUP HOUSING FACILITY: A facility for the transitional housing or sheltering of nine (9) or more disabled, indigent, or abused persons. Resident staff, if employed, need not be related to each other or to any of the other persons residing in the facility. For purposes of this definition:

1. "Disabled" shall have the same meaning as the term "qualified individual with a disability," as set forth in the Americans with Disabilities Act of 1990 and associated regulations, and shall also include those persons determined to be disabled by the Social Security Administration or the Department of Veterans Affairs, or pursuant to the workers' compensation laws of any state.

2. "Indigent" shall mean any person who does not have sufficient income or assets to provide for his or her basic needs, including food, clothing, shelter, and transportation, and, if applicable, the basic needs of his or her family.

3. “Abused” shall mean any person who is the victim of domestic battery, injury to a child, or any crime of a sexual nature, as defined in Title 18, Idaho Code, similar federal law, or similar law of any other state, whether or not the alleged perpetrator was charged with such crime.

TRANSMISSION TOWER: A tower such as a self-supporting lattice, monopole structure, or other similar construction, which elevates a wireless communication antenna and may also include accessory transmission and receiving equipment.

TREATMENT: Removal of sediment or other pollutants from stormwater.

TREE: A woody perennial plant with a single, well-defined stem. (Ord. 517, 1-31-18)

8.9.502: DEFINITIONS – U-V:

UNOBTRUSIVE: Inconspicuous; not prominent.

USE: The purpose or activity for which the land, or building thereon, is designed or intended, or for which is occupied or maintained, and shall include any manner or performance of such activity with respect to the standards set forth in this title.

UTILITY: A service provided to one (1) or more subdivisions or to five (5) or more parcels, which may include, without limitation, water, electricity, natural gas, telephone, television, Internet, wastewater treatment and disposal, stormwater treatment and disposal, or solid waste disposal and recycling.

UTILITY COMPLEX: A facility providing one or more utility services which does not rise to the level of a public utility complex facility. A utility complex is more local in application and scope than a public utility complex facility. Utility complexes include electrical distribution substations, natural gas gate stations, natural gas regulator stations, solar or wind facilities, solid waste rural collection sites, and other similar facilities which are located to support load demand and overall system operations for better customer service. This definition shall not include wireless communication facilities.

UTILITY SERVICES: Transmission, distribution and service lines, pipes and facilities installed, operated, and/or maintained within established utility corridors, easements, public rights of way, or other utility sites, or constructed, installed and/or maintained in connection with or ancillary to other approved uses.

VARIANCE: Shall be as defined in section 67-6516, Idaho Code.

VESTED: Guaranteed as a legal right. Except as otherwise provided in this title, a complete application must be submitted in order to be considered vested.

VESTING: The legal right to have an application processed in accordance with the regulations in effect at the time the application was submitted.

VETERINARY CLINIC OR HOSPITAL: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (Ord. 514, 10-4-17; Ord. 517, 1-31-18)

8.9.503: DEFINITIONS – W:

WATER SYSTEM: A system of wells, pumps, piping, treatment devices, receptacles, and structures, designed, used or dedicated to obtain, convey, treat, or store water. A shared water system is a system that serves two or more lots within a subdivision.

WATERSHED: The surrounding land areas from which water drains to a given point.

WETLAND PROTECTION BUFFER: An area maintained in its natural state around a wetland.

WETLANDS: Those areas that are inundated or saturated by surface or ground water, at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. A jurisdictional wetland is a wetland which the U.S. Army Corps of Engineers has determined is part of the waters of the United States for purposes of federal jurisdiction and regulation.

WETLAND SPECIALIST: A specialist in the field of wetlands delineation and assessment. A wetlands specialist has the ability to delineate wetlands, assess the function and value of particular wetlands, and provide assistance with wetland regulations and permits, including the completion of application and permit forms, and provide technical advice about avoidance, minimization and compensatory mitigation of effects to wetlands. A wetlands specialist shall have, at a minimum, a Bachelor of Science degree from an accredited university in biology, botany, ecology, environmental science, or similar related field, plus either a minimum of two years of full time field experience as a wetlands professional, or additional education that includes completion of a wetland-specific training program. Proof of field experience may be in the form of certification from the Society of Wetlands Specialists, or in the form of a listing of accepted and approved plans from the U.S. Army Corps of Engineers or other applicable local, state or federal agencies. Any additional education or training must include comprehensive information on wetland hydrology, hydric soils and hydrophtic vegetation. Experience in wetland delineation should include delineation of wetlands using state or federal regulatory manuals, preparing wetlands delineation reports as outlined by state or federal regulations, conducting wetland function and value assessments, and developing and implementing mitigation plans.

WILL-SERVE LETTER: A written statement from the owner of a water and/or sewage treatment provider indicating that the system has the capacity to provide water or sewage treatment service, and that the owner is willing to provide that service to all of the lots in a proposed subdivision.

WIRELESS COMMUNICATION FACILITY: Any facility designed and used for the purpose of transmitting, receiving, or relaying voice and data signals. WCFs include siting areas, transmission towers and antennas. This definition shall not include towers less than twenty feet (20') in height that are mounted upon another structure, or facilities with towers less than forty feet (40') in height above natural ground level. A public safety wireless communication facility is a WCF which is owned by a public entity which provides emergency communications (911), fire, law enforcement, emergency medical services, or emergency management services, and is used for one or more of those purposes.

8.9.504: DEFINITIONS – X-Y-Z:

YARD: An open space on a parcel, other than a courtyard, which is unoccupied and unobstructed from the ground upward, except as otherwise permitted in this title. Types of yards include the following:

1. Front Yard: A yard extending along the full length of the front lot line between the side lot lines.

2. Rear Yard: A yard extending along the full length of the rear lot line between the side lot lines.

3. Side Yard: A yard extending along a side lot line from the front yard to the rear yard.

ZONE: All land and water areas within a stated zone boundary.

ZOO: A collection of living animals located and housed for public display.

Article 9.6 Acronyms and Abbreviations

8.9.601: ACRONYMS: For purposes of this title, the acronyms set forth below shall have the following meanings:

DEQ	Idaho Department of Environmental Quality
EPA	U.S. Environmental Protection Agency
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
IDFG	Idaho Department of Fish and Game
IDL	Idaho Department of Lands
IDWR	Idaho Department of Water Resources
ISDA	Idaho Department of Agriculture
ITD	Idaho Transportation Department
PHD	Panhandle Health District No. 1
USACE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USFS	U.S. Department of Agriculture, Forest Service

8.9.602: ABBREVIATIONS: For purposes of this title, the abbreviations set forth below shall have the following meanings:

ACI	Area of City Impact
BM	Boise Meridian
BMPs	Best Management Practices
CC&Rs	Covenants, Conditions and Restrictions
EMS	Emergency Medical Services
LA	Landscape Architect
NPDES	National Pollution Discharge Elimination System
PE	Professional Engineer
PG	Professional Geologist
PUD	Planned Unit Development
RV	Recreational Vehicle
WCF	Wireless Communication Facility

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CHAPTER 10
AREAS OF CITY IMPACT

Article 10.1 Athol

8.10.101: PURPOSE: The purpose of establishing the Area of City Impact is to identify an urban fringe area in the unincorporated territory surrounding the City within which there is potential for development or changes in land use that must be planned in an orderly and compatible manner in order to insure timely or economical provision of public services such as water supply, sanitary and storm sewage collection and treatment, public safety services, other community service facilities, and to promote land use compatibility, street alignment, and traffic flow objectives.

8.10.102: AREA OF CITY IMPACT DEFINED: The Area of City Impact shall consist of an area where development or use of land affects or may affect the City of Athol in consideration of trade areas, geographic factors, and areas that can reasonably be expected to be annexed to the City in the future.

8.10.103: STANDARDS: The following standards shall apply whenever an agency, Planning and/or Zoning Commission, Hearing Examiner, or governing body of the City or County considers a zone change, comprehensive plan change, request for a special or conditional use permit, planned unit development, limited planned unit development, variance request, or subdivision plat within the Area of City Impact. Within the Area of City Impact, the following standards shall apply:

A. The Kootenai County Comprehensive Plan;

B. The subdivision regulations set forth in chapter 6 of this title;

C. The zoning regulations set forth in this title;

D. The stormwater management regulations set forth in chapter 7, article 7.1 of this title;

E. Except as set forth above, all other applicable standards set forth in this code;

F. City of Athol Subdivision Ordinance; and

G. Except as set forth above, all other standards of applicable special districts having jurisdiction within the identified Area of City Impact.

8.10.104: ENFORCEMENT:

A. Kootenai County shall be responsible for the administration and enforcement of the County's ordinances listed in subsections A through E of section 8.10.103 of this article within the Area of City Impact, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, any development fees such as parkland dedication fees or other costs arising from fulfilling the terms of each ordinance or regulation.

B. The City of Athol and special districts shall be responsible for the administration and enforcement of their respective regulations listed in subsections F and G of section 8.10.103 of this article within the Area of City Impact, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, or other costs arising from fulfilling the terms of each ordinance or regulation.

8.10.105: RENEGOTIATION: In accordance with subsection 67-6526(d), Idaho Code, the Athol City Council or the Board may request, in writing, renegotiation of any provisions of this article at any time. Within thirty (30) days of receipt of such written request by either party, a meeting between the two (2) jurisdictions shall occur.

While renegotiation is occurring, all provisions of this article shall remain in effect until this article is amended or a substitute ordinance is adopted by the City of Athol and Kootenai County, in accordance with the notice and hearing procedures provided in Idaho Code, or until a declaratory judgment from the District Court is final. Provided, however, that this article or stipulated portions thereof shall be of no further force and effect if both jurisdictions so agree by mutually adopted resolution or ordinance.

8.10.106: ANNEXATION:

A. Annexation by the City of Athol shall be limited to those lands lying within the Area of City Impact and being contiguous to the city limits of the City of Athol. Upon annexation, the provisions of this ordinance, which is the agreement between the City of Athol and Kootenai County, shall no longer apply to the annexed area.

B. Prior to any annexation by the City of Athol, the City shall forward a copy of the annexation proposal to the County for review and comment at least thirty (30) days prior to the first public hearing on the annexation request.

8.10.107: COORDINATION OF PLAN AMENDMENTS, ORDINANCE AMENDMENTS AND ZONING APPLICATIONS:

A. All applications for amendment of the Kootenai County Comprehensive Plan and implementing ordinances which apply to the Athol Area of City Impact shall be sent by Kootenai County to the City of Athol for review.

B. All Kootenai County land use applications and public notice within the Athol Area of City Impact shall be sent to the Athol City Council for review and comment. The City shall have thirty (30) days after receipt of the notice prior to the public hearing to comment.

8.10.108: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted Area of City Impact is hereby established and shown on the map entitled "Athol Area of City Impact" as set forth in Illustration 10-101 of this article.

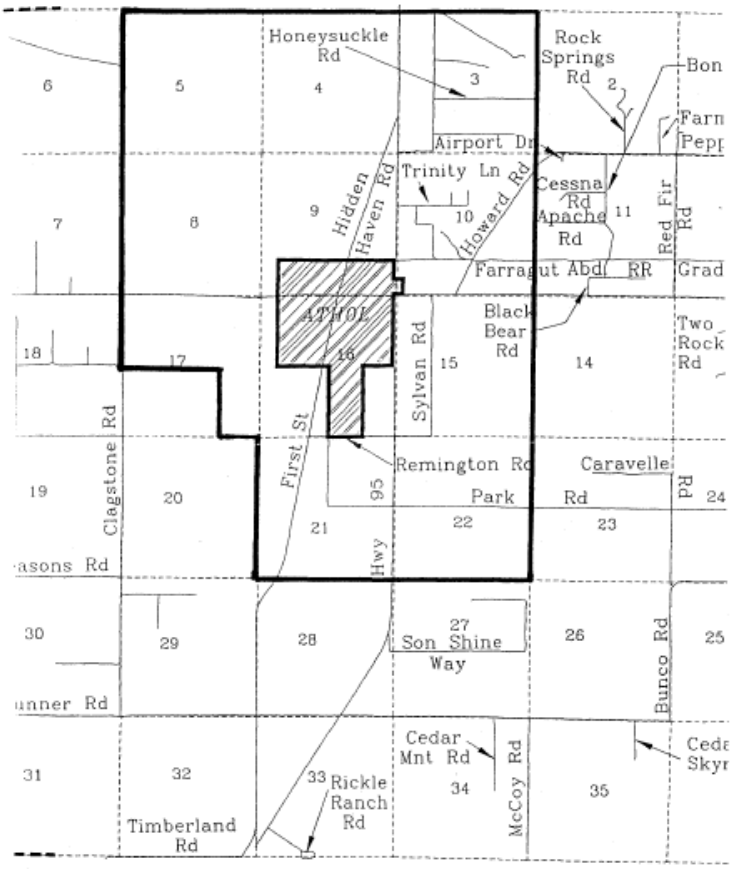
B. Legal Description. The Area of City Impact for the City of Athol is hereby legally described as follows:

All of the following land lying within Township 53 North, Range 3 West, Boise Meridian, Kootenai County, Idaho: Sections 3, 4, 5, 8, 9, 10, 15, 16, 21, 22, and the East One-Half (½) of the Southeast Quarter (¼), and the North One-Half (½), of Section 17.

C. Interpretation of Area of City Impact Boundary. In case a property under single ownership is divided by the boundary line of the Athol Area of City Impact and the line divides such property so that one or both of the parts has a depth of three hundred feet (300') or less, such part may be included in the jurisdiction within which the remainder and larger portion of the property is located.

D. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

Illustration 10-101
Athol Area of City Impact Map



Article 10.2 Coeur d'Alene

8.10.201: PURPOSE: The purpose of establishing the Coeur d'Alene Area of City Impact is to identify an urban fringe area in the unincorporated territory surrounding the City within which

there is potential for development or changes in land use that must be planned in an orderly and compatible manner in order to insure timely or economical provision of public services such as water supply, sanitary and storm sewage collection and treatment, public safety services, other community service facilities and to promote land use compatibility, street alignment and traffic flow objectives.

8.10.202: AREA OF CITY IMPACT DEFINED: The Area of City Impact shall consist of an area where development or use of land affects or may affect the City of Coeur d'Alene in consideration of trade areas, geographic factors and areas that can reasonably be expected to be annexed to the City in the future.

8.10.203: STANDARDS: Upon adoption by the City and County, the following standards shall apply whenever an agency, Planning and/or Zoning Commission, Hearing Examiner, or governing body of the City or County considers a zone change, comprehensive plan change, request for a special or conditional use permit, planned unit development, limited planned unit development, variance request or subdivision plat within the Area of City Impact.

A. Within the Area of City Impact, the following standards shall apply:

1. The subdivision regulations set forth in chapter 6 of this title, and provisions for future utility infrastructure set forth in Title 16 of the Coeur d'Alene Municipal Code;

2. City road widths and profiles found in Title 16 of the Coeur d'Alene Municipal Code, except that where improvement standards of the Associated Highway Districts differ from those of the City, the provisions imposing the highest level of improvements shall prevail;

3. The zoning regulations set forth in this title;

4. The stormwater management regulations set forth in chapter 7, article 7.1 of this title;

5. Except as set forth above, all other applicable standards set forth in this code; and

6. Except as set forth above, all other standards of applicable special districts having jurisdiction within the identified Area of City Impact.

B. Within unincorporated areas not in the Area of City Impact, only County standards shall apply.

8.10.204: ENFORCEMENT:

A. Kootenai County shall be responsible for the administration and enforcement of the County's ordinances listed in subsection A of section 8.10.203 of this article within the Area of City Impact, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, any development fees such as parkland dedication fees or other costs arising from fulfilling the terms of each ordinance or regulation.

B. The City of Coeur d'Alene and special districts shall be responsible for the administration and enforcement of their respective regulations listed in subsection A of section 8.10.203 of this article within the Area of City Impact, and shall receive all permit fees for inspections performed to

recapture direct costs of inspections, administration, legal publications, and any development fees such as parkland dedication fees or other costs arising from fulfilling the terms of each ordinance or regulation.

C. A certificate shall appear on the face of the final plat for execution by the City Engineer attesting to the plat's conformance with municipal infrastructure standards set forth in subsection A of section 8.10.203 of this article.

8.10.205: HEARING PROCEDURES WITHIN THE AREA OF CITY IMPACT:

A. All applications for subdivision plats and all other applications (e.g., zone change, comprehensive plan amendment, variance, conditional use, etc.) within the Area of City Impact shall be filed by the applicant with Kootenai County. All public hearings in the Area of City Impact shall be held only before the County.

B. It is the intent of this section that the processing of subdivisions be administered by the County, but with the inclusion of City infrastructure improvement standards, including but not limited to water, sewer, and roads. Unless expressly waived by the City, in accord with the City's deviation provisions, municipal infrastructure standards shall apply to all subdivisions in the Area of City Impact. In furtherance thereof, applicants for preliminary plat approval shall solicit comments and recommendations from the City of Coeur d'Alene in the same manner as they are required to solicit same from other agencies and districts.

C. Within the Area of City Impact, upon an application to the County to the County's Planning Commission for a zone change, comprehensive plan change, request for a special or conditional use permit, planned unit development, limited planned unit development, variance request, or similar land use request, the applicant shall provide written notice to the Coeur d'Alene City Clerk of any public hearing related to the application. The City shall have thirty (30) days after receipt of the notice but prior to any public hearing to comment on such application.

D. Within the unincorporated areas outside an Area of City Impact, the County will provide the City notice of any public hearing related to an application to the County or the County's Planning Commission for a zone change, comprehensive plan change, request for a special or conditional use permit, planned unit development, limited planned unit development, variance request, subdivision plat or similar land use request. The City shall have fifteen (15) days after receipt of the notice but prior to any public hearing to comment.

E. The City and the County may elect to jointly hear an application.

8.10.206: STANDARD AMENDMENT AND NOTICE:

A. Prior to amendment by the County of any provision set forth in subsection A of section 8.10.203 of this article which are applicable in the Area of City Impact, the County shall forward the proposed change to the City for review and comment at least thirty (30) days prior to the first public hearing at which such amendment will be considered.

B. Prior to amendment by the City of any provision set forth in paragraphs 1 or 2 of subsection A of section 8.10.203 of this article which are applicable in the Area of City Impact, the City shall

forward the proposed change to the County for review and comment at least thirty (30) days prior to the first public hearing at which such amendment will be considered.

8.10.207: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted Area of City Impact is hereby established and shown on the map entitled "Coeur d'Alene Area of City Impact" as set forth in Illustration 10-201 of this article.

B. Legal Description. The Area of City Impact for the City of Coeur d'Alene is hereby legally described as follows:

BEGINNING at the intersection of the south line of Section 15, Township 50 North, Range 4 West, Boise Meridian, and the westerly shoreline of Coeur d'Alene Lake;

THENCE, westerly along said south line to the southwest corner of said Section 15;

THENCE, northerly along the west line of said Section 15 to the west quarter corner thereof;

THENCE, easterly along the south line of the northwest quarter of said Section 15 to the southeast corner thereof;

THENCE, northerly along the east line of said northwest quarter to the north quarter corner of said Section 15;

THENCE, westerly along the north line of said Section 15 to the northwest corner thereof;

THENCE, westerly along the south line of Section 9, Township 50 North, Range 4 West, Boise Meridian to the southwest corner thereof;

THENCE, northerly along the west line of said Section 9 to the north shoreline of the Spokane River and a point on the Coeur d'Alene city limits;

THENCE, along said city limits as follows:

Westerly along the Spokane River to an angle point on said city boundary;

(NOTE: The following bearings are based on the Idaho State Plane Coordinate System, West Zone, NAD 83, 92 adj.)

THENCE, North 1º 25' 34" East, 773.15 feet to the south line of Maplewood Avenue being a point on a nontangent curve concave to the north having a radius of 5799.65 feet, a central of 5º 04'58", and a long chord that bears south 85º 06'16" east, 514.33 feet;

THENCE, along said south line and said curve 514.50 feet;

THENCE, North 0º 05'32" East, 100.00 feet to the north line of the Chicago, Milwaukee and St. Paul Railroad being a point on a nontangent curve concave to the north having a radius of 5699.65 feet, a central of 0º 12'36", and a long chord that bears South 87º 42'40" East, 20.90 feet;

THENCE, along said south line and said curve 20.90 feet;

THENCE, South 87º 55'39" East, 441.66 feet;

THENCE, North 0º 05’32" East, 446.48 feet;

THENCE, South 84º 47’58" East, 180.82 feet;

THENCE, North 0º 05'32" East, 360.00 feet to the south line of Reeves-Farrell Addition to Huetter, as per the plat recorded in Book "C” of Plats, Page 52, Records of Kootenai County;

THENCE, along said south line South 84º 47'58" East, 316.09 feet;

THENCE, along the east line of said Reeves-Farrell Addition to Huetter North 0º 03’12" West, 60.34 feet;

THENCE, North 89º 56'48" East, 102.63 feet;

THENCE, North 0º 03'12" West, 150.00 feet;

THENCE, South 89º 56’48" West, 102.63 feet;

THENCE, along the east line of said Reeves-Farrell Addition to Huetter North 0º 03’12" West, 81.85 feet to the south line of the abandoned Burlington Northern Railroad;

THENCE, along said south line South 73º 04’49” East to the west one-sixteenth line of Section 4, Township 50 North, Range 4 West, Boise Meridian;

THENCE, leaving said city boundary, northerly along said one-sixteenth line to the south right-of-way line of Interstate 90;

THENCE, northwesterly along said south line to the west line of said Section 4;

THENCE, northerly along said west line to the northwest corner of said Section 4, Township 50 North, Range 4 West, Boise Meridian;

THENCE, northerly along the west lines of Sections 33 and 28, Township 51 North, Range 4 West, Boise Meridian to the northwest corner of said Section 28;

THENCE, along the north lines of Sections 28, 27, and 26, Township 51 North, Range 4 West, Boise Meridian, to U.S. Highway 95 and the Hayden city limits;

THENCE, southerly along said city limits to the southwest corner thereof;

THENCE, easterly along the south line of the City of Hayden to the west line of Section 25, Township 51 North, Range 4 West, Boise Meridian;

THENCE, southerly along said west line and the west line of Section 36, Township 51 North, Range 4 West, Boise Meridian, to the west quarter corner of said Section 36;

THENCE, easterly along the east-west quarter line of said Section 36 to the east quarter corner of said Section 36;

THENCE, easterly along the east-west quarter lines of Sections 31 and 32, Township 51 North, Range 3 West, Boise Meridian, to the center quarter corner of said Section 32;

THENCE, southerly along the north-south quarter line of said Section 32 to the south quarter corner thereof;

THENCE, southerly along the north-south quarter line of Section 5, Township 50 North, Range 3 West, Boise Meridian, to the south quarter corner thereof;

THENCE, easterly along the south lines of Sections 5 and 4, Township 50 North, Range 3 West, Boise Meridian, to the southeast corner of said Section 4;

THENCE, southerly along the east lines of Sections 9, 16, 21, 28, 33, Township 50 North, Range 3 West, Boise Meridian to the southeast corner of said Section 33;

THENCE, southerly along the east line of Section 3, Township 49 North, Range 3 West, Boise Meridian, to the north shoreline of Coeur d'Alene Lake;

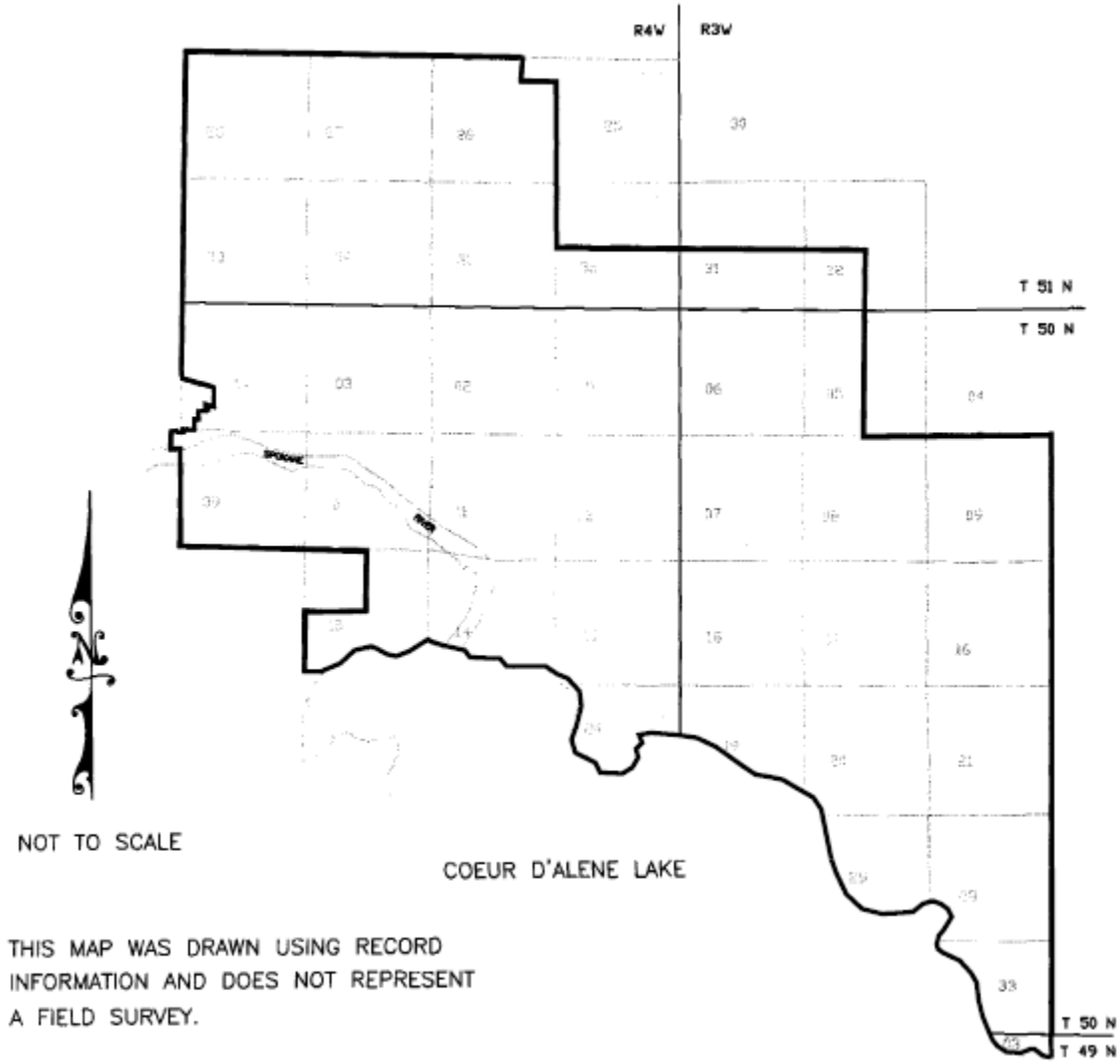
THENCE, along said shoreline in a northwesterly, westerly and southerly direction to the POINT OF BEGINNING.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

D. The Coeur d'Alene Area of City Impact shall be reevaluated by the City of Coeur d'Alene and Kootenai County at such times as they may agree upon to consider possible changes in the geographic area affected and/or other provisions of this article, including, but not limited to, applicable standards.

[Illustration 10-201 follows on next page]

Illustration 10-201
Coeur d'Alene Area of City Impact Map



Article 10.3 Dalton Gardens

8.10.301: PURPOSE: The purpose of establishing the Dalton Gardens Area of City Impact is to identify an urban fringe area adjoining the City of Dalton Gardens, Idaho. The urban fringe area is realizing, or will realize, growth and development pressures that must be planned and managed in an orderly fashion. The Area of City Impact recognizes trade areas, geographic factors, and the potential delivery of public services as being associated with the City of Dalton Gardens and comprised of areas that may reasonably be annexed to the City in the near and distant future.

8.10.302: COMPREHENSIVE PLAN: The Comprehensive Plan and subsequent amendments thereto as officially adopted by the County of Kootenai, Idaho shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho. The City of Dalton Gardens shall amend its Comprehensive Plan to be consistent with the Kootenai County Comprehensive Plan, if in conflict.

8.10.303: SUBDIVISION ORDINANCE: The subdivision regulations set forth in chapter 6 of this title and subsequent amendments thereto as officially adopted by the County of Kootenai, Idaho shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho. The subdivision regulations set forth in chapter 6 of this title shall also prevail over any City ordinances pertaining to the division of original parcels of record, plat amendments, lot line adjustments, minor subdivisions, short plats, or administrative lot splits.

8.10.304: ZONING ORDINANCE: The zoning regulations set forth in this title, zoning map, and subsequent amendments thereto, as officially adopted by the County shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho.

8.10.305: CODE AND ORDINANCE ADMINISTRATION AND ENFORCEMENT:

A. Kootenai County shall be responsible for the administration and enforcement of the Plan and ordinances listed in sections 8.10.302, 8.10.303 and 8.10.304 of this article, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, or other costs arising from fulfilling the terms of each ordinance or regulation.

B. Amendments to the Kootenai County Comprehensive Plan, requests for preliminary and final plats or the vacation thereof, requests for zone changes or any other type of development applications, with the exception of building permits or development applications for agricultural purposes, involving property located in the Area of City Impact within the unincorporated area of Kootenai County being proposed shall be reviewed by the City Council upon recommendation of the City Planning and Zoning Commission in accordance with titles 50 and 67, Idaho Code, who will give a recommendation to the County for approval, denial, or the placement of special conditions.

C. The City agrees not to annex any property outside of its established Area of City Impact, even if receiving a petition from such property owner, but reserves the right to renegotiate the Area of Impact boundaries in the future. This shall apply, with the exception of forty (40) feet south of the south boundary of the Dalton Gardens city limits, from 16th Street to 18th Street (right-of-way for Dalton Avenue). Upon a request for annexation within the Area of City Impact, the City agrees to notify the County and allow the County thirty (30) days to comment on such request.

D. Maintenance of public streets located in the Area of City Impact shall be the exclusive responsibility of the Lakes Highway District unless stipulated by written agreement between the Highway District and the City of Dalton Gardens.

E. The City of Dalton Gardens shall appoint a member on its Planning and Zoning Commission to represent the Area of City Impact. This representative shall reside within the Area of City Impact and shall be reappointed, upon any vacancy, by citizens also residing within the Area of City Impact.

8.10.306: RENEGOTIATION: The Area of City Impact Agreement shall be reviewed by the City of Dalton Gardens and Kootenai County at least once every five (5) years and shall be renegotiated at any time upon the request of either party hereto. Renegotiation shall begin thirty (30) days after written request by either the City or County and shall follow procedures for the original negotiation, as set forth in section 67-6526, Idaho Code.

8.10.307: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted and agreed upon "Area of City Impact for Dalton Gardens, Idaho" is established and shown on the map entitled "Dalton Gardens Area of City Impact" as set forth in Illustration 10-301 of this article.

B. Legal Description. The Area of City Impact for the City of Dalton Gardens is hereby legally described as follows:

BEGINNING at the point of intersection of the East right-of-way line of Government Way (a.k.a. Old U.S. Highway 95), and the East-West centerline of Section 36, Township 51 North, Range 4 West, Boise Meridian, Kootenai County, Idaho, said beginning point being 30 feet East of the West Quarter corner of said Section 36;

thence East along said East-West centerline of Section 36 and continuing along the East-West centerline of Section 31, Township 51 North, Range 3 West, Boise Meridian, to the East Quarter corner of said Section 31;

thence North along the East line of Sections 31 and 30, to the Northeast corner of the Southeast Quarter of the Northeast Quarter of Section 30 being a point on the southerly line of the Hayden Lake Recreational Water and Sewer District as defined in Exhibit B, Case No. 34668, First District Court, State of Idaho;

thence northwesterly and westerly along said line as follows:

West along the North line of said Southeast Quarter of the Northeast Quarter to the Northwest corner thereof;

thence North, 345 feet, more or less, along the East line of the Northwest Quarter of the Northeast Quarter of said Section 30;

thence North 89° 59'57" West, 475.00 feet (of record as West, parallel with the North line of said Section 30, a distance of 475 feet, more or less);

thence North 47° 00'03" West, 575.00 feet (of record as North 47° West, 575 feet, more or less);

thence South 86° 59'57" West, 150.00 feet (of record as South 87° West, 150 feet, more or less);

thence South 68° 42'25" West, 1660.00 feet (of record as South 66° West, 1657 feet, more or less) along the southerly line of WOODLAND HEIGHTS 5TH ADDITION, according to the plat on file in Book G of Plats at page 64, and said southerly line extended to the Northeast corner of Lot 7, Block 2, WOODLAND HEIGHTS, according to the plat on file in Book E of Plats at page 129;

thence along the northeasterly line of Block 2 of said WOODLAND HEIGHTS as follows:

South 82° 20'15" West, 52.47 feet;

thence North 83° 51'30" West, 158.91 feet;

thence North 64° 21'30" West, 415.97 feet;

thence North 49° 39'15" West, 647.74 feet, to the Northwest corner of Lot 1, said Block 2;

thence North 31° 28'59" West, 450.19 feet;

thence North 89° 29'17" West, 170.00 feet;

thence North 0° 46'08" West, 239.76 feet, to the North line of said Section 30;

thence North 89° 00'11" West, 30.0 feet along said North line to the corner common to Sections 24 and 25, Township 51 North, Range 4 West and said Sections 19 and 30, Township 51 North, Range 3 West;

thence North, 1139.26 feet along the West line of Section 19, Township 51 North, Range 3 West, Boise Meridian, to the Southwest corner of the Dalton Water Association tract;

thence along the southerly line of said tract as follows:

North 69° 20' East, 187.00 feet;

thence North 20° 40' West, 50.00 feet;

thence North 69° 20' East, 197 feet, more or less, to the North line of the Southwest Quarter of the Southwest Quarter of said Section 19;

thence West, 342 feet, more or less, along said North line to the Northwest corner of said Southwest Quarter of the Southwest Quarter;

thence South, 115.12 feet along the West line of said Section 19 and the East line of Section 24, Township 51 North, Range 4 West, Boise Meridian, to the Northeast corner of Tax Number 10001 (Book 82, page 933);

thence southwesterly along the northwesterly line of Tax Number 10001 as follows:

South 68° 28'06" West, 633.85 feet;

thence South 51° 52'34" West, 263.29 feet;

thence South 28° 47'04" West, 269.98 feet;

thence South 33° 08'44" West, 319.38 feet;

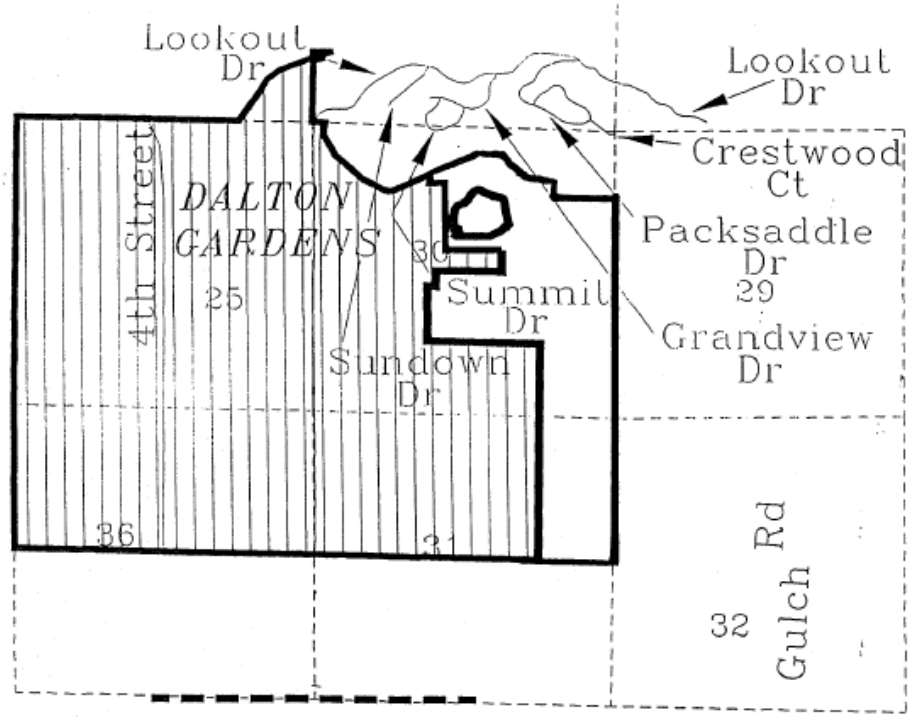
thence South 35° 06'49" West, 340.48 feet to the North line of Section 25;

thence along the North line of Section 25, Township 51 North, Range 4 West, Boise Meridian, to a point on the East right-of-way line of Government Way (a.k.a. Old U.S. Highway 95), said point being 30.00 feet East of the Northwest corner of said Section 25;

thence South along the East right-of-way line of U.S. Highway 95, to the POINT OF BEGINNING.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

Illustration 10-301
Dalton Gardens Area of City Impact Map



Article 10.4 Fernan

[Reserved]

Article 10.5 Harrison

8.10.501: PURPOSE: The purpose of establishing the Harrison Area of City Impact is to identify an urban fringe area adjoining the City of Harrison, Idaho. The urban fringe area is realizing, or will realize, growth and development pressures that must be planned and managed in an orderly fashion. The Area of City Impact recognizes trade area, geographic factors, and the potential delivery of public services as being associated with the City of Harrison and comprised of areas that may reasonably be annexed to the City in the near and distant future.

8.10.502: COMPREHENSIVE PLAN: The Comprehensive Plan and subsequent amendments thereto as officially adopted by the County of Kootenai, Idaho shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho. The City of Harrison shall amend its Comprehensive Plan to be consistent with the Kootenai County Comprehensive Plan, if in conflict.

8.10.503: SUBDIVISION ORDINANCE: The subdivision regulations set forth in chapter 6 of this title and subsequent amendments thereto as officially adopted by the County of Kootenai, Idaho shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho. The subdivision regulations set forth in chapter 6 of this title shall also prevail over any City ordinances pertaining to the division of original parcels of record, plat amendments, lot line adjustments, minor subdivisions, short plats, or administrative lot splits.

8.10.504: ZONING ORDINANCE: The zoning regulations set forth in this title, zoning map, and subsequent amendments thereto, as officially adopted by the County shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho.

8.10.505: REVIEW: The County acknowledges that the City of Harrison is currently working on a subdivision and zoning ordinance and may wish to reopen this agreement upon completion of those ordinances to review whether they should be applied within the Area of Impact.

8.10.506: CODE AND ORDINANCE ADMINISTRATION AND ENFORCEMENT:

A. Kootenai County shall be responsible for the administration and enforcement of the Plan and ordinances listed in sections 8.10.502, 8.10.503 and 8.10.504 of this article, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, or other costs arising from fulfilling the terms of each ordinance or regulation.

B. Amendments to the Kootenai County Comprehensive Plan, requests for preliminary and final plats or the vacation thereof, requests for zone changes or any other type of development applications, with the exception of building permits or development applications for agricultural purposes, involving property located in the Area of City Impact within the unincorporated area of Kootenai County being proposed shall be reviewed by the City Council upon recommendation of the City Planning and Zoning Commission in accordance with titles 50 and 67, Idaho Code, who will give a recommendation to the County for approval, denial, or the placement of special conditions.

C. The County shall notify the City within twenty (20) days of receiving an application for development of any type within the Area of City Impact. Copies of such application shall be

forwarded to the City with notification. The City shall return a recommendation within thirty (30) days of receipt of the application but at least fifteen (15) days prior to any public hearing set for the matter. The City agrees to return a response, even if they have no comment on the application, to acknowledge receipt of the application. If no acknowledgement is received within the time period, the County agrees to confirm that notice was received by the City.

D. The City agrees not to annex any property outside of its established Area of City Impact, even if receiving a petition from such property owner, but reserves the right to renegotiate the Area of Impact boundaries in the future. Upon a request for annexation within the Harrison Area of City Impact, the City agrees to notify the County and allow the County thirty (30) days to comment on such request. The County agrees to return a response even if they have no comment on the application. If no acknowledgement is received within the time period, the City agrees to confirm that notice was received by the County.

E. Maintenance of public streets located in the Area of City Impact shall be the exclusive responsibility of the East Side Highway District unless stipulated by written agreement between the Highway District and the City of Harrison.

F. Law enforcement and fire protection services in the Area of City Impact shall be the exclusive responsibility of Kootenai County, the East Side Fire Protection District, and the St. Maries Rural Fire District unless otherwise stipulated by written agreement between the County and/or Fire District and the City of Harrison.

G. The City of Harrison shall appoint a member on its Planning and Zoning Commission to represent the Area of City Impact. This representative shall reside within the Area of City Impact and shall be reappointed, upon any vacancy, by citizens also residing within the Area of City Impact.

8.10.507: RENEGOTIATION: The Area of City Impact Agreement shall be reviewed by the City of Harrison and Kootenai County at least once every five (5) years and shall be renegotiated at any time upon the request of either party hereto. Renegotiation shall begin thirty (30) days after written request by either the City or County and shall follow procedures for the original negotiation, as set forth in section 67-6526, Idaho Code.

8.10.508: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted and agreed upon "Area of City Impact for Harrison, Idaho" is established and shown on the map entitled "Harrison Area of City Impact" as set forth in Illustration 10-501 of this article.

B. Legal Description. The Area of City Impact for the City of Harrison is hereby legally described as follows:

BEGINNING at the southern Municipal boundary at the City of Harrison, where it intersects the high water mark of Coeur d'Alene Lake (Elevation 2128 feet);

THENCE, westerly in a straight line from that point to the point where the Section line between Sections 34 and 35, Township 48 North, Range 4 West Boise Meridian, intersects the high water mark of Coeur d'Alene Lake;

THENCE, following said Section line north until it intersects with the centerline of Bell Bay Road;

THENCE, easterly along the centerline of Bell Bay Road until it intersects the centerline of State Highway 97;

THENCE, southeasterly on State Highway 97 until it intersects the north south half section line of Section 30, Township 48 North, Range 4 West Boise Meridian;

THENCE, easterly along said half section line to the east section line of said Section 30;

THENCE, southerly along said section line and continuing south along the east section line of Section 31, Township 48 North, Range 4 West Boise Meridian, to the southeast corner of Section 31;

THENCE, continuing south on the east section line of Section 6, Township 47 North, Range 4 West Boise Meridian, until it intersects with the center line of Skyline Drive;

THENCE, southeasterly along the center line of Skyline Drive, to the center line of State Highway 97;

THENCE, easterly along the center line of State Highway 97 to the center line of Manifold Road;

THENCE, southerly along the center line of Manifold Road, until it intersects the north south half section line of Section 8, Township 47 North, Range 4 West Boise Meridian,

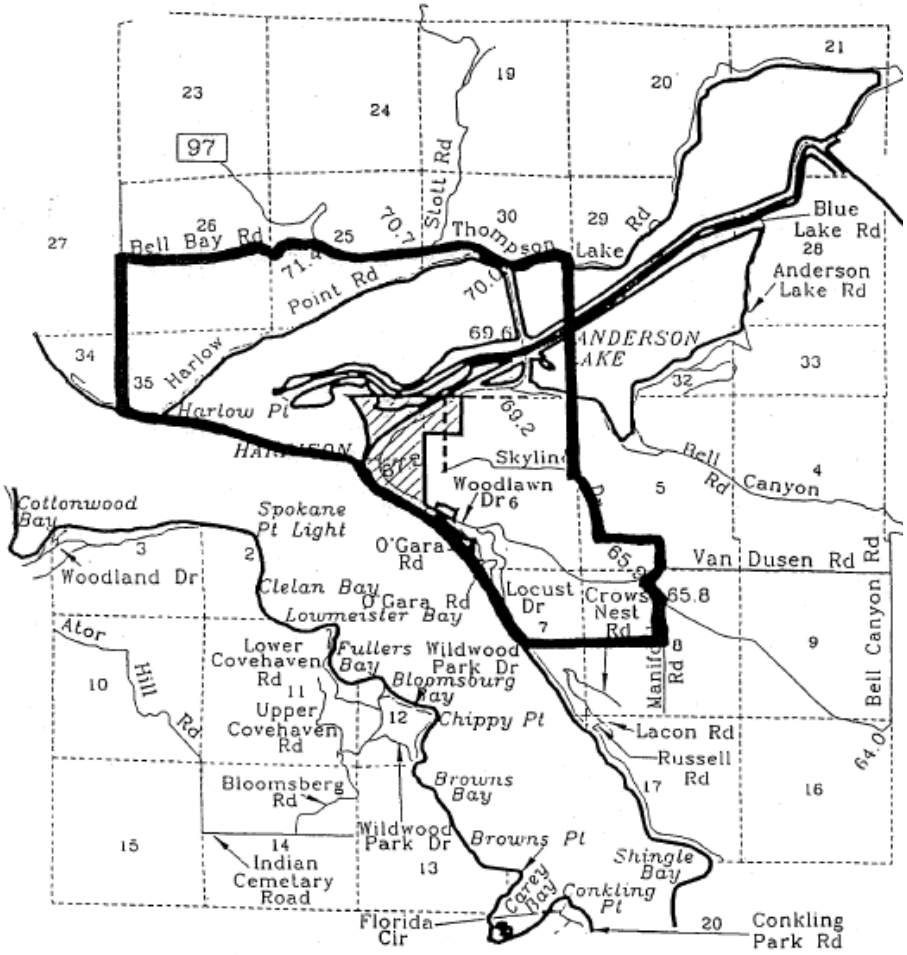
THENCE, westerly along said half section line, and continuing west along the half section line of Section 7, Township 47 North, Range 4 West Boise Meridian, until it intersects the mean high water mark of Coeur d'Alene Lake;

THENCE, northwesterly along said high water mark to the southern Municipal boundary of the City of Harrison, which is the POINT OF BEGINNING.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

[Illustration 10-501 follows on next page]

Illustration 10-501
Harrison Area of City Impact Map



Article 10.6 Hauser

8.10.601: PURPOSE: The purpose of establishing the Hauser Area of City Impact is to identify an urban fringe area adjoining the City of Hauser, Idaho. The urban fringe area is realizing, or will realize, growth and development pressures that must be planned and managed in an orderly fashion. Trade area, geographic factors (such as the watershed), and areas that may reasonably be annexed to the City in the near future were factors taken into consideration in defining the Area of City Impact.

8.10.602: GOALS: The City of Hauser and Kootenai County adopt the following goals as their intent for the Area of City Impact:

A. The City of Hauser and Kootenai County desire to adopt an Area of City Impact to enhance and encourage planned, orderly growth and development where urban services can be most efficiently and economically provided.

B. The City of Hauser and Kootenai County desire to preserve and enhance the quality of life within the Area of City Impact.

C. The City of Hauser and Kootenai County recognize a mutual intent to protect the Hauser Lake watershed area.

D. The City of Hauser and Kootenai County recognize a mutual intent to protect the investments of both present and future property owners in the Area of City Impact and to minimize the disruptive impacts of uncoordinated growth upon those property owners.

E. The City of Hauser and Kootenai County recognize a mutual intent to make efficient use of local tax dollars through the policies encouraging development within the Area of City Impact.

8.10.603: APPLICABLE PLAN AND DEVELOPMENT STANDARDS:

A. Comprehensive Plan. The Hauser Comprehensive Plan and subsequent amendments thereto as officially adopted by the City of Hauser, and the procedures herein shall apply to the Area of City Impact.

B. Development Code. The City of Hauser Development Code and subsequent amendments thereto as officially adopted by the City and the procedures herein shall apply to all Class II permits, as defined by the City of Hauser Development Code, to all proposals within the Area of City Impact. Application for individual residential building permits for legally created parcels existing at the time of adoption of this article [November 1, 1999], or exempt by this subsection shall be made to the County. All Class II permits, as defined by the City of Hauser's Development Code, shall be submitted to the City of Hauser for review in accordance with the procedures established in section 8.10.604 of this article. The City and the County shall have signature authority on the plat, with the exception of the following:

1. The division of original parcels of record (parcels created prior to May 14, 1974);

2. Existing approved County subdivisions and plats;

3. Plat amendments to existing approved County subdivisions that do not propose an increase in the number of lots; and

4. Lot line adjustments within currently approved County subdivisions or plats.

The County's Subdivision Ordinance shall prevail over any City Development Codes or Ordinances pertaining to paragraphs (1) through (4) above and do not require the review or approval of the City.

C. Conditional Zoning Development Agreements. County approved conditional zoning development agreements adopted prior to the effective date of this article [November 1, 1999]

shall continue as agreed upon by the agreement signed by the Kootenai County Board of Commissioners. Any proposed amendments to said development agreement shall be made to the Joint Planning Commission to ensure compliance with the applicable standards of this article.

8.10.604: ADMINISTRATION PROCEDURES: The Board of County Commissioners and City of Hauser hereby authorize adoption of additional permit procedures incorporated by reference herein.

A. Permit Procedures. All development proposals that require a Class II permit, as defined in the Hauser Development Code, shall first be submitted to the Code Administrator for the City of Hauser for review in accordance with the procedures established in Chapter III, Division 2(J) of the Hauser Development Code, with exceptions related to the composition and appointment of Planning Commission members and appeal procedures specified herein. All required application submittals made to the City will be forwarded to the County by the City Code Administrator within three (3) days of acceptance by the City.

B. Joint Planning and Zoning Commission Established. For proposals within the Hauser Area of City Impact, the Planning Commission shall consist of seven (7) members, hereinafter referred to as the "Joint Commission." Two (2) members of the Joint Commission shall reside within city limits; three (3) members shall reside within the Area of City Impact outside the City of Hauser, and two (2) members shall be Planning Commission members from the County. Commissioners that reside outside city limits shall be appointed by consent of the Board of County Commissioners.

C. Authority of the Joint Commission.

1. With the exception of subdivisions of land, as defined by the Hauser Development Code, and requests for amendments to the Development Code and/or Comprehensive Plan, all decisions related to Class II permits shall be final, unless otherwise appealed in accordance with this article.

2. Review and decisions by the Joint Commission relating to subdivisions or requests for amendments to the Development Code and/or Comprehensive Plan shall be made in the form of a recommendation to the Board of County Commissioners and City Council for a combined review and final decision of the Board of County Commissioners.

D. Decisions of the Board of County Commissioners.

1. Decisions relating to subdivisions, as defined by the Hauser Development Code, amendments to the Development Code, and/or Comprehensive Plan amendments situated in the Hauser Area of City Impact require an affirmative decision by the BOCC. The BOCC shall take due notice of the recommendation of the Joint Commission.

2. Final decisions related to subdivisions or amendments to the Development Code and/or Comprehensive Plan, in the Area of City Impact outside city limits, shall be made by the Board of County Commissioners in accordance with the procedures established in the Hauser Development Code and this article.

E. Appeals from Decisions of the Joint Commission.

1. Appeals of decisions of the Joint Commission, with the exception of subdivisions and requests for amendments to the Development Code and/or Comprehensive Plan, shall be made to a joint Board of County Commissioners and City Council, hereinafter the "Joint Board."

2. The Joint Board shall consist of the Board of County Commissioners and two City Council members, which may include the mayor.

3. The Board of County Commissioners and members of the City Council with duties described herein shall act as the appellate body for final decisions rendered by the Joint Commission except those excluded in paragraph (C)(1) of this section.

4. City elected officials, acting in the capacity of members of the Joint Board, shall not have the authority to make motions or vote in regards to the approval or denial of a development proposal, or content of conditions placed upon a project proposal, or amendments to the applicable plan and development standards.

5. The role of city elected officials is limited to an advisory capacity to the Board of County Commissioners. City members of the Joint Board will have the ability to make inquiries of the project proponents and opponents during the public hearing, confer with the Board of County Commissioners prior to final decisions of the Board of County Commissioners during the public hearing process and provide evidence and testimony to the Board of County Commissioners in relation to compliance or noncompliance of a proposal with the Hauser Comprehensive Plan and Development Code.

8.10.605: ANNEXATION:

A. Annexation by the City of Hauser shall be limited to those lands lying within the Area of City Impact and being contiguous to the city limits of Hauser.

B. Upon annexation, the provisions of this article, which is the agreement between the City of Hauser and Kootenai County, shall no longer apply to the annexed area.

C. Upon receiving a request for annexation within the Area of City Impact, the City agrees to notify the County and allow the County thirty (30) days to comment on such request prior to any public hearing on the request.

8.10.606: RENEGOTIATION: In accordance with section 67-6526(d), Idaho Code, the City of Hauser or Kootenai County may request in writing to renegotiate any provision of this agreement at any time. Within thirty (30) days of receipt of such request by wither party, a meeting between the two jurisdictions shall occur. While renegotiation is occurring, all then-current provisions of this article shall remain in effect until an ordinance is adopted which amends or replaces any of the provisions of this article is adopted by the City of Hauser and Kootenai County in accordance with the notice and hearing procedures provided in Title 67, Chapter 65, Idaho Code, or until a declaratory judgment from the District Court is final. Provided, however, that the provisions of this article, or any stipulated portions thereof, shall be of no further force or effect if both jurisdictions so agree in writing.

8.10.607: DEVELOPMENT INTENSITY:

A. All development within the Hauser Area of City Impact shall comply with the standards set forth in Table 10-601 of this article.

B. For purposes of this section, "impervious coverage" shall include, without limitation, rooftops, paved, graveled and otherwise compacted roads, parking areas, sidewalks, and all other surfaces that effectively prevent infiltration into the ground or significantly accelerate runoff.

Table 10-601
Development Intensity Standards

Zoning District	Residential, Commercial and Industrial uses		Residential Uses
	Maximum Impervious Coverage	**Development Rights**	**Minimum Lot Size**
Upper Watershed	Stream corridor 0%	1:160	5 acres
	Wetlands 0%		
	0-8% slopes 35%		
	9-20% slopes 25%		
	21-30% slopes 15%		
	30% slopes or greater 0%		
Lake Village	Lakeshore or stream corridor 0%	1:5	1 acre 0.5 acres in clusters
	Wetlands 0%		
	0-8% slopes 35%		
	9-20% slopes 25%		
	21-30% slopes 15%		
	30% slopes or greater 0%		
Hauser Hills	Stream corridor 0%	1:5	1 acre 0.5 acres in clusters
	Wetlands 0%		
	0-8% slopes 35%		
	9-20% slopes 25%		
	21-30% slopes 15%		
	30% slopes or greater 0%		
Highway Corridor	Stream corridor 0%	Residential uses are allowed as an accessory use only	
	0-8% slopes 60%		
Rathdrum Prairie	Stream corridor 0%	Residential uses are allowed as an accessory use only	
	0-8% slopes 60%		

8.10.608: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted and agreed upon "Area of City Impact for Hauser, Idaho" is established and shown on the map entitled "Hauser Area of City Impact" as set forth in Illustration 10-602 of this article.

B. Legal Description. The Area of City Impact for the City of Hauser is hereby legally described as follows:

Commencing at the Northwest Corner of Government Lot 4 of Section 25 (Township 51 North, Range 6 West), said point being the REAL POINT OF BEGINNING,

thence along the northerly line of said Government Lot 4, the northerly line of the South ½ of the East ½ of the Southwest ¼ and the northerly line of the South ½ of the Southeast ¼ of said Section 25 and its easterly projection thereof East a distance of 4700 feet, more or less, to a point on the southerly line of Bonneville Power Administration, Washington Water Power and Pacific Gas and Transmission easements as they cross Section 30 (Township 51 North, Range 5 West),

thence leaving said easterly projection along the southerly line of said easements northeasterly a distance of 4600 feet, more or less, to a point on the southerly line of the North ½ of the Northeast ¼ of said Section 30,

thence leaving said southerly easement line along said southerly line East a distance of 1400 feet, more or less, to the Southeast Corner of said North ½,

thence leaving said southerly line along the easterly line of said Section 30 a distance of 1320 feet, more or less, to a point on the Northeast Corner of said section 30, also being the Northwest Corner of Section 29 (Township 51 North, Range 5 West),

thence leaving said easterly line along the northerly line of said Section 29 a distance of 2640 feet, more or less, to a point on the North ¼ Corner of said Section 29,

thence leaving said northerly line along the North-South Center of Section line of Section 20 (Township 51 North, Range 5 West) North a distance of 4550 feet, more or less, to a point on the center line of State Highway 53,

thence leaving said North-South Center of Section along said center line northeasterly a distance of 3500 feet, more or less, to a point on the easterly line of Section 17 (Township 51 North, Range 5 West),

thence leaving said center line along the easterly line of said Section 17 North a distance of 1600 feet to a point,

thence leaving said easterly line South 70 degrees 32 minutes West a distance of 590 feet,

thence North 32 degrees 36 minutes West a distance of 1570 feet,

thence South 77 degrees 59 minutes West a distance of 1065 feet,

thence North 52 degrees 49 minutes West a distance of 2140 feet,

thence North 7 degrees 48 minutes West a distance of 945 feet,

thence North 21 degrees 49 minutes West a distance of 495 feet,

thence North 21 degrees 59 minutes West a distance of 1095 feet, more or less, to a point on the southerly end of Saddle Ridge,

thence along said Saddle Ridge the following courses:

North 38 degrees 47 minutes West a distance of 775 feet,

thence North 1 degree 50 minutes West a distance of 800 feet, more or less, to a point on the easterly line of said Section 6 (Township 51 North, Range 5 West),

thence leaving said Ridge along said easterly line North a distance of 435 feet,

thence leaving said easterly line and continuing along said Ridge North 34 degrees 26 minutes East a distance of 1240 feet,

thence North 49 degrees 07 minutes East a distance of 1525 feet,

thence North 11 degrees 33 minutes East 1242 feet,

thence North 22 degrees 10 minutes East 792 feet,

thence North 11 degrees 54 minutes West a distance of 331 feet, more or less, to a point on the northerly line of Section 5 (Township 51 North, Range 5 West),

thence leaving said Ridge along the northerly line of said Section 5 West a distance of 2500 feet, more or less, to the Northeast Corner of said Section 5, also being the Southeast Corner of Section 31 (Township 52 North, Range 5 West),

thence leaving the northerly line of said Section 5 along the easterly line of said Section 31 North a distance of 5280 feet, more or less, to the Northeast Corner of said Section 31, said Corner being on the southerly line of Section 30 (Township 52 North, Range 5 West),

thence leaving said easterly line along the southerly line of said Section 30, East a distance of 250 feet, more or less, to the Southeast Corner of said Section 30,

thence leaving said southerly line along the boundary of said Section 30 the following courses:

North a distance of 5280 feet, more or less, to the Northeast Corner of said Section 30,

thence West a distance of 5280 feet, more or less, to the Northwest Corner of said Section 30,

thence South 5280 feet, more or less, to the Southwest Corner of said Section 30 being also the Northwest Corner of Section 31 (Township 52 North, Range 5 West),

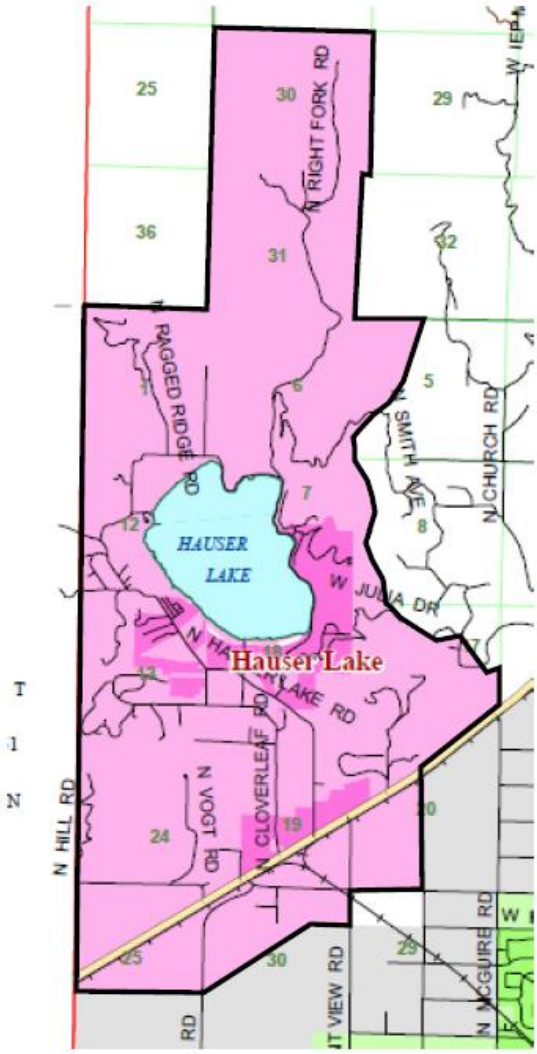
thence leaving the boundary of said Section 30 along the westerly line of said Section 31 South a distance of 5280 feet, more or less, to the Southwest Corner of said Section 31 being also the Northeast Corner of Section 1 (Township 51 North, Range 6 West),

thence leaving the westerly boundary of said Section 31 along the northerly boundary of said Section 1, West a distance of 4400 feet, more or less, to a point on the westerly boundary of the State of Idaho,

thence leaving the northerly line of said Section 1 along said westerly boundary South a distance of 22,910 feet, more or less, to the Northwest Corner of Government Lot 4 of said Section 25 (Township 51 North, Range 6 West), said point being the REAL POINT OF BEGINNING.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

Illustration 10-602
Hauser Area of City Impact Map



Article 10.7 Coordinated Area of City Impact (Hayden, Post Falls, Rathdrum)

8.10.701: RECITALS OF PREMISES OF COOPERATION:

WHEREAS, Kootenai County and the cities of Rathdrum, Post Falls and Hayden are mutually facing the pressures and benefits of shared growth; and

WHEREAS, each of these public agencies shares jurisdiction regarding development and management of public services and facilities on lands within parts of the Rathdrum Prairie; and

WHEREAS, the Rathdrum Prairie has provided a land resource for private development that has added to the geographic area of the cities of Rathdrum, Post Falls and Hayden; and

WHEREAS, the Rathdrum Prairie Aquifer has served as a source of clean, available water to sustain life, health and economic development; and

WHEREAS, the Rathdrum Prairie has traditionally supplied open spaces that contribute to the overall quality of life upon and around it environs; and

WHEREAS, development of private lands on the Rathdrum Prairie has been subject to planning and regulation by one or more of the public agencies referenced above; and

WHEREAS, continued political pressure and ongoing litigation are challenging the viability of current agricultural practices, and owners of agricultural lands are seeking viable options for their future; and

WHEREAS, a regional approach to serving the Rathdrum Prairie with cooperative wastewater disposal options would be prudent and worthy of further study; and

WHEREAS, such cooperation among the parties may result in an area-wide wastewater master plan that includes the potential for land application of treated wastewater, thereby enabling options to sustain agriculture or to preserve open space on parts of the Rathdrum Prairie; and

WHEREAS, continuing agriculture on the Prairie holds significant potential to aid in preserving green space that will otherwise be lost if an affordable means for preservation cannot be found; and

WHEREAS, each of the parties hereto recognizes the need to protect the common water resource and to integrate means of transportation and provision of other public services in developing areas; and

WHEREAS, the parties recognize that the rate of urbanization for the communities that are a party to this Agreement will be different from one community to another; and

WHEREAS, Idaho law provides tools to allow the cooperation of counties and cities in public planning and implementation; and

WHEREAS, since the adoption of the Area of City Impact Agreements and Ordinances for the cities of Rathdrum, Post Falls and Hayden there have been significant changes while growth

continues to be strong and sustained, thereby supporting amendment of the current Area of City Impact Agreements for the cities; and

WHEREAS, the parties share common goals and desire to engage in a shared, cooperative effort to chart a meaningful intergovernmental plan and implementation strategy for the Rathdrum Prairie.

NOW, THEREFORE, the parties hereto agree that a Coordinated Area of City Impact Agreement for the cities of Rathdrum, Post Falls and Hayden is hereby adopted with the following terms and conditions.

8.10.702: EFFECTIVE DATE: This Agreement/Ordinance shall be effective with respect to Kootenai County and each respective city referenced herein upon the latter day of the date of publication of this ordinance after passage or the date of publication of a companion ordinance enacted by each cooperating city. This ordinance establishing Area of City Impact requirements for each of the respective cities referenced herein shall not become effective with respect to each respective city until said city passes and publishes an Area of City Impact Ordinance consistent with the provisions of this ordinance

8.10.703: TERM; EARLY TERMINATION: The term of this Agreement/Ordinance shall be for a period of five (5) years from the initial effective date set forth above. The parties further agree to begin renegotiation of their respective Area of City Impact Agreements no later than three and one-half (3½) years after the initial effective date set forth above. If the parties are unable to agree upon a replacement for this Agreement/Ordinance within five (5) years from its initial effective date, this Agreement/Ordinance shall remain in full force and effect with each party thereafter authorized to seek a two-party Area of City Impact Agreement with Kootenai County that would supersede this Agreement with respect to that city. Any participating city that elects to terminate participation as set forth herein prior to expiration of the five-year term, or before mutual agreement upon a superseding cooperative agreement, whichever comes first, shall be entitled to fifteen (15) days' notice of any special use, subdivision or rezoning proposals within an area one-half (½) mile from its corporate boundary as such boundary existed on the initial effective date of this ordinance. Otherwise, regular county standards and procedures would apply.

8.10.704: TWO-TIERED AREA OF CITY IMPACT: The parties agree that the Area of City Impact for each of the cities signatory hereto shall consist of two tiers.

A. Exclusive Tier. The first tier of the Area of City Impact shall be an area exclusive to each respective city as set forth in a companion ordinance to enacted concurrently with this ordinance as depicted on the reference map set forth in Illustration 10-701 of this article. The parties agree that the exclusive tier geographic area may be modified for any individual city after consultation among all parties and showing that community development needs would best be addressed by such modification. Any such subsequent modification shall require concurrence by the respective city councils of each cooperating city.

B. Shared Tier. The shared tier shall constitute the balance of the Rathdrum Prairie that is not within the corporate limits of any other city and not within an exclusive Area of City Impact of any other city established by this ordinance or of any other city established by prior ordinance and located within the area enclosed by the Washington state line to the west, Highway 53 to the north,

Highway 95 to the east, and Interstate 90 to the South that is not within the Exclusive Tier of Area of City Impact. The Shared Tier shall be managed jointly by the parties to this Agreement in accordance with the terms and conditions set forth in this ordinance.

8.10.705: APPLICABLE REGULATIONS WITHIN AREAS OF CITY IMPACT: The following regulations shall be applicable in the respective tiers of Area of City Impact for each of the signatory cities:

A. Exclusive Tier.

1. The County agrees to apply infrastructure and subdivision development standards identical to those from the respective cities to all development within the exclusive tier of Area of City Impact.

2. The County agrees that no new subdivisions or re-subdivision of existing large lot developments will be allowed unless the development will be served by municipal sewer and the sewer system installed is continued to the exterior property boundaries of the subdivision in the direction where subsequent development is likely to occur.

3. The County agrees to zone land within the exclusive tier at a density that will be compatible with the respective cities' comprehensive plan. Said obligation will not require any change to existing zoning.

4. The County agrees to require all development to use public sewer and public water systems and to meet the fire flow requirements of the respective cities or of the International Fire Code.

B. Shared Tier:

1. The County agrees, for the duration of this Agreement, that County will not hereafter rezone Agricultural zoned land to any other zone unless Kootenai County provides at least thirty (30) days notice to each of the cooperating cities prior to the initial public hearing concerning a rezoning request. If any party to this agreement expresses concerns or objections to a proposed rezoning of land currently zoned Agricultural, the Board of County Commissioners agrees it will not approve any such rezoning request unless it makes an express finding that the proposed rezone will not adversely affect the provision of or potential for provision of public wastewater collection and treatment to the lands that are the subject of the rezoning application or to lands that would be collaterally affected thereby.

2. County agrees not to allow special/conditional use permits within any zone except in accordance with the notice and finding procedures provided above.

8.10.706: COMPREHENSIVE STUDIES: The parties agree to promptly embark upon cooperative comprehensive studies of wastewater collection and disposal, transportation and circulation, and open space preservation within the first three (3) years of this Agreement. These studies shall culminate in an array of options for wastewater collection and treatment, open space preservation and roadway and pathway designation and responsibility.

8.10.707: IMPLEMENTATION OF STUDIES: Upon completion of the studies, the parties shall enter into negotiations, pursuant to section 8.10.703 of this article, to provide a long-term Area of City Impact Agreement, either shared or independent, to supersede this Agreement.

8.10.708: LIMITATION ON ANNEXATION: The parties agree that during the term of this Agreement that no annexation of land within the Shared Tier will occur without the concurrence of all of the cities that are a party to this Agreement. Such concurrence shall be provided unless an objective planning concern addressed by this ordinance is invoked. The Board of County Commissioners agrees to attempt to mediate any such dispute concerning annexation and the respective cities agree to accept their efforts in this regard.

8.10.709: GEOGRAPHIC AREA:

A. Establishment; Precedence. The geographical areas to be included within each tier of the ACI shall be as set forth in the legal descriptions contained in this section and the map contained in Illustration 10-701 of this article. In the event of any conflict between any legal description and the map, the legal description shall take precedence.

B. Legal Descriptions – Exclusive Tiers. The exclusive tiers of Area of City Impact for the respective cities are hereby described as follows:

1. Exclusive Tier for the City of Hayden. Lands not within the City limits of the City of Hayden, but situated within the following legal description, shall fall within the exclusive Area of City Impact for the City of Hayden.

The exclusive tier for the City of Hayden shall consist of all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, and 23, Township 51 North, Range 4 West Boise Meridian; a part of Sections 24, 25, and 26, Township 51 North, Range 4 West Boise Meridian; and a part of Sections 7, 19, and 30, Township 51 North, Range 3 West Boise Meridian, Kootenai County, Idaho; more particularly described as follows:

BEGINNING at the Southwest corner of said Section 21, Township 51 North, Range 4 West B.M., being the intersection of Huetter Road and Prairie Avenue;

THENCE East along the South lines of said Sections 21, 22, and 23 to the Easterly right-of-way line of U.S. Highway 95 in said Section 23;

THENCE South 5° 51' West, 630 feet, more or less, along said Easterly right-of-way line to Highway right-of-way monument P.T. 153+44.70;

THENCE 347.38 feet along said Easterly right-of-way line on the arc of a 28,537.9 foot radius curve left, said curve having a chord bearing South 5° 28'06" West, 347.38 feet to the Northerly right-of-way line of Aqua Avenue;

THENCE South 88° 57'32" East, 1275.35 feet along said Northerly right-of-way line to its intersection with the Westerly right-of-way line of Government Way (a.k.a. Old Highway 95);

THENCE continuing South 88° 57'32" East, 60.00 feet, and leaving said Westerly right-of-way line to the Easterly right-of-way line of said Government Way and the Westerly line of the City of Dalton Gardens;

THENCE North 1° 04'06" East, 989.24 feet (of record as North) along said Easterly right-of-way line and the Northerly projection thereof, and said Westerly line of the City of Dalton Gardens to a point on the South line of said Section 24 on the centerline of Prairie Avenue, said point also being the Northwest corner of the City of Dalton Gardens;

THENCE East 3930.00 feet, more or less, along the South line of said Section and the Northerly line of the City of Dalton Gardens to the East 1/16 section corner common to said Sections 24 and 25;

THENCE along the Northwesterly boundary of that certain right-of-way easement granted from Charles Finucane and Marion Finucane to the Dalton Gardens Irrigation District on the 13th day of March, 1954, as Instrument Number 284140, records of said County, and described as follows:

A strip of land 11 feet in width situated in the Southeast Quarter of Section 24, Township 51 North, Range 4 West Boise Meridian, Kootenai County, Idaho, the centerline of said strip of land being parallel with and 12 feet to the left of the following described line:

BEGINNING at the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section 24;

North 34° 44' East, 750.0 feet;

thence North 31° 20' East, 241.4 feet;

thence along a curve to the right, 190.0 feet;

thence North 69° 20' East, 618.6 feet to a point on the East line of said Southeast Quarter of Section 24, said point being 129.0 feet South of the Northeast corner of the Southeast Quarter of the Southeast Quarter of Section 24, all in Kootenai County, Idaho;

THENCE South (from said point, being 129.0 feet South of the Northeast corner of the SE 3 of the SE 3 of said section, which point is also North 47° 41’00" East, 1740.97 feet from the East 1/16 section corner common to said Sections 24 and 25), along the East line of said Section 24 to the corner common to said Sections 24 and 25, Township 51 North, Range 4 West and said Sections 19 and 30, Township 51 North, Range 3 West;

THENCE South 89° 00’11" East, 30.0 feet along the North line of said Section 30;

THENCE South 0° 46'08" East, 239.76 feet;

THENCE South 89° 29'17" East, 170.0 feet;

THENCE South 31° 28'59" East, 450.19 feet to the Northwest corner of Lot 1, Block 2, WOODLAND HEIGHTS, according to the plat on file in Book E of Plats at page 129;

THENCE traversing the northerly line of Block 2 of said WOODLAND HEIGHTS, as follows:

South 49° 39’15" East, 647.74 feet;

thence South 64° 21'30" East, 415.97 feet;

thence South 83° 51'30" East, 158.91 feet;

thence North 82° 20'15" East, 52.47 feet to the Northeast corner of Lot 7, Block 2 of said Plat;

THENCE leaving said plat of WOODLAND HEIGHTS, North 68° 42’25" East, 1660.00 feet (of record as North 66° East, 1657 feet, more or less) along the Southerly line of WOODLAND HEIGHTS 5th ADDITION, according to the plat on file in Book G of Plats at page 64, and said Southerly line extended;

THENCE North 86° 59'57" East, 150.00 feet (of record as North 87° East, 150 feet, more or less);

THENCE South 47° 00'03" East, 575.00 feet (of record as South 47° East, 575 feet, more or less);

THENCE South 89° 59'57" East, 475.00 feet (of record as East, parallel with the North line of said Section 30, a distance of 475 feet, more or less), to a point on the East line of the NW 3 of the NE 3 of said Section 30, said point being South 0° 10'56" East, 975.00 feet from the Northeast corner of said NW 3 of the NE 3;

THENCE South, along the East line of said NW 3 of the NE 3 to the Southeast corner thereof;

THENCE East along the South line of the NE 3 of the NE 3 of said Section 30, to the Southeast corner thereof;

THENCE North along the East line of said NE 3 of the NE 3 to the Northeast corner of said Section 30 (corner to said Sections 19, 20, 29, and 30);

THENCE North along the East line of said Section 19 to the shoreline of Hayden Lake;

THENCE Westerly, Northerly, and Easterly along the mean high water line of Hayden Lake to the Southeast corner of Tax Number 1560, according to Book 91 of Deeds at page 514;

THENCE West along the Southerly line of said Tax Number, also being along the Southerly line of the Village of Hayden Lake, according to said Book 91 of Deeds at page 514, and also being along said Southerly line extended to the Westerly right-of-way line of Chalet Road;

THENCE Northerly along said Westerly right-of-way line to the Southerly line of a parcel recorded in Book 76 of Deeds at page 425, as Instrument Number 16016;

THENCE West along said Southerly line, parallel with the North line of the NW 3 of said Section 19, a distance of 1265.9 feet, more or less, to the West line of said NW 3;

THENCE North along said West line to the Northwest corner of said Section 19, at Hayden Avenue;

THENCE North along the East lines of said Sections 13 and 12 to the 3 section corner common to said Section 12, Township 51 North, Range 4 West, and said Section 7, Township 51 North, Range 3 West, being on the centerline of Strahorn Road;

THENCE North 0° 03'45" East, 770.8 feet along the West line of the NW 3 of said Section 7 and also being the centerline of Strahorn Road;

THENCE Northeasterly along said centerline to the North line of said Section 7;

THENCE West along the North line of said Section 7 to the Northwest corner thereof (corner to said Sections 1, 12, 6, and 7);

THENCE North along the East line of said Section 1 to the Northeast corner thereof (corner common to Sections 1, 6, 31, and 36);

THENCE West along the North line of said Section 1 and the North lines of Sections 2, 3, and 4, Township 51 North, Range 4 West Boise Meridian, to the Northwest corner of said Section 4;

THENCE South along the West line of Sections 4, 9, 16, and 21, Township 51 North, Range 4 West Boise Meridian, to the Southwest corner of said Section 21, the POINT OF BEGINNING.

2. Exclusive Tier for the City of Post Falls. Lands not within the City limits of the City of Post Falls, but situated within the following legal description, shall fall within the exclusive Area of City Impact for the City of Post Falls.

The exclusive tier for the City of Post Falls shall consist of all of Sections 25, 26, 27, 28, 32, 33, 34, 35, and 36, Township 51 North, Range 5 West Boise Meridian; a part of Sections 22, 23, 24, and 31, Township 51 North, Range 5 West Boise Meridian; all of Sections 19, 29, 30, 31, and 32, Township 51 North, Range 4 West Boise Meridian; all of Sections 5 and 6, Township 50 North, Range 4 West Boise Meridian; that part of Sections 7 and 8, Township 50 North, Range 4 West Boise Meridian lying North of the Spokane River; all of Sections 1, 2, and 6, Township 50 North, Range 5 West Boise Meridian; part of Sections 3, 4, 5, 7, 8, 11, and 12, Township 50 North, Range 5 West Boise Meridian; and part of Sections 1 and 12, Township 50 North, Range 6 West Boise Meridian, Kootenai County, Idaho; more particularly described as follows:

BEGINNING at the Northwest corner of Section 28, Township 51 North, Range 5 West, Boise Meridian;

THENCE Easterly along the North section line to the Northeast corner of said Section 28, also being the Southwest corner of Section 22, Township 51 North, Range 5 West;

THENCE Northerly along the West section line of the Southwest quarter of Section 22 to the West quarter corner of said section;

THENCE Easterly along the north line of the South ½ of said Section 22, to the east quarter corner;

THENCE continuing Easterly along the north line of the South ½ of Sections 23 and 24 to the east quarter corner of said Section 24;

THENCE continuing Easterly along the North line of the Southwest ¼ of Section 19, Township 51 North, Range 4 West, to the center of said section;

THENCE Southerly along the East line of the Southwest ¼ of Section 19 to the South quarter corner of said section;

THENCE Easterly along the North section line of Section 30 and Section 29, Township 51 North, Range 4 West, to the Northeast corner of said Section 29;

THENCE Southerly along the centerline of Huetter Road to the Southeast corner of Section 5, Township 50 North, Range 4 West;

THENCE Southerly along the East line of Section 8, Township 50 North, Range 4 West, to a point on the North bank of the Spokane River;

THENCE Westerly along the North bank of the Spokane River and existing city limits to a point on the East right-of-way line of Spokane Street where it meets the river;

THENCE Southerly along the East side of the Spokane Street bridge across the Spokane River and along the East line of Spokane Street to the north side of Park Way Drive, also being the North line of Section 10, Township 50 North, Range 5 West;

THENCE Westerly along the North line of Section 10, Township 50 North, Range 5 West, to the Northwest corner of said section;

THENCE Northerly along the East line of Section 4, Township 50 North, Range 5 West, to a point on the South bank of the South channel of the Spokane River;

THENCE Westerly along the South bank of the South channel of the Spokane River to the main channel and continuing Westerly along the centerline of the Spokane River to the Washington State line;

THENCE Northerly along the Washington State line to a point on the South right-of-way line of Seltice Way;

THENCE Northeasterly along the Southeast boundary of the City of Stateline to where it intersects with the North right-of-way line of Seltice Way;

THENCE Easterly along Seltice Way to a point that is the Northwest corner of the Northeast quarter of the Northeast quarter of Section 6, Township 50 North, Range 5 West;

THENCE Northerly to a point that is the Northwest corner of the Northeast quarter of the Northeast quarter of Section 31, Township 51 North, Range 5 West;

THENCE Easterly along the North section line of Sections 31 and 32, Township 51 North, Range 5 West, to the Northeast corner of said Section 32;

THENCE Northerly along the West section line of Section 28, Township 51 North, Range 5 West, to the Northwest corner of said Section, being the POINT OF BEGINNING.

3. Exclusive Tier for the City of Rathdrum. Lands not within the City limits of the City of Rathdrum, but situated within the boundaries of the following described area, shall fall within the exclusive Area of City Impact for the City of Rathdrum.

The exclusive tier for the City of Rathdrum shall consist of all of Sections 5 and 6, and portions of Sections 2, 7, 8 and 10, Township 51 North, Range 4 West, Boise Meridian, together with all of Sections 1, 11 and 12, Township 51 North, Range 5 West, Boise Meridian, together with all of Sections 19, 29, 30, 31 and 32, and portions of Sections 20 and 21, Township 52 North, Range 4 West, Boise Meridian, together with all of Sections 23, 24, 25, 26, 35 and 36, Township 52 North, Range 5 West, Boise Meridian, all in Kootenai County, Idaho, and being more particularly described as follows:

BEGINNING at the Southwest corner of Section 10, Township 51 North, Range 5 West;

THENCE along the West line of said Section 10, Northerly, 790 feet, more or less, to the centerline of State Highway No. 53, as it now exists;

THENCE along the centerline of State Highway No. 53, as it now exists, Northeasterly, 13,220 feet, to a point of intersection with the Southerly extension of the East boundary line of that parcel of land described in the Warranty Deed recorded as Instrument No. 1715425, hereinafter referred to as the "1715425 Parcel";

THENCE along said East boundary line of said "1715425 Parcel", Northerly, 430.37 feet, more or less, to the Northeast corner thereof;

THENCE Northerly, 564.88 feet, more or less, to the Southwest corner of Block 1, of the plat of "Raging Bull", recorded in Book J of Plats, Page 141;

THENCE along the West boundary line of said Block 1, Northerly, 375.88 feet, more or less, to an angle point in said Block 1;

THENCE continuing along said West boundary line of Block 1, Westerly, 150 feet, more or less, to an angle point;

THENCE continuing along said West boundary line of Block 1, Northerly, 868.36 feet, more or less, to the Northwest corner thereof;

THENCE along the Northerly extension of said West boundary line of Block 1, being coincidental with the West boundary line of that parcel of land described in the document recorded as Instrument No. 1417172, Northerly, 108.46 feet, more or less, to a point of intersection with the North line of the Southeast Quarter of the Southeast Quarter of Section 35, Township 52 North, Range 5 West;

THENCE along said North line of the Southeast Quarter of the Southeast Quarter of Section 35, Easterly, 809.92 feet, more or less, to the Northeast corner thereof, on the East line of said Section 35;

THENCE along said East line of Section 35, Northerly, 3,960 feet, more or less, to the Northeast corner thereof, being coincidental with the Southeast corner of Section 26, Township 52 North, Range 5 West;

THENCE along the North line of said Section 35, being coincidental with the South line of said Section 26, Westerly, 5,280 feet, more or less, to the Northwest corner of said Section 35, being coincidental with the Southwest corner of said Section 26;

THENCE along the West line of Section 26, Township 52 North, Range 5 West, Northerly, 5.280 feet, more or less, to the Northwest corner thereof;

THENCE along the North line of said Section 26, being coincidental with the South line of Section 22, Township 52 North, Range 5 West, Easterly, to the Southeast corner of said Section 22, being coincidental with the Southwest corner of Section 23, Township 52 North, Range 5 West;

THENCE along the West line of said Section 23, Northerly, 5,280 feet, more or less, to the Northwest corner thereof;

THENCE Easterly along the North line of said Section 23 and Section 24, Township 52 North, Range 5 West;

THENCE continuing Easterly along the North line Section 19, Township 52 North, Range 4 West to the Northeast corner thereof;

THENCE Southerly along the East line of the Northeast quarter of said Section 19 to the East quarter corner thereof, being also the West quarter corner of said Section 20;

THENCE Easterly along the North line of the Southwest quarter of said Section 20, to the center quarter thereof;

THENCE along the North line of the Southeast quarter of said Section 20 to the East quarter corner thereof, being also the West quarter corner of Section 21 of said Township 52 North, Range 4 West;

THENCE along the North line of the Southwest quarter of said Section 21, a distance of 2,100 feet, more or less, to a point on the northerly line of the Burlington Northern Santa Fe right-of-way;

THENCE along said right-of-way southwesterly a distance of 2,850 feet, more or less, to a point on the West line of Section 21, being also the East line of Section 20;

THENCE along the West line of Section 21, being also the East line of Section 20 a distance of 750 feet, more or less, to the Southwest corner of Section 21, being also the Southeast corner of Section 20;

THENCE southerly along the East line of Section 29 and Section 32 to the Southeast corner thereof;

THENCE Southerly along the East line of said Section 5, to the Southeast corner thereof, being also the Northeast corner of Section 8 of Township 51 North, Range 4 West;

THENCE Southerly along the East line of the Northeast quarter of said Section 8, to the East quarter corner thereof;

THENCE Westerly along the South line of said Northeast quarter of Section 8 to the center quarter thereof;

THENCE along the South line of the Northwest quarter of said Section 8, to the West quarter corner thereof, being also the Southeast corner of the Northeast quarter of Section 7, Township 51 North, Range 4 West;

THENCE along the South line of the Northeast quarter of said Section 7, to the center quarter corner thereof;

THENCE Southerly along the East line of the Southwest Quarter of said Section 7 to the South quarter corner thereof;

THENCE Westerly along the South line of said Southwest Quarter of Section 7, to the Southwest corner thereof;

THENCE continuing Westerly along the South line of Sections 12, 11, and 10 to the Southwest corner of said Section 10, Township 51 North, Range 5 West; being the TRUE POINT OF BEGINNING.

4. Line of Demarcation – City of Rathdrum. The Line of Demarcation for the City of Rathdrum lies within or adjacent to portions of Sections 19 and 30, Township 52 North, Range 4 West, and also portions of Sections 25, 35 and 36, Township 52 North, Range 5 West, and also a portion of Section 2, Township 51 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, said Line of Demarcation being more particularly described as follows:

BEGINNING at the Southeast corner of that parcel of land described in the Warranty Deed recorded as Instrument No. 1715425, located upon the Northerly line of the Right-of-Way for State Highway No. 53, as it now exists;

THENCE along said Northerly line of the Right-of-Way for State Highway No. 53, 4700 feet, more or less, to a point of intersection with the East line of the Southwest Quarter of Section 36, Township 52 North, Range 5 West;

THENCE along said East line of the Southwest Quarter of Section 36 and the West line of the Northeast Quarter of said Section 36, Northerly, 3150 feet, more or less, to the Northwest corner of said Northeast Quarter of Section 36, being coincidental with the Southwest corner of the Southeast Quarter of Section 25, Township 52 North, Range 5 West;

THENCE along the South line of said Section 25, Easterly, 1320 feet, more or less, to the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section 25;

THENCE along the West line of said Southeast Quarter of the Southeast Quarter of said Section 25, Northerly, 1320 feet, more or less, to the Northwest corner thereof;

THENCE along the North line of said Southeast Quarter of the Southeast Quarter of Section 25, Easterly, 1320 feet, more or less, to the Northeast corner thereof, on the East line of said Section 25, being coincidental with the West line of Section 30, Township 52 North, Range 5 West;

THENCE along said West line of Section 30, Northerly, 1320 feet, more or less, to the Southwest corner of the West Half of the Northwest Quarter of said Section 30;

THENCE along the South line of said West Half of the Northwest Quarter of said Section 30, Easterly, 1320 feet, more or less, to the Southeast corner thereof;

THENCE along the East line of said West Half of the Northwest Quarter of said Section 30, Northerly, to the Northwest corner of the parcel of land described in the Quitclaim Deed recorded as Instrument No. 1539659, said parcel being the South 660 feet of the North 868.71 feet of the Northeast Quarter of the Northwest Quarter of said Section 30 and being hereinafter referred to as the "1539659 Parcel";

THENCE along the North boundary line of said "1539659 Parcel", Easterly, 1320 feet, more or less, to the Northeast corner thereof, on the East line of said Northeast Quarter of the Northwest Quarter of Section 30;

THENCE along said East line of said Northeast Quarter of the Northwest Quarter of Section 30, and along the West line of the Southwest Quarter of the Southeast Quarter of Section 19, Township 52 North, Range 4 West, Northerly, 1320 feet, more or less, to the Northwest corner of said Southwest Quarter of the Southeast Quarter of Section 19;

THENCE along the North line of said Southwest Quarter of the Southeast Quarter of Section 19, Easterly, 1320 feet, more or less, to the Northeast corner thereof, being coincidental with the Southwest corner of the Northeast Quarter of said Southeast Quarter of Section 19;

THENCE along the West line of said Northeast Quarter of said Southeast Quarter of Section 19, Northerly, 1320 feet, more or less, to the Northwest corner thereof;

THENCE along the North line of said Northeast Quarter of said Southeast Quarter of Section 19, Easterly, 1320 feet, more or less, to the Northeast corner thereof, located on the East line of said Section 19, and being the Terminus of the described Line of Demarcation.

C. Legal Description – Shared Tier. The shared tier shall generally constitute the balance of the Rathdrum Prairie that is not within the corporate limits of any other city and not within an exclusive Area of City Impact of any other city established by this Ordinance or of any other city established by prior Ordinance and located within the area enclosed by the Washington State line to the west, Highway 53 to the North, Highway 95 to the East, and Interstate 90 to the South that is not within the Exclusive Tier of Area of City Impact. The Shared Tier is more particularly described as follows:

The shared tier for this Area of City Impact shall consist of all of Sections 17, 18, and 20, Township 51 North, Range 4 West; a portion of Sections 7, 8, and 19, Township 51 North, Range 4 West; all of Sections 13, 14, 15, and 21, Township 51 North, Range 5 West; a portion of Sections 16, 17, 20, 22, 23, 24, 30, and 31, Township 51 North, Range 5 West; all of Section 36 and a portion of Section 25, Township 51 North, Range 6 West; a portion of Section 6, Township 50 North, Range 5 West Boise Meridian; and a portion of Section 1, Township 50 North, Range 6 West Boise Meridian, Kootenai County, Idaho; more particularly described as follows:

BEGINNING at the Southeast corner of said Section 20, Township 51 North, Range 4 West B.M., being the intersection of Huetter Road and Prairie Avenue;

THENCE Northerly along the East section line of Sections 20, and 17, Township 51 North, Range 4 West, to the Northeast corner of said Section 17;

THENCE continuing Northerly along the east line of the Southeast quarter of Section 8, Township 51 North, Range 4 West, to the East quarter corner of said Section 8;

THENCE Westerly along the North line of the South ½ of Section 8 to the West quarter corner thereof, being also the Northeast corner of the Southeast quarter of Section 7, Township 51 North, Range 4 West;

THENCE continuing Westerly along the North line of the Southeast quarter of said Section 7, to the center quarter corner thereof;

THENCE Southerly along the East line of the Southwest Quarter of said Section 7 to the South quarter corner thereof;

THENCE Westerly along the South line of said Southwest Quarter of Section 7, to the Southwest corner thereof;

THENCE continuing Westerly along the South line of Sections 12, 11, and 10 to the Southwest corner of said Section 10, Township 51 North, Range 5 West;

THENCE continuing Westerly along the North line of Section 16, Township 51 North, Range 5 West, to a point on the center line of State Highway 53;

THENCE Southwesterly along the center line of State Highway 53 to a point on the East section line of Section 17, Township 51 North, Range 5 West;

THENCE continuing along the center line of State Highway 53 to a point on the South section line of Section 17, Township 51 North, Range 5 West;

THENCE continuing along the center line of State Highway 53 to a point on the North-South center section line of Section 20, Township 51 North, Range 5 West;

THENCE Southerly on the North-South center section line of said section 20, 4550 feet, more or less, to the South quarter corner of said section;

THENCE continuing Southerly along the East line of the North ½ of the Northwest ¼ of Section 29, Township 51 North, Range 5 West to the Southeast corner of said North ½ of the Northwest ¼;

THENCE Westerly along the South line of said North ½ of the Northwest ¼ of Section 29 to the southwest corner of said North ½ of the Northwest ¼;

THENCE continuing Westerly along the South line of the North ½ of the Northeast ¼ of Section 30 a distance of 1400 feet, more or less, to a point on the Southerly line of Bonneville Power Administration, Avista (a.k.a. Washington Water Power), and Pacific Gas and Transmission easements as they cross Section 30, Township 51 North, Range 5 West;

THENCE Southwesterly along the Southerly line of said easements a distance of 4600 feet, more or less, to a point on the West section line of Section 30, also being the Northeast corner of the South ½ of the Southeast ¼ of Section 25, Township 51 North, Range 6 West;

THENCE Westerly along the North line of said South ½ of the Southeast ¼ of Section 25;

THENCE continuing Westerly along the North line of the South ½ of the Southwest ¼ of said Section 25 to a point on the Idaho State line;

THENCE Southerly along the State line to the Northwest corner of the City of Stateline;

THENCE Northerly and Easterly along the North boundary of the City of Stateline to where it intersects with the North right-of-way line of Seltice Way;

THENCE Easterly along Seltice Way to a point that is the Northwest corner of the Northeast quarter of the Northeast quarter of Section 6, Township 50 North, Range 5 West;

THENCE Northerly to a point that is the Northwest corner of the Northeast quarter of the Northeast quarter of Section 31, Township 51 North, Range 5 West;

THENCE Easterly along the North section line of Section 31, Township 51 North, Range 5 West, to the Northeast corner of said Section 31;

THENCE Easterly along the North section line of Section 32, Township 51 North, Range 5 West, to the Northeast corner of said Section 32;

THENCE Northerly along the West section line of Section 28, Township 51 North, Range 5 West, to the Northwest corner of said Section;

THENCE Easterly along the North section line to the Northeast corner of said Section 28, also being the Southwest corner of Section 22, Township 51 North, Range 5 West;

THENCE Northerly along the West section line of the Southwest quarter of Section 22 to the West quarter corner of said section;

THENCE Easterly along the North line of the South ½ of said Section 22, to the East quarter corner;

THENCE continuing Easterly along the North line of the South ½ of Sections 23 and 24 to the East quarter corner of said Section 24;

THENCE continuing Easterly along the North line of the Southwest ¼ of Section 19, Township 51 North, Range 4 West, to the center of said section;

THENCE Southerly along the East line of the Southwest ¼ of Section 19 to the South quarter corner of said section;

THENCE Easterly along the North section line of Section 30 and Section 29, Township 51 North, Range 4 West, to the Northeast corner of said Section 29, said corner also being the Southeast corner of Section 20, Township 51 North, Range 4 West B.M., the intersection of Huetter Road and Prairie Avenue and the POINT OF BEGINNING.

D. Map: The Exclusive Tier Areas of City impact for the cities of Hayden, Post Falls and Rathdrum, and the Shared Tier as described in this article, shall be as set forth in Illustrations 10-701 through 10-704 of this article.

[Illustrations 10-701 through 10-704 follow beginning on next page]

Illustration 10-701
Coordinated Area of City Impact Map

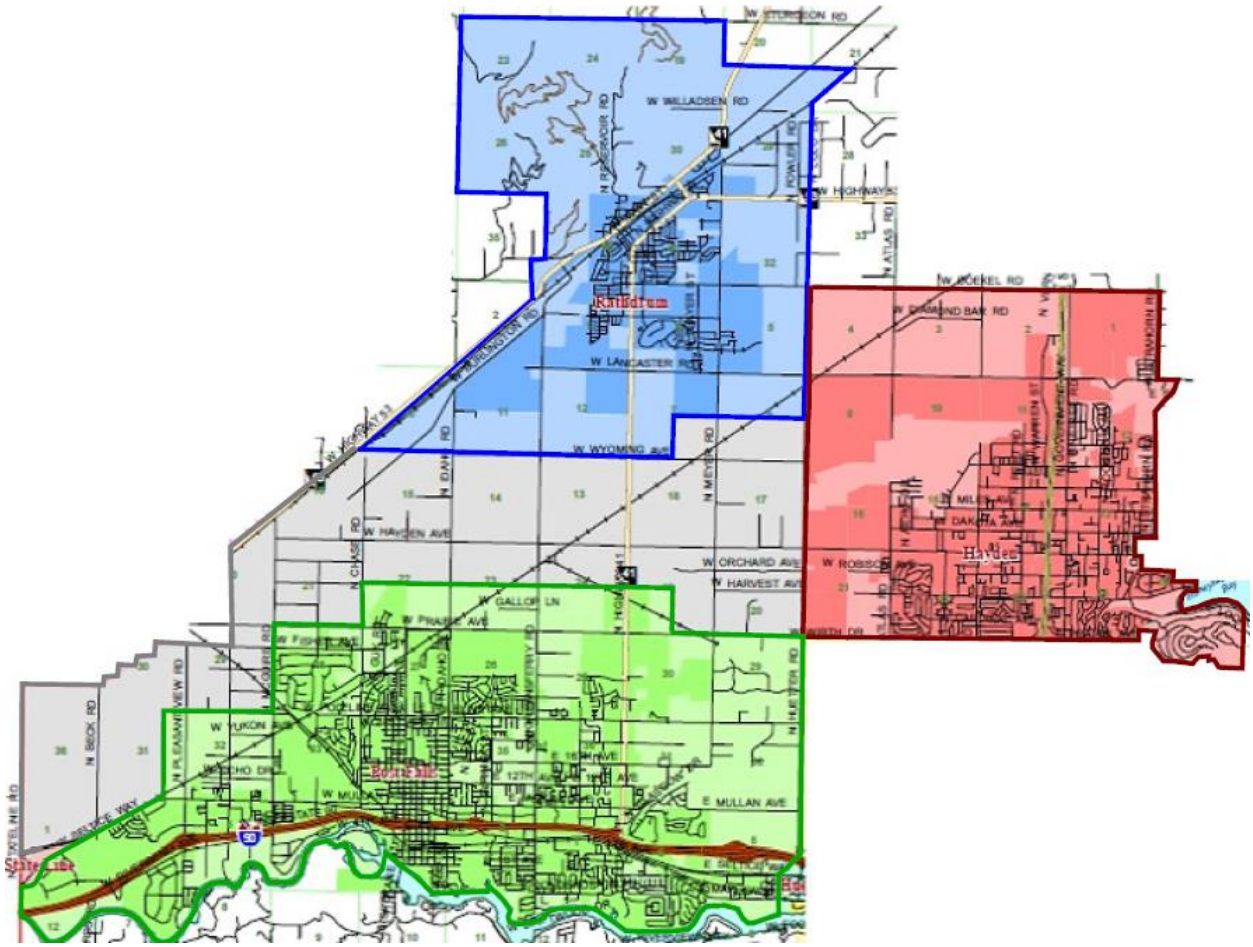


Illustration 10-702
Rathdrum Exclusive Tier

Showing Line of Demarcation

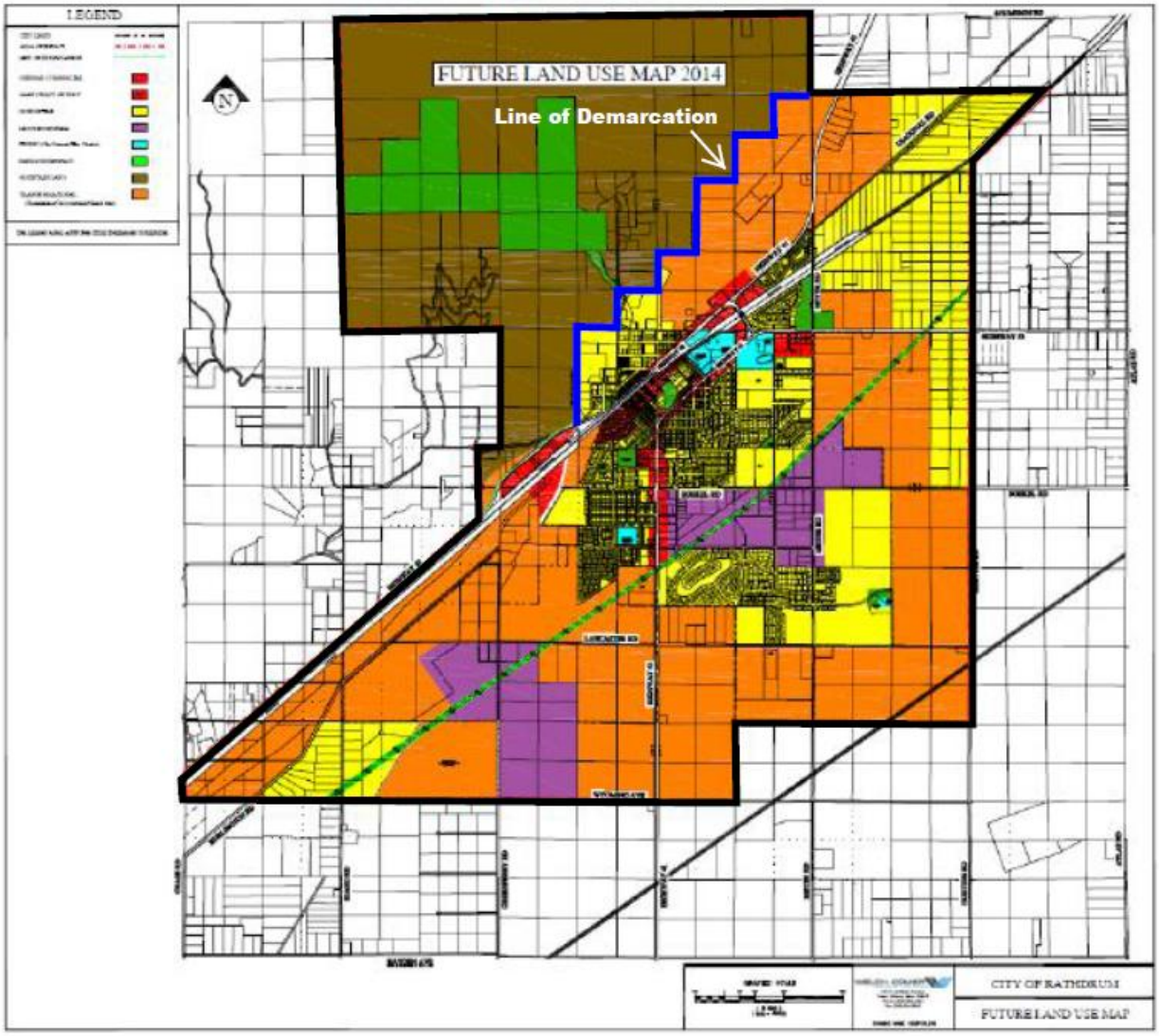


Illustration 10-703
Post Falls Exclusive Tier and Shared Tier

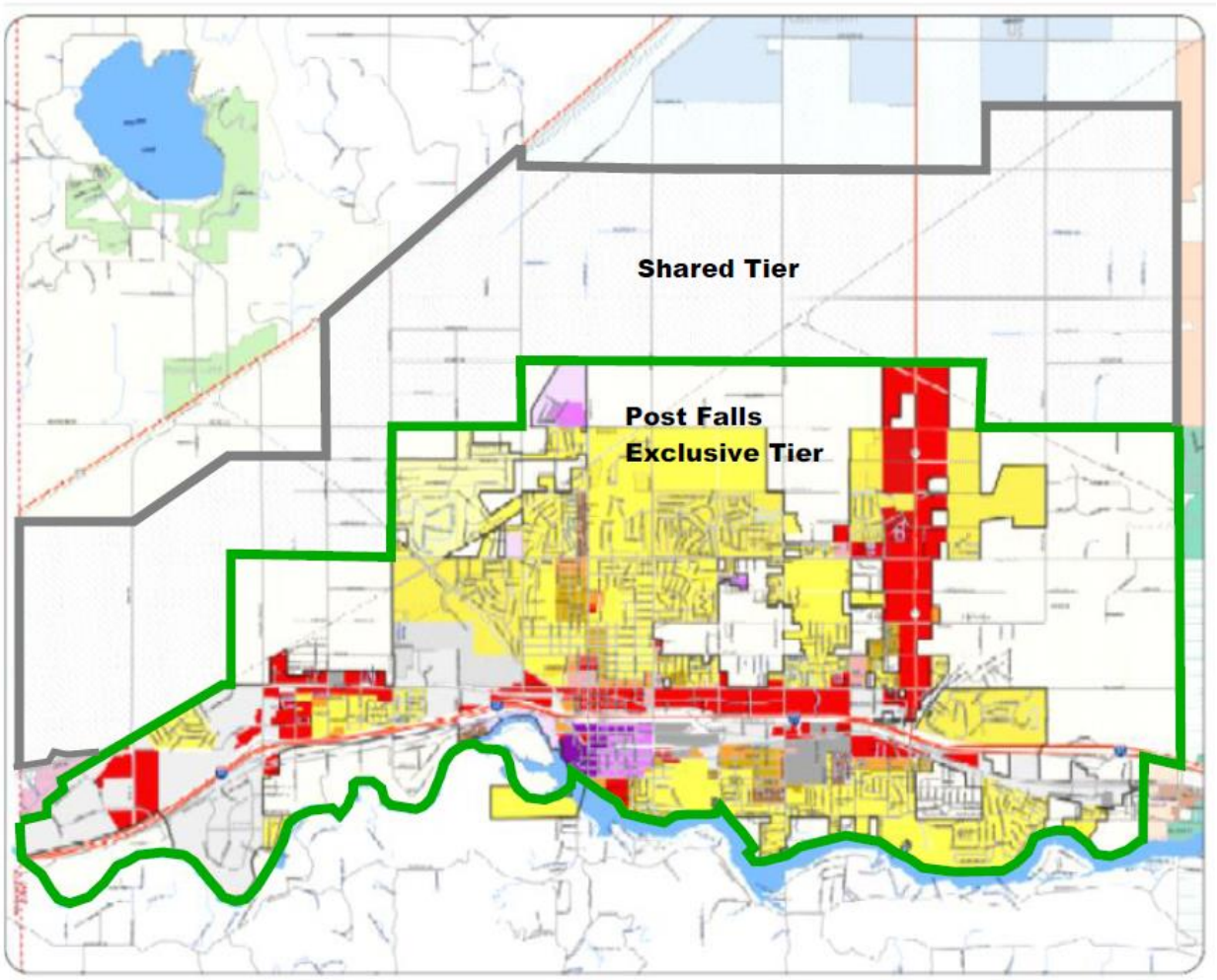
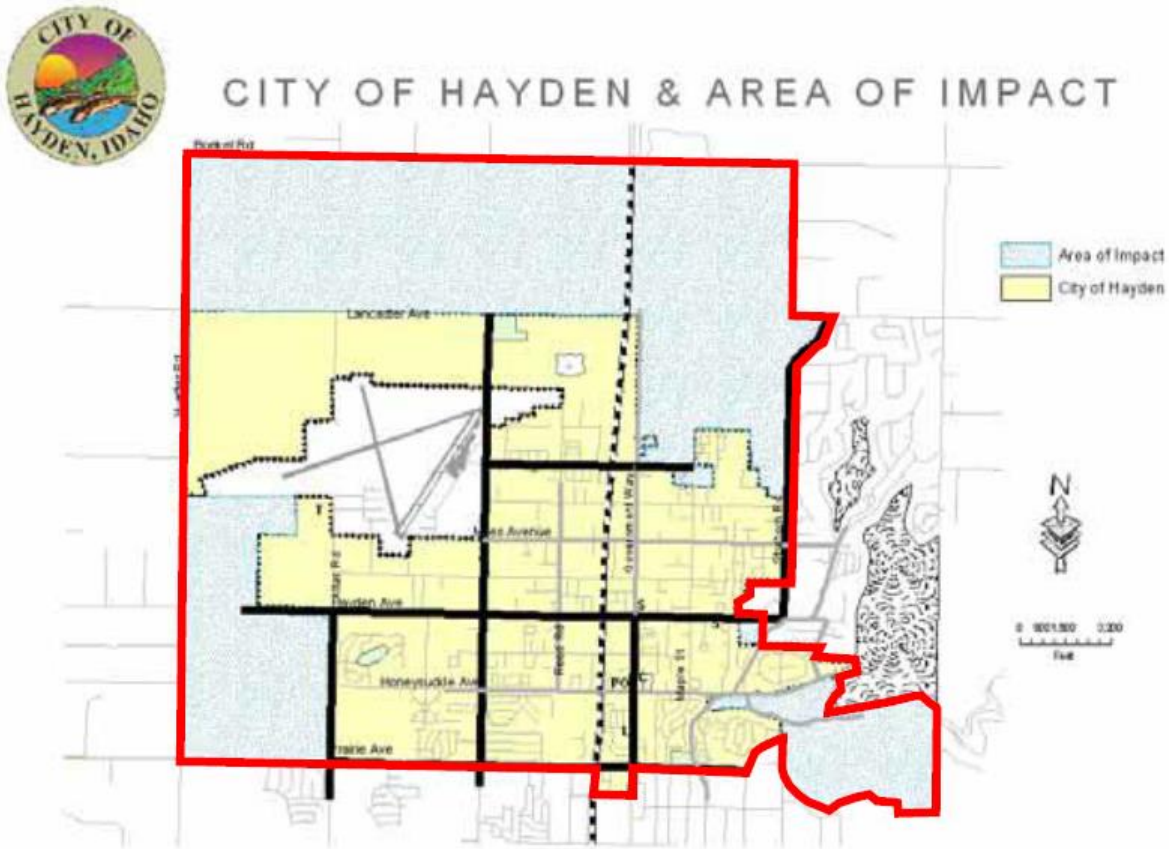


Illustration 10-704
Hayden Exclusive Tier



Article 10.8 Hayden Lake

8.10.801: PURPOSE: The purpose of establishing the new Hayden Lake Area of City Impact is to identify an urban fringe area in the unincorporated territory surrounding the City within which there is potential for development or changes in land use that must be planned in an orderly and compatible manner with the adopted Comprehensive Plan of the City and to ensure timely or economical provision of public service, and to protect and sustain existing public services and residential communities, and to promote traffic flow objectives, conform with the Comprehensive Plan and zoning regulations of the City of Hayden Lake, and protect the safety of all users of city streets affected by increased traffic from land use decisions in the Hayden Lake Area of City Impact. Traffic safety, bicycling safety and pedestrian safety are substantial governmental goals furthered by this article.

8.10.802: AREA OF CITY IMPACT DEFINED: The new Area of City Impact shall consist of an area where development or use of land affects or may affect the City of Hayden Lake in

consideration of trade areas, geographic factors, and areas that can reasonably be expected to be annexed to the City in the future.

8.10.803: STANDARDS: Upon adoption by the City and County, the following standards shall apply wherever an agency, Planning and/or Zoning Commission, Hearing Examiner, or governing body of the City or County considers a zone change, comprehensive plan change, request for a special or conditional use permit, planned unit development, limited planned unit development, variance request, other land use decision, or subdivision plat within the Area of City Impact:

A. The Kootenai County Comprehensive Plan;

B. The subdivision regulations set forth in chapter 6 of this title;

C. The zoning regulations set forth in this title as amended for application within the Area of City Impact;

D. The site disturbance regulations set forth in chapter 7, article 7.1 of this title;

E. Except as set forth above, all other applicable standards set forth in this code;

F. The City of Hayden Lake standards for street, bicycle access, pedestrian usage and traffic calming devices, which may include dedication requirements and provisions for future street improvements; and

G. Except as set forth above, all other standards of applicable special districts having jurisdiction within the identified Area of City Impact.

H. No application for a preliminary plat within the Area of City Impact shall be accepted by the County as complete until the City of Hayden Lake City Engineer attests in writing that either traffic flow from the subdivision will not impact city streets or that appropriate measures have been addressed by the applicant to improve traffic, bicycling and pedestrian safety along affected city streets, or that the applicant and the City have not come to an agreement on appropriate measures to improve traffic, bicycling and pedestrian safety along affected city streets. The City shall provide review and comment to the applicant in a timely manner.

8.10.804: ENFORCEMENT:

A. Kootenai County shall be responsible for the administration and enforcement of County ordinances and regulations within the Area of City Impact and shall, except as otherwise provided, receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, any development fees such as parkland dedication fees, or other costs arising from fulfilling the terms of each ordinance or regulation.

B. The City of Hayden Lake shall receive its adopted applicable fees within the Area of City Impact, for design review and inspections performed in evaluating traffic flow and inspecting, designing and implementing traffic calming devices and other street improvements to address traffic, bicycling and pedestrian safety.

8.10.805: HEARING PROCEDURES WITHIN THE AREA OF CITY IMPACT:

A. All applications for subdivision plats, zone change, comprehensive plan amendment, variances, conditional use, planned unit development, and limited planned unit development within the Area of City Impact shall be heard by Kootenai County. Upon receipt of an application, the County shall forward to the City a copy of the application and related material. The City have thirty (30) days after receipt of the same, but prior to the scheduling of any public hearing, to comment on such application.

B. Prior to amendment by the County of any ordinance which is applicable in the Area of City Impact, the County shall forward the proposed change to the City for review and comment at least thirty (30) days prior to the first public hearing at which such amendment will be considered. The City shall have thirty (30) days after receipt of the same, but prior to the scheduling of any public hearing, to comment on such amendment.

C. Prior to amendment by the City of any ordinance which is applicable in the Area of City Impact or any annexation, the City shall forward the proposed change or request for annexation to the County for review and comment at least thirty (30) days prior to the first public hearing at which such amendment or annexation will be considered. The County shall have thirty (30) days after receipt of the same for comment.

8.10.806: ANNEXATION:

A. Annexation by the City of Hayden Lake shall be limited to those lands lying within the Area of City Impact and being contiguous to the city limits of the City of Hayden Lake. Upon annexation, the provisions of this ordinance, which is the agreement between the City of Hayden Lake and Kootenai County, shall no longer apply to the annexed area.

8.10.807: GEOGRAPHIC AREAS OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted Area of City Impact is hereby established and shown on the map entitled "Hayden Lake Area of City Impact" as set forth in Illustration 10-801 of this article.

B. Legal Description. A legal description for the Area of City Impact for the City of Hayden Lake, Idaho, being portions of Section 7, Section 9, Section 16, Section 17, Section 18, Section 19 and all of Section 8, all located in Township 51 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

BEGINNING at the southwest corner of said Section 18;

THENCE, northerly along the west line of said Section 18 and said Section 7, to the southwest corner of Lot 1, Block 26, Avondale on Hayden Third Addition, on the northerly right-of-way line of Strahorn Road;

THENCE, leaving said west line, in a generally northeasterly direction, along the northerly right-of-way of Strahorn Road, and the northeasterly extension thereof, to a point of intersection with the north line of said Section 7;

THENCE, easterly along the north line of said Section 7 to a point of intersection with the northerly extension of the east line of Lot 6, Block 25, Avondale on Hayden Third Addition;

THENCE, southerly along said line, and continuing southerly along the east lines of Lots 5 and 4, Block 25, Avondale on Hayden Third Addition, to the southeast corner of said Lot 4, said point also being the northwest corner of lot 5, Block 11, Avondale on Hayden Second Addition;

THENCE, easterly along the north lines of Lots 5, 4, 3, 2, and 1, Block 11, Avondale on Hayden Second Addition, to the northeast corner of said Lot 1, said point also being on the northerly right-of-way line of St. James Avenue;

THENCE, easterly on said northerly right-of-way line of St. James Avenue to the northwest corner of Lot 1, Block 28, Avondale on Hayden Fourth Addition;

THENCE, easterly along the northerly property lines of Lots 1, 2, and 3, Block 28, Avondale on Hayden Fourth Addition, to the point of intersection with the westerly line of Lot 2, Block 42, Avondale on Hayden Ninth Addition;

THENCE, northwesterly along said westerly line to the northwest corner of said Lot;

THENCE, northeasterly along the northerly line of said Lot 2 to the northeast corner of said Lot; said point also being on the westerly right-of-way line of St. James Avenue;

THENCE, northeasterly across said St. James Avenue to the northwest corner of Lot 4, Block 41, Avondale on Hayden Ninth Addition, said point also being on the easterly right-of-way line of said St. James Avenue;

THENCE, northeasterly along the northerly line of said Lot 4 to the northernmost northeast corner of said Lot, said point also being on the westerly line of dedicated right-of-way for Common Space;

THENCE, southeasterly across said Common Space to the northernmost corner of Lot 8, Block 45, Avondale on Hayden Eleventh Addition, said Point also being on the easterly right-of-way for said Common Space;

THENCE, southeasterly along the line common to said Lot 8 and Lot 9, Block 45, Avondale on Hayden Eleventh Addition, to the southernmost corner of said Lot 9, said point also being on the northerly right-of-way line of York Court;

THENCE, northeasterly along said right-of-way line and the extension thereof, to a point of intersection with the west line of said Section 8;

THENCE, northerly along the west line of said Section 8 to the northwest corner of said Section;

THENCE, easterly along the north line of said Section to the northeast corner of said Section, also being the northwest corner of Section 9;

THENCE, easterly along the north line of Section 9 to the northeast corner of said Section;

THENCE, southerly along the east line of Section 9 to the point of intersection with the shore line of Hayden Lake;

THENCE, along said shore line in a generally southwest direction to the point of intersection of the north line of Section 16 with said shore line,

THENCE, continuing along said shore line in a generally southwest direction to the point of intersection of the east line of said Section 17 with said shore line,

THENCE, continuing along said shore line in a generally westward direction to the point of intersection of the eastern city boundary of the City of Hayden Lake;

THENCE, continuing along said shore line in a generally southwest direction to the point of intersection of the east line of Section 18 with said shore line;

THENCE, continuing along said shore line in a generally southwest direction to the point of intersection of the north line of said Section 19 with said shore line;

THENCE, continuing along said shore line in a southerly direction to the southeast corner of that real property described in Book 91. Page 514, Kootenai County Records, a.k.a. Tax No. 1560, in said Section 19;

THENCE, westerly along the south line and its extension of said parcel to the westerly right-of-way of Chalet Road;

THENCE, in a generally northeasterly direction, along said right-of-way to its intersection with the easterly extension of the south line of Block 13, Hayden Lake Country Homes;

THENCE, along the south line of said Block 13, and the easterly and westerly extensions thereof, to the west line of said Section 19;

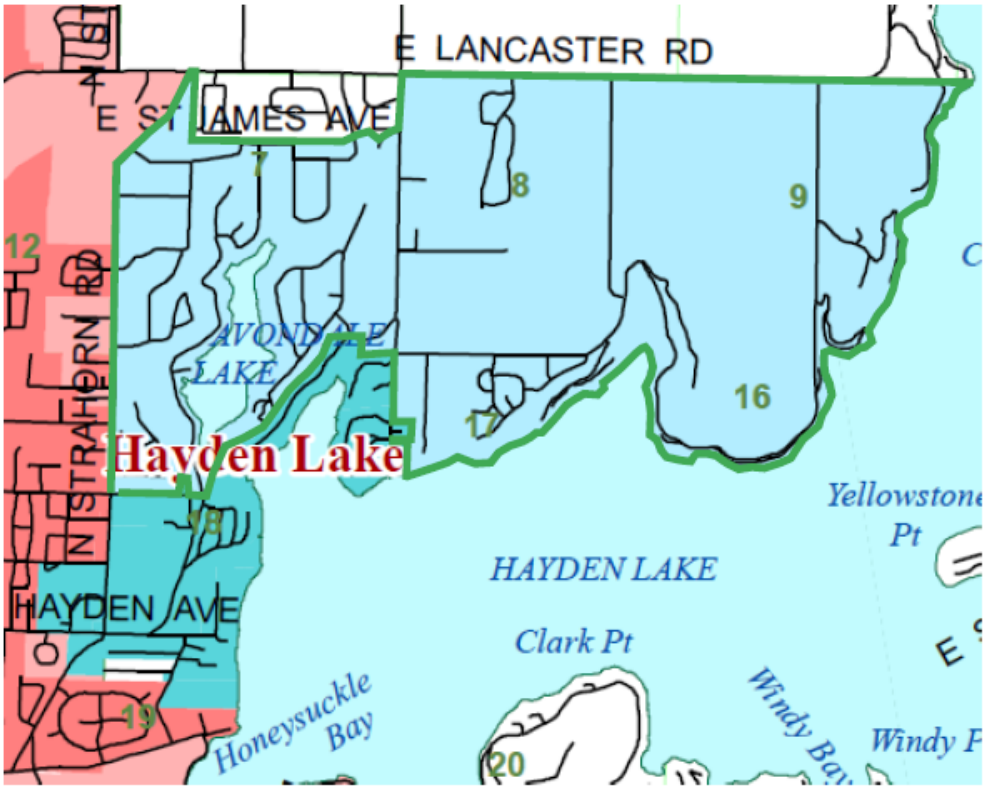
THENCE, northerly along the west line of said Section 19 to the southwest corner of said Section 18, which is the POINT OF BEGINNING.

EXCEPTING THEREFROM, all parcels within the city limits of the City of Hayden Lake.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

[Illustration 10-801 follows on next page]

Illustration 10-801
Hayden Lake Area of City Impact Map



Article 10.9 Huetter

8.10.901: GOALS AND OBJECTIVES:

A. Goals.

1. Kootenai County and the City of Huetter desire to adopt an Area of City Impact to enhance and encourage planned, orderly growth and development where urban services can be most efficiently and economically provided.

2. Kootenai County and the City of Huetter desire to preserve and enhance the quality of life within the Area of City Impact.

3. Kootenai County and the City of Huetter recognize a mutual intent to protect the Rathdrum Prairie Aquifer from further pollution.

4. Kootenai County and the City of Huetter recognize a mutual intent to protect the investments of both present and future property owners in the Area of City Impact and to minimize the disruptive impacts of uncoordinated growth upon those property owners.

5. Kootenai County and City of Huetter recognize a mutual intent to make efficient use of local tax dollars through policies encouraging development within the Area of City Impact.

B. Objectives. To accomplish the above goals, Kootenai County and the City of Huetter agree to the following objectives as a means of accomplishing the foregoing goals:

1. Encourage and contain urban development within the City of Huetter and its Area of impact and preserve farmland and open space by discouraging development outside the Area of City Impact.

2. Provide, through the use of joint planning powers, for continuity and consistency between city and county developments within the Area of City Impact.

3. Develop a plan for the orderly annexation of land within the Area of City Impact.

4. Provide, through land use planning, for the orderly extension of urban services such as sewerage disposal, urban roads and streets, domestic water, refuse disposal, storm drainage and public safety services (urban fire protection, law enforcement and emergency medical services).

5. Develop appropriate policies, ordinances, and techniques to enhance and protect the public health, safety, comfort and general welfare.

6. Review the Area of City Impact boundary annually and adjust as necessary.

8.10.902: TERMS OF THE AREA OF CITY IMPACT:

A. Upon annexation of any portion of the Area of City Impact into the City of Huetter, the provisions of this agreement shall no longer apply to such annexed areas.

B. The City of Huetter shall limit its annexation to those lands within its Area of City Impact. If the City of Huetter wishes to annex lands outside of its Area of City Impact, it shall re-negotiate its Area of City Impact boundary with Kootenai County in accordance with subsection 67-6526(d), Idaho Code.

C. The Comprehensive Plan for Kootenai County, adopted and amended by Kootenai County as of December 30, 2010, shall apply within the unincorporated lands within the Huetter Area of City Impact.

D. The Official Zoning Map of Kootenai County and the regulations set forth in this title shall apply within the unincorporated lands within the Huetter Area of City Impact.

E. All zoning, planning and development applications of County shall be sent to the City of Huetter in accordance with the Referral Process Agreement as included in Paragraph 8.10.903 of this title.

8.10.903: REFERRAL PROCESS AGREEMENT:

A. Amendment of County Comprehensive Plan and County Zoning and Subdivision Ordinance. All amendments to the Kootenai County Comprehensive Plan and to the text of this title shall be received by the City of Huetter for comment at least twenty (20) days prior to any County public

hearing on said amendments. Any comment by the City of Huetter on said amendments shall be made to Kootenai County Community Development in writing prior to or at said County public hearing. Kootenai County Community Development shall notify the City of Huetter, in writing, of the County's recommendation and action on said amendments within the Huetter Area of City Impact within twenty (20) days following a recommendation or action on such matter.

B. Processing County Planning, Zoning and Development Applications in the Huetter Area of City Impact.

1. The Director of Kootenai County Community Development shall coordinate the implementation of this title within the Huetter Area of City Impact with the City of Huetter so that applications are administered as consistently as possible with the two (2) jurisdictions.

2. All County zone change, conditional use, variance, subdivision, planned unit development and comprehensive plan amendment applications sent to the City of Huetter shall be received by the City Council of Huetter twenty (20) days prior to any County public hearing on said applications. The City Council of Huetter shall make recommendations to Kootenai County on said applications in writing. Said recommendations shall be received by Kootenai County Community Development no later than fifteen (15) days after the City Council of Huetter has received said applications.

3. The Board of Commissioners, the County Planning and Zoning Commission and the County Hearing Examiner shall not hold a public hearing on said applications until the recommendation of the City Council of Huetter has been received or the date of County receipt of the City Council's recommendation, specified above, has passed.

4. Kootenai County Community Development shall notify the City of Huetter in writing of the County's recommendations and actions on said applications within the Huetter Area of City Impact within twenty (20) days following a recommendation or action on such matter.

8.10.904: RENEGOTIATION: In accordance with Idaho Code 67-6526(d), the City of Huetter or Kootenai County may request in writing to re-negotiate any provision of this agreement at any time. Within thirty (30) days of receipt of such request by either party, a meeting between the two (2) jurisdictions shall occur. While re-negotiation is occurring, all provisions of the adopted Area of City Impact Ordinance shall remain in effect until said adopted Ordinance is amended or a substitute Ordinance is adopted by the City of Huetter and Kootenai County, in accordance with the Notice and Hearing procedures provided in Title 67, Chapter 65 of Idaho Code or until a declaratory judgment from the District Court is final. Provided, however, that the adopted Ordinance or stipulated portions thereof shall be of no further force and effect if both jurisdictions so agree in writing.

8.10.905: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted Area of City Impact is hereby established and shown on the map entitled “Huetter Area of City Impact” as set forth in Illustration 10-901 of this article.

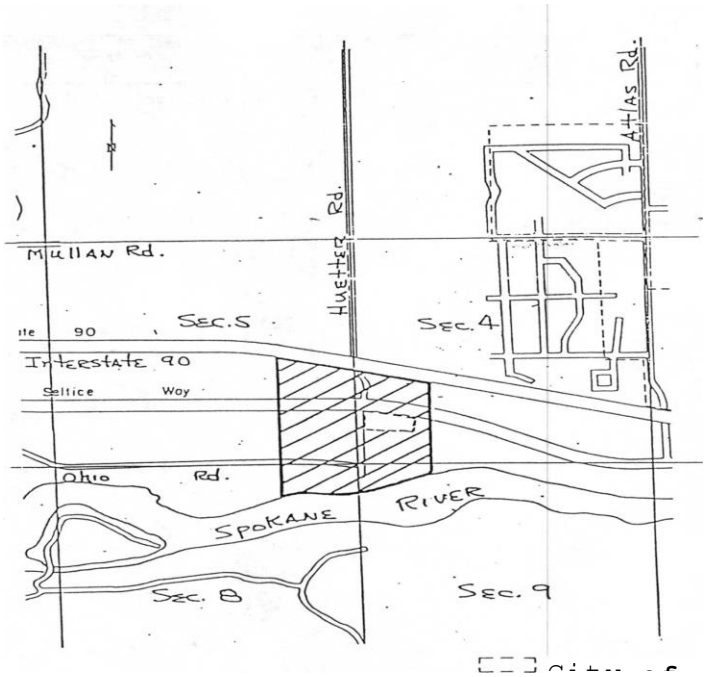
B. Legal Description. The Area of City Impact for the City of Huetter is hereby legally described as follows:

Beginning at a point where the south right-of-way boundary of the Interstate 90 freeway intersects a line on the east side of the NW ¼ of the SW ¼ of Section 4, Twp. 50N., R. 4W., B.M., thence, South along said line to the mean high water line lying on the north side of the Spokane River in Section 9, Twp. 50N., R. 4W., B.M., thence west along said mean high water line to a point intersecting a line on the west side of the NE ¼ of the NE ¼ of Section 8, Twp. 50N., R. 4W., B.M., thence north along said line to a point on the south right-of-way boundary of the Interstate 90 freeway in Section 5, Twp. 50N., R. 4W., B.M., thence east along said right-of-way boundary to the POINT OF BEGINNING.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

D. Interpretation. If a property under single ownership is divided by the boundary line of the Huetter Area of City Impact and that said line divides the property so that one (1) or both of the parties has a depth of (300) feet or less, the remainder or larger portion of the property may be negotiated with the City of Huetter and Kootenai County to be included in the Huetter Area of City Impact.

Illustration 10-901
Huetter Area of City Impact Map



Article 10.10 Post Falls

[Reserved]

Article 10.11 Rathdrum

[Reserved]

Article 10.12 Spirit Lake

8.10.1201: PURPOSE: The purpose of establishing the Spirit Lake Area of City Impact is to identify an urban fringe area adjoining the City of Spirit Lake, Idaho. The urban fringe area is realizing, or will realize, growth and development pressures that must be planned and managed in an orderly fashion. The Area of City Impact recognizes trade area, geographic factors, and the potential delivery of public services as being associated with the City of Spirit Lake and comprised of areas that may reasonably be annexed to the City in the near and distant future.

8.10.1202: GOALS: The City of Spirit Lake and Kootenai County:

A. Desire to adopt an Area of City Impact to enhance and encourage planned, orderly growth and development where urban services can be most efficiently and economically provided;

B. Desire to preserve and enhance the quality of life within the Area of City Impact;

C. Recognize a mutual intent to protect the Spirit Lake Watershed Area from further pollution;

D. Recognize a mutual intent to protect the investments of both present and future property owners in the Area of City Impact and to minimize the disruptive impacts of uncoordinated growth upon those property owners; and

E. Recognize a mutual intent to make efficient use of local tax dollars through the policies encouraging development within the Area of City Impact.

8.10.1203: GEOGRAPHIC AREA OF CITY IMPACT ESTABLISHED AND DEFINED: The officially adopted and agreed upon "Area of City Impact for Spirit Lake, Idaho" is hereby established, and is set forth on the map entitled "Spirit Lake Area of City Impact" in Illustration 10-1201 of this article. The Area of City Impact shall be known as Area 1. The map also defines the Spirit Lake Watershed Notification Area, which shall be known as Area 2.

8.10.1204: COMPREHENSIVE PLAN: The Comprehensive Plan and subsequent amendments thereto as officially adopted by the County of Kootenai, Idaho shall apply to the Area of City Impact, Area 1, and Area 2, within the unincorporated area of Kootenai County, Idaho. The City of Spirit Lake shall amend its Comprehensive Plan to be consistent with the Kootenai County Comprehensive Plan, if in conflict.

8.10.1205: SUBDIVISION ORDINANCE: The subdivision regulations set forth in chapter 6 of this title and subsequent amendments thereto as officially adopted by the County of Kootenai, Idaho shall apply to Area 1 and Area 2 within the unincorporated area of Kootenai County, Idaho. The subdivision regulations set forth in chapter 6 of this title shall also prevail over any City ordinances pertaining to the division of original parcels of record, plat amendments, lot line adjustments, minor subdivisions, short plats, or administrative lot splits.

8.10.1206: OTHER ORDINANCES: The zoning regulations set forth in this title, zoning map, other applicable provisions of this code, and subsequent amendments thereto, as officially adopted by the County shall apply to Area 1 and Area 2 within the unincorporated area of Kootenai County, Idaho.

8.10.1207: CODE AND ORDINANCE ADMINISTRATION AND ENFORCEMENT:

A. Kootenai County shall be responsible for the administration and enforcement of the Plan and ordinances listed in sections 8.10.1204, 8.10.1205 and 8.10.1206 of this article, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, or other costs arising from fulfilling the terms of each ordinance or regulation.

B. Amendments to the Kootenai County Comprehensive Plan, requests for preliminary and final plats or the vacation thereof, requests for zone changes or any other type of development applications, involving property located in Area 1 or Area 2 within the unincorporated area of Kootenai County being proposed shall be reviewed by the City in accordance with titles 50 and 67, Idaho Code, who will give comments and/or a recommendation to the County for approval, denial, or the placement of special conditions.

C. Upon application to the County for a land use request, the County shall provide written notice and a copy of the application to the City. The City shall have thirty (30) days to comment after receipt of the notice, prior to any public hearing on said request. The City agrees to return a response even if they have no comment on the application to acknowledge receipt of the application. If the City does not respond within the time period, it shall be presumed that it approves the application. Kootenai County Community Development shall notify the City of Spirit Lake, in writing, of the County's recommendations and actions on said applications within the Spirit Lake Area of City Impact within thirty (30) days following a recommendation or action on such matter.

D. The City agrees not to annex any property outside of Area 1 of its established Area of City Impact, even if a petition from such property owner has been received, but reserves the right to renegotiate the Area of City Impact, Area 1 and Area 2 boundaries in the future.

E. Upon receiving a request for annexation within the Area of City Impact, the City agrees to notify the County and allow the County thirty (30) days to comment on such request prior to any public hearing on the request.

F. The City of Spirit Lake shall appoint a member on its Planning and Zoning Commission to represent the Area of City Impact. This representative shall reside within Area 1 of the Area of City Impact and shall be reappointed, upon any vacancy, by citizens also residing within Area 1 of the Area of City Impact.

8.10.1208: RENEGOTIATION: In accordance with subsection 67-6526(d), Idaho Code, the City of Spirit Lake or the County may request in writing to renegotiate any provision of this article at any time. Within thirty (30) days of receipt of such request by either party, a meeting between the two jurisdictions shall occur. While renegotiation is occurring, all provisions of this article shall remain in effect until this article is amended or a substitute ordinance is adopted by the City of Spirit Lake and Kootenai County, in accordance with the notice and hearing procedures provided

in title 67, chapter 65, Idaho Code or until a declaratory judgment from the District Court is final. Provided, however, that this article or stipulated portions thereof shall be of no further force and effect if both jurisdictions so agree in writing.

8.10.1209: LEGAL DESCRIPTION; PRECEDENCE:

A. Legal Description.

1. The Area of City Impact for the City of Spirit Lake (depicted as Area 1 on the map contained in Illustration 10-1201) is hereby legally described as follows:

BEGINNING at the northeast corner of Section 4, Township 53 North, Range 4 West, Boise Meridian;

THENCE, west along the north line of Sections 4, 5, and 6, to the northwest corner of Section 6, Township 53 North, Range 4 West, B.M.;

THENCE, south along the west line of Sections 6, 7, and 18, to the southwest corner of Section 18, Township 53 North, Range 4 West, B.M.;

THENCE, east along the south line of Sections 18, 17, and 16, to the southeast corner of Section 16, Township 53 North, Range 4 West, B.M.;

THENCE, north along the east line of Sections 16, 9, and 4, to the northeast corner of Section 4, Township 53 North, Range 4 West, B.M., the point of beginning.

2. The Watershed Notification Area for the City of Spirit Lake (depicted as Area 2 on the map contained in Illustration 10-1201) is hereby legally described as follows:

BEGINNING at the northeast corner of Section 1, Township 53 North, Range 5 West, Boise Meridian;

THENCE, west along the north line of said Section 1 and Section 2, Township 53 North, Range 5 West, B.M., to a point that is the northwest corner of the northeast quarter of said Section 2;

THENCE, south along the west line of the northeast quarter of Section 2 to the southwest corner of said quarter section;

THENCE, west along the half section line of Sections 2, 3, and 4, to the northwest corner of the south 1/2 of Section 4, Township 53 North, Range 5 West, B.M.;

THENCE, south along the west line of said half section, to the northeast corner of Section 8, Township 53 North, Range 5 West, B.M.;

THENCE, west along the north line of Section 8, to the northwest corner of said section;

THENCE, south along the west line of Sections 8, 17, 20, and 29, to the half section line of Section 29, Township 53 North, Range 5 West, B.M.;

THENCE, east along the half section line of Sections 29, 28, 27, and 26, to the southeast corner of the north 1/2 of Section 26, Township 53 North, Range 5 West, B.M.;

THENCE, north along the east line of Section 26, to the southwest corner of Section 24, Township 53 North, Range 5 West, B.M.;

THENCE, east along the south line of Sections 24 and 19, to the southeast corner of Section 19, Township 53 North, Range 4 West, B.M.;

THENCE, north along the east line of Section 19, to the southwest corner of the north 1/2 of Section 20, Township 53 North, Range 4 West, B.M.;

THENCE, east along the south line of the half section to the southeast corner of said half section;

THENCE, north along the east line of Section 20, to the northeast corner of Section 20, Township 53 North, Range 4 West, B.M.;

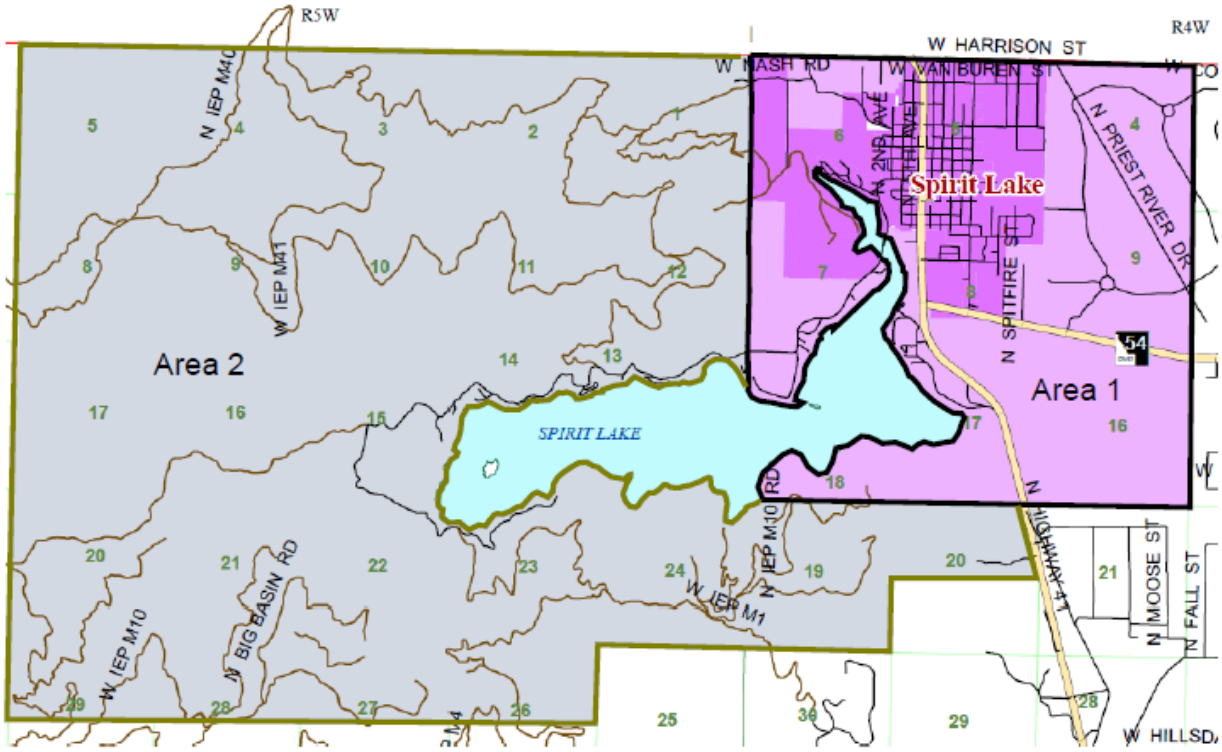
THENCE, west along the north line of Sections 20 and 19, to the northwest corner of Section 19, Township 53 North, Range 4 West, B.M.;

THENCE, north along the east line of Sections 13, 12, and 1, to the northeast corner of Section 1, Township 53 North, Range 5 West, B.M., the point of beginning.

B. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

[Illustration 10-1201 follows on next page]

Illustration 10-1201
Spirit Lake Area of City Impact Map



Article 10.13 State Line

[Reserved]

Article 10.14 Worley

8.10.1401: LEGISLATIVE PURPOSE: The purpose for establishing an Area of City Impact is to identify an urban fringe area adjoining the City of Worley, Idaho. The urban fringe area has the potential to realize growth and development pressures that must be planned and managed in an orderly fashion. The Area of City Impact recognizes trade area, geographic factors, and the feasibility of public services associated with the City of Worley and is comprised of areas that may reasonably be annexed to the City in the future.

8.10.1402: COMPREHENSIVE PLAN: The Comprehensive Plan and subsequent amendments thereto, as officially adopted by the County of Kootenai, Idaho, shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho. The City of Worley shall amend its Comprehensive Plan to be consistent with the Kootenai County Comprehensive Plan, if in conflict.

8.10.1403: SUBDIVISION ORDINANCE: The subdivision regulations set forth in chapter 6 of this title and subsequent amendments thereto, as officially adopted by the County of Kootenai, Idaho, shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho. The subdivision regulations set forth in chapter 6 of this title shall also prevail over any City ordinances pertaining to the division of original parcels of record, plat amendments, lot line adjustments, minor subdivisions, short plats, or administrative lot splits.

8.10.1404: ZONING ORDINANCE: The zoning regulations set forth in this title, zoning map, and subsequent amendments thereto as officially adopted by the County shall apply to the Area of City Impact within the unincorporated area of Kootenai County, Idaho.

8.10.1405: REVIEW: The County acknowledges that the City of Worley is currently working on a subdivision and zoning ordinance and may wish to reopen this agreement upon completion of those ordinances in order to review whether they should be applied within the Area of City Impact.

8.10.1406: CODE AND ORDINANCE ADMINISTRATION AND ENFORCEMENT:

A. The County shall be responsible for the administration and enforcement of the Plan and ordinances listed in sections 8.10.1402, 8.10.1403 and 8.10.1404 of this article, and shall receive all permit fees for inspections performed to recapture direct costs of inspections, administration, legal publications, and other costs arising from the process.

B. Amendments to the Kootenai County Comprehensive Plan, requests for preliminary and final plats or the vacation thereof, requests for zone changes or any other type of development applications, with the exception of building permits or development applications for agricultural purposes, involving property located in the Area of City Impact within the unincorporated area of Kootenai County being proposed shall be reviewed by the City Council acting as the City Planning and Zoning Commission in accordance with titles 50 and 67, Idaho Code, and will give a recommendation to the County for approval, denial, or the placement of certain conditions.

C. The County shall notify the City within twenty (20) days of receiving an application for development of any type within the Area of City Impact. Copies of such application shall be forwarded to the City with notification. The City shall return a recommendation within thirty (30) days of receipt of the application but at least fifteen (15) days prior to any public hearing set for the matter. The City agrees to return a response, even if they have no comment on the application, to acknowledge receipt of the application. If no acknowledgement is received within the time period, the County agrees to confirm that notice was received by the City.

D. The City agrees not to annex any property outside of its established Area of City Impact, even if receiving a petition from such property owner, but reserves the right to renegotiate the Area of Impact boundaries in the future. Upon a request for annexation within the Worley Area of City Impact, the City agrees to notify the County and allow the County thirty (30) days to comment on such request. The County agrees to return a response even if they have no comment on the application. If no acknowledgement is received within the time period, the City agrees to confirm that notice was received by the County.

E. Maintenance of public streets located in the Area of City Impact shall be the exclusive responsibility of the Worley Highway District unless otherwise stipulated by written agreement between the Highway District and the City of Worley.

F. Law enforcement and fire services in the Area of City Impact shall be the exclusive responsibility of Kootenai County and the Worley Fire Protection District unless otherwise stipulated by written agreement between the County and/or Fire District and the City of Worley.

G. The City of Worley shall appoint a member of the City Council to represent the Area of City Impact. This representative shall be reappointed upon any vacancy.

8.10.1407: RENEGOTIATION: The Area of City Impact Agreement shall be reviewed by the City of Worley and Kootenai County at least once every five (5) years and shall be renegotiated at any time upon the request of either party hereto. Renegotiation shall begin thirty (30) days after written request by either the City or County and shall follow the procedures of the original negotiation, as set forth in section 67-6526, Idaho Code.

8.10.1408: GEOGRAPHIC AREA OF CITY IMPACT DEFINED AND ESTABLISHED:

A. Establishment. The officially adopted and agreed upon "Area of City Impact for Worley, Idaho" is established and shown on the map entitled "Worley Area of City Impact" as set forth in Illustration 10-1401 of this article.

B. Legal Description. The Area of City Impact for the City of Worley is hereby legally described as follows:

The West 1/2 of the Northeast 1/4, and the Northwest 1/4 of Section 23, Township 47 North, Range 5 West B.M; and

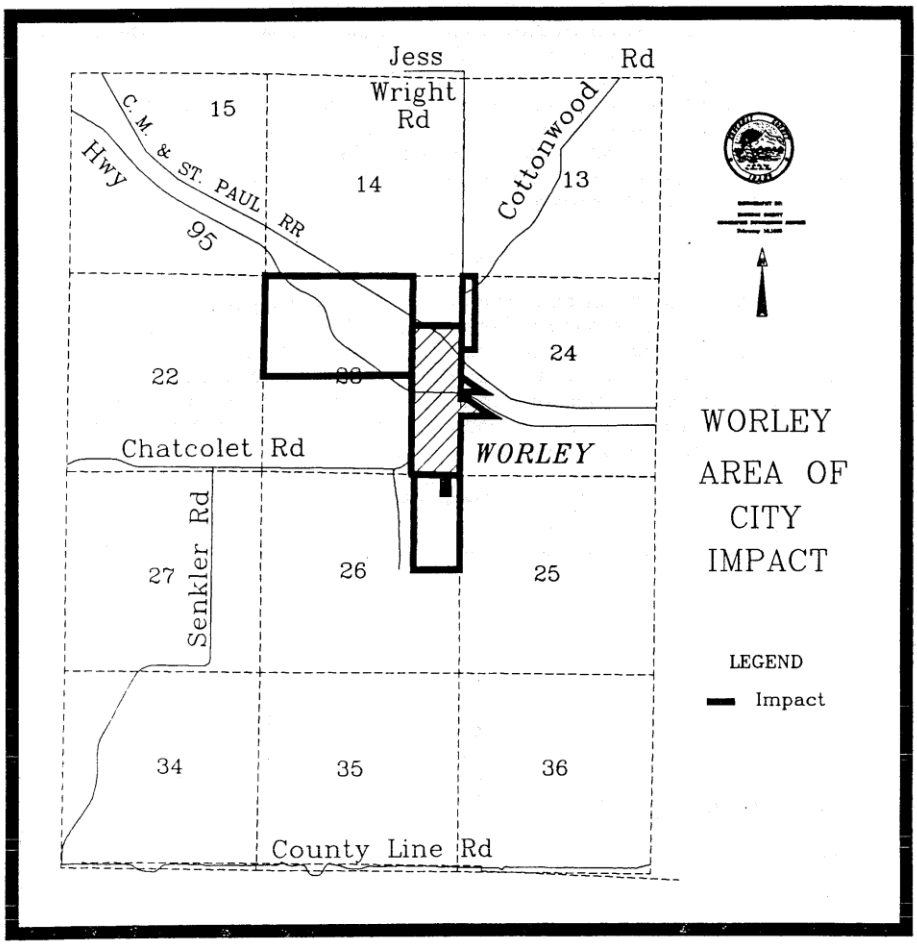
The West 5 acres of the Southwest 1/4 of the Northwest 1/4 of Section 24, Township 47 North, Range 5 West B.M.; and

The East 1/2 of the Northeast 1/4 of Section 26, Township 47 North, Range 5 West B.M., except a tract of land located in the Northeast 1/4 of the Northeast 1/4 of Section 26, Township 47 North, Range 5 West, B.M., Kootenai County, Idaho, more particularly described as follows: Beginning at a point which is N 89°36' W along the North line of said Section 26, 331.40 feet from the Northeast corner of said Section 26, said point being the True Point of Beginning of this description; thence South 150.00 feet to a point; thence N 89°36' W 60.00 feet to a point; thence North 150.00 feet to a point; thence S 89°36' E, along the North line of said Section 26, 60.00 feet to the True Point of Beginning and the last point of this description. Said Tract of land contains 0.207 acres. And,

A tract of land north of Highway 95 and east of Worley, Idaho, beginning at a point 2109.1 feet N 00° 10' E of the corner of Sections 23-24-25-26, Township 47 North, Range 5 West; thence N 00° 10' E 277.4 feet to an iron pipe; thence S 46°49' E 404.5 feet to an iron pin; thence west 294.06 feet to an iron pin, the Place of Beginning.

C. Precedence. In the event of any conflict between this map and the legal description contained in this section, the legal description shall take precedence.

Illustration 10-1401
Worley Area of City Impact Map



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