

**ORDINANCE NO. 415  
CASE NO. OA-138-08  
CONDOMINIUM PLATS**

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, ADDING NEW SECTIONS 9-1-5 AND 10-1-7, KOOTENAI COUNTY CODE, DECLARING THE REGULATION OF LAND USE AND THE ENFORCEMENT THEREOF TO BE DISCRETIONARY FUNCTIONS OF COUNTY GOVERNMENT; AMENDING SECTIONS 9-2-2 AND 10-1-4, KOOTENAI COUNTY CODE, REGARDING THE DEFINITIONS OF CONDOMINIUM, CONDOMINIUM PLAT, AND DECLARATION OF CONDOMINIUM; AMENDING SECTION 9-15-12, KOOTENAI COUNTY CODE, REGARDING APPLICABILITY OF PLANNED UNIT DEVELOPMENT REQUIREMENTS TO CONDOMINIUMS; ADDING A NEW SECTION 10-2-7, KOOTENAI COUNTY CODE, PROVIDING AN APPROVAL PROCESS FOR CONDOMINIUM PLATS; AND AMENDING SECTION 10-5-3, KOOTENAI COUNTY CODE, REGARDING UNLAWFUL RECORDATION OF PLATS; PROVIDING FOR SEVERABILITY; PROVIDING THAT ADOPTION OF THIS ORDINANCE SHALL HAVE NO EFFECT ON PROSECUTIONS MADE UNDER ANY PREVIOUSLY EFFECTIVE ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE.

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

**SECTION 1.** That Section 9-1-5, Kootenai County Code, be and the same is hereby added to read as follows:

**9-1-5: 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 Idaho Code § 6-904(1).

**SECTION 2.** That Section 9-2-2, Kootenai County Code, be and the same is hereby amended to read as follows:

**9-2-2: DEFINITIONS:**

**ACCESS ROADWAY/DRIVEWAY STANDARDS FOR RESIDENTIAL PROPERTIES -**

A. Road/Driveway shall have an all weather driving surface. Design shall consist of removing all topsoil and duff, putting down 8 inches of compacted ballast (pit run material), then a minimum of 4 inches of compacted base material (crushed aggregate). Road/Driveway shall be maintained by plowing, grading, and re-graveling.

B. Minimum common driveway and private road width of twenty (20) feet; minimum driveway width of fourteen (14) feet.

C. A minimum turning radius for all corners shall be twenty (20) feet, as measured to the inside of the corner.

D. A minimum distance between switchbacks shall be seventy-five (75) feet, as measured along the centerline between curves.

E. Turnarounds with a minimum radius of fifty (50) feet at the end of any roadway or driveway longer than 150 feet, or as approved by the applicable fire district.

F. Minimum unobstructed overhead clearance shall be fourteen (14) feet.

G. No private road or driveway shall have greater than 12% grade. Grades of 10% or greater shall not exceed one-hundred (100) feet in length.

H. All private roadways shall enter public roadways at a right angle and meet the radius requirements listed above; all driveways shall enter public or private roads at a right angle and meet the radius requirements listed above.

I. Bridge and culvert crossings with a travel distance less than ten (10) feet in length must support a minimum of 34,000 pounds. Crossings with travel distances ten (10) feet or greater must support a minimum of 60,000 pounds.

**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 feet of habitable space. For purposes of this section, habitable space shall be considered to be any enclosed area(s) with plumbing for a sink, toilet, or bathing facilities that is capable of being lived in. Habitable space shall not include garages with a toilet, sink or shower, providing the garage has a door at least 8 feet wide. Square footage of habitable space shall include, but not be limited to, all bathrooms, bedrooms, closets, laundry facilities, offices, living and recreational rooms, kitchens, and storage space, except storage space in a garage. Accessory living units are allowed in the Agriculture, Rural, Agriculture Suburban and Restricted Residential Zoning Districts. An accessory living unit permit is required. The application shall be on forms provided by the Planning Department and shall contain a site plan, a narrative and an affidavit attesting to the validity of the information provided. Upon review of the information, the Director shall determine if the minimum requirements delineated below have been met and either approve or deny the permit. Appeals of the Director's determination shall be filed within twenty-eight days under section 9-22-8 of this title.

Additional standards for accessory living units are as follows:

A. The accessory living unit shall not be a rental unit.

B. The square footage of the accessory living unit shall not exceed 1,000 square feet of habitable space. 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. Only one accessory living unit shall be allowed on a parcel.

C. Water, telephone, electric, and gas services shall be extended from the primary dwelling and shall not be billed separate from the primary dwelling. Sewer systems shall be as approved by Panhandle Health District and/or Division of Environmental Quality.

D. The accessory living unit shall not receive mail delivery.

E. No new approach from a public or private road shall be permitted. Existing ingress/egress used by the principal dwelling shall also serve as the ingress/egress for the accessory living unit.

F. Open space and setback requirements of the underlying zone shall be met.

G. The application form delineates the application requirements for the Planning Department. The application package shall include but is not limited to: detailed site plan, drawn to scale on 8 ½ x 11" paper, which includes, but shall not be limited to, the following: man-made structures, ingress/egress, setback lines of existing structures, the proposed accessory living unit, and natural features. The application shall also include a floor plan, drawn to scale, of the accessory living unit, and the foot print of the primary dwelling. If applicable, the floor plan shall delineate the area of an attached garage.

H. The accessory living unit shall meet all International Building Code requirements for this type of use, and an occupancy permit shall be made a condition of approval.

I. Must meet all requirements of Panhandle Health District.

J. Conditions of approval shall include compliance with all applicable County ordinances.

**ACREAGE** - Any tract of land or parcel of land which has not been subdivided or platted.

**ADMINISTRATOR** - An official having knowledge in the principles and the practices of administration of this title, who is appointed by the Board of County Commissioners to administer the provisions of this title and the Kootenai County Subdivision Ordinances, Title 10 of this code. Said Administrator may select a designee or designees to assist in the administration of the provisions and procedures of said ordinances.

**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 Operations Area.

**AIRPORT DEVELOPMENT CONTROL COMMITTEE** - The 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 Light Industrial and Terminal Support Areas in the Airport District.

**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** - improved or unimproved landing areas used by pilots to land, park, take off, unload, load and taxi all types and styles of aircraft.

**AMENDMENT** - A change in the wording context, or substance of this title , or change of the zone boundaries upon the Official Zoning Map, which Map is a part of this title when adopted by ordinance passed by the Board of County Commissioners in the manner prescribed herein.

**ANIMATED SIGN** - A moving sign or display, or a sign depicting action or motion, through electrical or mechanical means.

**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 five 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 "multi-family dwelling." "Apartment Houses" and "Multi-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.

**APPROACH** - A point of access onto a publicly dedicated and maintained road for which approval has been given by the appropriate Highway District or Idaho Transportation Department.

**APRON** - The portion of the 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. An apron and a taxi lane are the same.

**AUTOMOBILE WRECKING YARD** - Any area, lot, land, or parcel, excluding automotive hobby, and excluding completely enclosed buildings, whereon more than two (2) motor vehicles without current registration, or where more than two (2) inoperable or dismantled motor vehicles, or any combination of more than two (2) unregistered, inoperable, or dismantled motor vehicles, not in operating condition are standing more than thirty (30) days, or on which such used motor vehicles or parts thereof, are dismantled or stored. For purposes of this definition, the term "inoperable" means the motor vehicle cannot move under its own power or does not meet the minimum legal requirements necessary for the motor vehicle to be operated in a safe and lawful manner upon the roads and highways in the State of Idaho as set forth in the Idaho Motor Vehicle Laws of the State of Idaho.

**AUTOMOTIVE HOBBY** - An accessory use involving the restoration maintenance, and/or preservation of motor vehicles. It is the intent of this section to provide for, and to protect the property rights of, those individuals who are involved in the restoration, maintenance, and/or preservation of motor vehicles. For the purposes of implementing these provisions, the following standards are applicable to the accessory use of automotive hobby:

A. No commercial, retail, or wholesale sales of automotive parts or supplies shall be conducted upon a site, which is used for automotive hobby.

B. Automotive restoration may be conducted as a hobby.

C. No commercial restoration, repair, or maintenance of motor vehicles shall be conducted upon a site used for automotive hobby.

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

E. 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, or stored behind a 100% sight-obscuring fence or hedge which is not less than six (6) feet in height; or, within a completely enclosed building.

F. All inoperable, dismantled, or unregistered motor vehicles being maintained on the site for an automotive hobby shall be necessary and wanted. Once the need and/or want for the inoperable, dismantled, or unregistered automobile has passed, the automobile shall be removed from the site for proper disposal.

**AWNING (OR CANOPY) SIGN** - A sign located on an awning or canopy that is attached to a building.

**BANNER** - A sign or display on lightweight fabric or similar material.

**BED AND BREAKFAST** - An owner-occupied single-family residence which provides up to five (5) rooms for lodging and breakfast for paying guests.

**BOARD OF COUNTY COMMISSIONERS** - The Board of County Commissioners of Kootenai County, Idaho, herein further referred to as the Board.

**BOARDING KENNELS** – SEE KENNELS, BOARDING

**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 facilities may include training and scheduled events such as horse shows, workshops and clinics.

**BUILDING** - See "STRUCTURE."

**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 coming of a flat roof, or to the deck line of a measured 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.

**CHURCH** - An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held. A church may include a rectory.

**CLEAR ZONE (CLEARWAY)** - An area beyond the stop end of a runway, not less than 500 feet (150 m) wide, centered on the extended centerline of the runway, and controlled by airport authorities.

**CLINIC OR HOSPITAL, ANIMAL OR VETERINARY** - A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**CLINIC, MEDICAL OR DENTAL** - A building or portion of a building containing offices for providing medical, dental, or psychiatric services for outpatients only.

**COLLOCATION** - The placement of additional antennas on an existing transmission tower or structure. Such antennas shall be placed and colored to blend into the architectural detail and coloring of the host structure. The placement of an antenna on an existing tower or structure does

not require a conditional use permit unless otherwise required by this title. Collocation shall be a permitted, accessory use.

**COMMERCIAL RESORT** - A privately-owned, outdoor recreation area, operated for profit. A commercial resort may include permanent facilities for overnight or seasonal living, camping areas, recreational vehicle parks, and limited commercial activities associated with convenience goods and services that serve to enhance the primary recreational use or activity.

**COMMERCIAL RIDING ARENA OR EQUINE TRAINING CENTER OR FACILITY (MAY INCLUDE BOARDING STABLES)**– land or a building or a part thereof dedicated to clinics, workshops and training of horses. A training center or facility may include horse boarding facilities.

**COMMON DRIVEWAY** - A driveway that provides vehicular access from a public or private road to not more than four lots or parcels of land. Common driveways shall be at least 20 feet in width and shall meet the "Minimum requirements for access roadways/driveways to residential properties" as defined in this section.

**CONDITIONAL USE** - A use listed among those classified in any given zone but permitted to locate only after review and which requires a special degree of control to make such use compatible with other permitted uses in the same vicinity and zone and assure against imposing excessive demands upon public utilities and facilities.

**CONDOMINIUM** - ~~Shall be as defined in Idaho Code § 55-101B. A condominium is an estate consisting of (i) an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof, together with (ii) a separate interest in real property, in an interest or interests in real property, or in any combination thereof. Idaho Code §55-101B. Further, is defined as the interior surfaces of the perimeter walls, floors, ceilings, windows and doors, thereof, and the unit includes both the portions of the building so described and the airspace so encompassed. Idaho Code §55-1509.~~

**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 DESIGN SUBDIVISION** - A subdivision design that maximizes the conservation of open space and the natural, cultural or historic characteristics of an area. The subdivision name for a conservation design subdivision will be followed by the suffix "CDS".

**DAY CARE** - means care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (Idaho Code §39-1102(3))

**DAY CARE CENTER** - Any child care arrangement that provides care and supervision for compensation during any part of a 24-hour day for more than thirteen (13) children. See Idaho Code § 39-1102.

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 Idaho Code §§ 55-1504 and 55-1505.

DESIGN PROFESSIONAL - An individual with specialized knowledge and experience, who is qualified to develop plans for various components of a subdivision development. With regard to stormwater plans, the design professional must meet the definition found in the Kootenai County Site Disturbance Ordinance, Title 11, Chapter 2 of this code.

DEPARTMENT - The Kootenai County Building and Planning Department.

DIRECTOR - The Director of the Kootenai County Building and Planning Department or his designee.

DIRECT ACCESS - A driveway or common driveway that directly intersects with a public road.

DRAINAGEWAY - A water course that does not the definition of a Class I or Class II stream.

DRIVEWAY - A means of vehicular access from a public or private road to any point on a lot.

DWELLING - A building whose primary use is for residential purposes, including single-family, two-family, and multi-family structures, but not including hotels, motels, and boarding houses.

DWELLING, MULTIPLE-FAMILY - A building, or a portion thereof, containing at least three (3), but not more than four (4), dwelling units.

DWELLING, SINGLE-FAMILY - A building containing one dwelling unit. Single-family dwelling includes a Group Home.

DWELLING, TWO-FAMILY, OR DUPLEX - A site-built structure containing two (2) dwelling units, which have either a) a common interior wall or b) a common roofline with a common exterior wall.

DWELLING UNIT - One or more rooms physically arranged so as to create a habitable housekeeping unit that includes sleeping, eating, and sanitary facilities for occupancy by one family.

EASEMENT, PUBLIC OR PRIVATE - A grant by a property owner to specific persons or to the public to use land for specific purposes. Also, a right of use acquired by prescription, if such right has been adjudicated. No transfer of land title is implied.

ELECTRONIC MESSAGE CENTER - A variable message sign using computer generated messages or some other electronic means of changing copy.

**FAMILY** - One or more persons occupying a dwelling unit and living as a single housekeeping unit. Family is also defined as: eight (8) or fewer persons occupying a dwelling unit and living as a single housekeeping unit, if the occupants are mentally or physically handicapped persons or eight (8) or fewer elderly persons.

**FAMILY DAY CARE HOME** - means a home, place, or facility providing day care for six (6) or fewer children.

**FARMING, GENERAL** - The production of crops and/or animals.

**FEED LOT** - An enclosed area where livestock is confined for the purpose of resale or slaughter.

**FLASHING LIGHT, SIGN OR DISPLAY** - A sign, light or display with lighting or messages that change more than once every 4 seconds. Generally, the flashing is the primary attention getting device.

**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.

**FRONTAGE LENGTH** - That portion of a lot, site, tract, or parcel of land, held in fee simple, adjoining a publicly dedicated and maintained road and measured as a length along said road.

**GATED COMMUNITY** - a form of closed community with more than ten residential lots, characterized by a controlled entrance for pedestrians, bicycles, and automobiles, may be staffed by full-time, private security guards, may lead into one or more small residential streets, with walls or fences surrounding the perimeter of the entire development. Many gated communities may have various amenities which make it possible for residents to stay within the community for day-to-day activities.

**GRANGE HALL** - A building used as a meeting place by a fraternal association normally comprised of farmers.

**GREENHOUSE, COMMERCIAL** - An establishment where flowers, shrubbery, vegetables, trees, and other horticultural products are grown in the open and/or in an enclosed building for sale to the general public on a retail basis.

**GREENHOUSE, WHOLESALE** - An establishment where flowers, shrubbery, vegetables, trees, and other horticultural products are grown in the open and/or in an enclosed building for sale on a wholesale basis, with retail sales on premises to be on an occasional and incidental basis.

**GROUP DAY CARE FACILITY** - means a home, place, or facility providing day care for seven (7) to twelve (12) children. (Idaho Code §39-1102)

**GROUP HOME** - A single-family dwelling that provides residential shelter to eight (8) or fewer unrelated, mentally and/or physically handicapped, or elderly persons, who are supervised, and reside as a single-family unit. No more than two, related or non-related, staff members shall reside in the dwelling at any one time.

**HEARING EXAMINER** - An individual appointed by the Board who shall, for the purposes of this title, perform the powers and duties of the Board of Adjustment and such other duties as deemed necessary by the Board and as authorized by Idaho Code §67-6520.

**HEIGHT** - For the purpose of determining the height limits in the Airport District, the datum shall be the National Geodetic Vertical Datum (NGVD).

**HIGHWAY DISTRICT** - The agencies that have jurisdiction over secondary roads in Kootenai County. Authority results from powers vested by Idaho Code, Title 40, Chapter 6.

**HOME OCCUPATION** - An occupation, profession, or craft which is clearly incidental to the residential use of a site, subject to the following requirements:

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 an accessory building on the site, although no home occupation shall be allowed on sites without a dwelling.

D. The home occupation shall be of a nature that does not generate retail business or have customer traffic on a regular basis. Equipment storage facilities where more than one employee arrives at the site to pick up equipment, then leaves to work off-site, shall not be considered home occupations.

E. Storage of equipment, inventory, or work-related items other than vehicles, shall be within the residence or a permitted accessory building. Outside storage or storage within a cargo container or trailer is prohibited.

F. A Home Occupation Permit is required. The application shall be on forms provided by the department and shall contain a site plan, a narrative and an affidavit attesting to the validity of the information provided. Upon review of the information, the Planning Director shall determine if the minimum requirements have been met and either approve or deny the permit.

**HOSPITAL** - An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons and licensed by State Law to provide facilities and services in surgery, obstetrics, and general medical practice.

**HOT MIX ASPHALT PLANT 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 the asphalt tars and oils, or Portland cement.

**HOTEL** - A building in which there are six (6) or more guest rooms where lodging with or without meals is provided for compensation and where no provisions are made for cooking in any individual room or suite, but shall not include jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes, and similar buildings where human beings are housed and detained under restraint.

**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.

**JUNK YARD** - An outdoor space where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, stored or handled, including automobile wrecking yards, farm equipment wrecking yards, organic waste, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but excluding such places 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 or for used cars in operable condition, or salvaged materials incidental to manufacturing operations.

**KENNEL, BOARDING** - A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation, or any lot or adjacent lot(s), or any building(s), structure(s), enclosure(s) or premises on the same or adjacent lot(s), 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.

**KINDERGARTEN** - A school, public or private, whether operated for a profit or not for profit, giving preschool instructions to children under seven (7) years of age.

**LABORATORY** - A place devoted to experimental study such as testing and analyzing. Manufacturing of a product or products is not to be permitted.

**LIVESTOCK** - Large animals, such as horses, cattle, pigs, sheep, goats, llamas, etc.

**LODGE** - A building where members of a local chapter of an association, or fraternal, cultural, or religious organization hold their meetings.

**LOT** - For purposes of this title , a lot shall meet one of the following criteria. Railroad and road rights of way shall not be considered a lot unless specifically recognized in writing by the Department prior to July 16, 2001.

A. A lot created prior to January 3, 1973, that is described by metes and bounds or aliquot parts; the conveyance and description of which has been so recorded in the Kootenai County Clerk and Recorder's Office; OR

B. A lot created after January 3, 1973, and prior to November, 17, 1995, that was not created by the County's subdivision process, that is described by metes and bounds or aliquot parts, the conveyance and description of which has been so recorded in the Kootenai County Clerk and Recorder's Office, and that has duly recorded legal access to a public road. Access to the lot shall meet "Access Roadway/Driveway Standards for Residential Properties" or as approved by the applicable Fire Protection District. In cases where width is fixed by easement, or where topographic features present an undue hardship, a variance may be applied for as set forth in Chapter 23 of this title ; OR

C. A lot created after November, 17, 1995, that was created through an exemption to the County's Subdivision Ordinance, that is described by metes and bounds or aliquot parts, the conveyance and description of which has been so recorded in the Kootenai County Clerk and Recorder's Office, and that has duly recorded legal access to a public road. Access to the lot shall meet "Access Roadway/Driveway Standards for Residential Properties" or as approved by the applicable Fire Protection District. In cases where width is fixed by easement, or where topographic features present an undue hardship, a variance may be applied for as set forth in Chapter 23 of this title ; OR

D. A lot platted by the subdivision process which has been recorded in the Kootenai County Clerk and Recorder's Office, and that has legal access from a public road, or private road, as approved by the Board of County Commissioners at the time of platting. Driveways shall meet the "Access Roadway/Driveway Standards for Residential Properties." Water access is acceptable only if it was approved by the Board of County Commissioners at the time of platting.

LOT, FRONTAGE - The front of a lot shall be construed to be in the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of "Yard" contained in this section.

LOT LINE - The lines (lease or property lines) bounding a lot as defined herein.

#### LOT MEASUREMENTS:

A. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

B. Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines in the foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot

width, except in the case of lots on the turning circle of cul-de-sacs, where the eighty (80) percent requirement shall not apply.

#### LOT TYPES:

A. "Corner Lot" defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost point of a lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

B. "Interior Lot" defined as a lot other than a corner lot with only one (1) frontage on a street.

C. "Through Lot" defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

D. "Reversed Frontage Lot" defined as a lot 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, an interior lot, or a through lot.

E. "Water Front Lot" defined as a lot that adjoins or abuts the high water mark of a lake, river, or stream.

LUMEN - A measure of the amount of light emitted by a light source.

MANUFACTURED HOME (formerly mobile home) - A dwelling unit that is not constructed in accordance with the standards set forth in the International Building Code for single-family dwellings and is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. Recreational vehicles shall not be considered to be manufactured homes. Manufactured homes constructed prior to June 15, 1976, must obtain a Rehabilitation Certificate of Compliance prior to application for a permit from Kootenai County as provided by Chapter 25, Title 44, Idaho Code. For the purposes of this title, manufactured housing units are classified as follows:

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.

**Class B:** A manufactured home that does not satisfy the criteria necessary to qualify the home as a Class A manufactured home. A Class B manufactured home requires a special notice permit in the Agriculture Suburban and Restricted Residential Zoning Districts.

**MANUFACTURED HOME PARK** - A parcel of land under single ownership on which three or more manufactured homes are occupied as residences. Said park may include special facilities for common use of the occupants such as recreational building, swimming pool, common open space, laundry facilities, and commercial uses incidental thereto.

**MINI-STORAGE** - Storage facility with multiple individual units available for lease. Individual units shall be no larger than 14 feet in width or 40 feet in length and total building height shall not exceed 22 feet.

**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, and where the entire base of the sign is in contact with the ground.

**MOTEL OR TOURIST COURT** - A group of attached or detached buildings containing individual sleeping or living units where a majority of such units open individually and directly to the outside, and where a garage is attached or a parking space is conveniently located to each unit, all for the use by automobile tourists or transients, and such words include auto courts, motor lodges, motor inns, and similar terms.

**NATURAL SLOPE** - The slope of the land prior to any man-made disturbance.

**NONCONFORMING LOT OR PARCEL** - A lot or parcel that was lawfully established prior to the adoption of this title or previous 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, and 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 previous 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 lot, 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 development 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, and using a parcel or structure for a business that is no longer allowed, or that is allowed contingent upon requirements that are not being met.

**NONDOMESTIC WASTE WATER** - Any waste water that is not produced as sanitary wastewater from restroom facilities, showers, or kitchens.

**NONPROFIT PUBLIC OR PRIVATE COMMUNITY FACILITY (AGRICULTURAL AND RURAL DISTRICTS ONLY)** - A facility that includes property utilized by business leagues, boards of trade, or other associations of persons having some common business interest in agriculture, livestock production, or forestry that is recognized by State and Federal Taxing authorities as nonprofit. The purpose of the nonprofit public or private community facility is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit.

**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.

**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 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, is a nuisance.

**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, but not including facilities for the treatment of sickness or injuries or for surgical care.

**OCTAVE BAND** - A means of dividing the range of sound frequencies into octaves in order to classify sound in pitch.

**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.

**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.

**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.

**OPEN SPACE** - Any open area, including, but not limited to, the following: Parks, yards, playgrounds, beaches, waterways, parkways, and streets.

**OUTDOOR RECREATIONAL FACILITIES** - Areas designed for active recreation, whether publicly or privately owned, including but not limited to, baseball diamonds, soccer and football fields, golf courses, tennis courts, swimming pools, race tracks, arenas, and similar places of outdoor assembly, and including private recreational facilities accessory to one-family dwelling properties.

**PARCEL** - A piece of land that is separately described in a deed of conveyance. Parcel boundaries, as used in this title, may or may not coincide with parcel boundaries as assigned by the Kootenai County Assessor.

**PERSONAL STORAGE BUILDING** - A structure used solely for the storing of personal property.

**PERFORMANCE STANDARD** - A criterion established to control noise, odor, smoke, toxic or noxious mater, vibration, fire, and explosive hazards, and glare or heat generated by or inherent in uses of land or buildings.

**PLANNED UNIT DEVELOPMENT** - A Planned Unit Development (PUD) is an integrated design for development of residential, commercial or industrial uses, or combinations of uses, under single ownership or control, in which the standards of this title may be varied. PUD's allow flexibility and creativity in site and building design and location, in accordance with an approved plan, and the goals and policies of this title and the Comprehensive Plan. PUD's associated with subdividing lots must include at least 25 lots.

**PLANNING AND ZONING COMMISSION** - The Kootenai County Planning and Zoning Commission, herein further referred to as the Commission.

**POLE SIGN** - A sign supported by a footing in the ground, the sole purpose of which is to support the sign.

**PORTABLE SIGN** - A sign capable of being carried or easily moved.

**PRIVATE ROAD** - A means of vehicular access, which does not meet the definition of "driveway" and is not maintained by a public highway district.

**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.

**PROPERTY LINE** - A series of lines which when connected denote the outer perimeter of a lot as described herein. These lines are described by metes and bounds, and meet the criteria defined as establishing a separate parcel as a "Lot of Record", or as a legally "Subdivided" parcel.

**PUBLIC OFFICE BUILDING** - A structure used as the office or for the purpose of conducting official business by an agency of the Federal Government, State Government, or a political subdivision of the State of Idaho.

**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, power substations, dam structures, water storage facilities which hold more than 100,000 gallons or are greater than 25 feet in height, fire stations, telephone transmission stations, sewage disposal or storage stations, railroad transportation lines or spurs, railroad classification yards, high voltage or high pressure transmission lines, or structures principally used in interstate transmission of electricity, natural gas, or fuel. Cellular telephone, radio and television towers shall not be included in this definition.

**RECREATIONAL BUILDING, PUBLIC OR NON-PROFIT** - Any facility which provides 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 recreational activities for use by the general public including, but not limited to, parks, playgrounds, picnic areas, etc.

**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 basic entities are: travel trailer, camping trailer, truck camper, fifth-wheel camper, and motor home.

**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.

**RENTAL WAREHOUSE** - Storage facility available for lease, with or without individual units, which does not meet the definition of Mini-storage.

**RIGHT-OF-WAY, PRIVATE** - A strip of land reserved for use as a private roadway for one (1) or more parcels of land, which normally includes a private street and may incorporate private utilities or service areas.

**RIGHT-OF-WAY, PUBLIC** - A strip of land publicly dedicated and accepted by a Highway District for use as a roadway. In addition to the roadway, it may also incorporate curbs, utilities, lawn strips, sidewalks, parking lanes, lighting and drainage facilities and may include special features such as grade separation, landscaped areas, viaducts and bridges. The term public right-of-way shall also include public easements acquired by prescription.

**ROAD FRONTAGE** - The frontage that abuts onto a publicly dedicated and maintained road.

**ROAD OR STREET, PUBLICLY DEDICATED AND MAINTAINED** - That portion of a public right-of-way prescriptive easement which is improved, dedicated, and maintained by a

local Highway District and intended for use by vehicles to provide traffic circulation and primary access to abutting properties.

**ROOF SIGN** - A sign erected upon the roof of a building or the top of a structure.

**RUNWAY** - A defined rectangular area on an airport prepared for the landing and takeoff of aircraft.

**SANITARIUM** - A residence for the care of children, the elderly, infirm, incurable or convalescent of any age in which persons are provided with food, lodging and medical care, but not including hospitals, clinics or group homes.

**SCHOOL, PRESCHOOL OR NURSERY** - A school or organized program for the care and instruction of preschool age children under the age of six (6) years whether public or private and whether or not operated for profit.

**SCHOOL, PUBLIC OR PRIVATE** - Any land, building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

**SENSITIVE AREAS** - Sensitive areas are defined as a) land in, or within 300 feet of wetlands, streams, or lakes, b) areas where the water table is within 6 feet of ground surface at any time of the year, c) areas with slopes  $\geq 25\%$  or that exhibit signs of instability, d) habitat for rare, threatened or endangered plants or animals, e) areas where the ground surface is within 50 feet of an unconsolidated, sand or gravel aquifer, and f) areas of special flood hazard (flood zones).

**SETBACK LINE** - A line established by these regulations or by other ordinances to govern the placement of buildings or other structures with respect to lot lines, streets, taxi-ways, or flanking roadways.

**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.

**SIGN FACE** - The surface of a sign on which an advertising message is displayed.

**SITING AREA** - That portion of a lot that contains the transmission tower, related buildings, and/or 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.

**SOUND LEVEL METER** - An instrument standardized by the American Standards Association for measurement of intensity of sound.

**SPECIAL EVENTS** - Special events shall include, but not be limited to, outdoor musical concerts, festivals, fairs, carnivals, or any other outdoor public assembly in which persons are gathered together for commercial, civic, or social functions, recreation or for food or drink consumption, which may be expected to have or have 500 or more people at any one time. The provisions contained within this title which apply to special events shall not apply to the Kootenai County Fairgrounds. Special events as applied in this title shall not apply to any marine event conducted on the waters of Kootenai County which is regulated under *Idaho Code* § 67-7030.

**SPECIAL EVENTS LOCATION** - A site that has been specifically approved through the Conditional Use Permit process to hold Special Events. The Kootenai County Fairgrounds and marine events conducted on the waters of Kootenai County are exempt from these requirements. No other sites or facilities in the unincorporated area of Kootenai County are considered “grandfathered” or exempt from the Conditional Use Permit requirement for Special Events.

**STEALTH DESIGN** - Constructed or modified in such a way as to best blend in with the surrounding environment and, in some circumstances, may not be readily recognized as a wireless communication facility.

**STORAGE UNIT** - A non-habitable building or portion of a building used for storage of equipment or materials associated with the principal 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.

**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 (1/2) 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 natural water course of perceptible extent, with definite beds and banks, which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow.

Class I - A stream used for domestic water supply, or which is important for the spawning, rearing or migration of fish. Such waters will be considered to be class I upstream from the point of domestic diversion for a minimum distance of 1,320 feet.

Class II - Usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, streams shall be considered class II where the total upstream watershed is less than two hundred forty (240) acres. The principal value of class II streams lies in their influence on water quality and quantity in class I streams.

**STREET** - A public right-of-way which affords a primary means of access to abutting property.

**STRUCTURAL ALTERATION** - Any change other than incidental repairs, which would 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.

**SUBSTANTIAL CHANGE** – Any change that will likely cause a material or directly relevant bearing on the decision making process or the public's, or an agency's, reasonable expectation of information provided at the time of application.

**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 on a surface mine in the process of extracting minerals from the ground, including the excavation of pits, removal of materials, disposal of overburden, and the construction of haulage roads. Extraction of rock or fill material, or the processing of rock or other road materials, by a Kootenai County highway district shall not be considered surface mining activity for purposes of this title when the activity is carried on within a public right-of-way, or immediately adjoining property during temporary construction activity associated with publicly maintained roadways.

**TAXIWAY** - A defined path, from one part of an airport to another, selected or prepared for the taxiing of aircraft.

**TEMPORARY HARDSHIP USE** - A temporary use which is used as living quarters for a dependent relative when the temporary use is located on the same parcel as the dwelling of the owner of the property, and when the temporary use is accessory to the dwelling of the owner of the property and shall not be considered as a use to be transferred when the owner's property is sold or leased.

**TEMPORARY SIGN** - An easily removable sign, constructed of plywood or other non-durable material, displayed for a short period of time.

**TOP SOIL** - 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.

**TRANSMISSION TOWER** - A tower, including, but not limited to, a self-supporting lattice or monopole structure, which elevates a wireless communication antenna and may include accessory transmission and receiving equipment.

**TREE** - A woody perennial plant, typically large and with a single, well-defined stem.

**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 performance standards of this title.

**USES, PROHIBITED** - Those uses not specifically enumerated as permitted uses. Prohibited uses are listed in this title for purposes of clarity and emphasis only. Prohibited uses mentioned include, but are not limited to, enumerated prohibited uses.

**VARIANCE** - As defined by Idaho Code § 67-6516, "A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision 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."

**VISUAL CLUTTER** - A crowded, confused, disorderly collection of things that is visible to neighbors or the public.

**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 16 inches out from that surface.

**WETLAND** - 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, marches, bogs and similar areas.

**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 provides 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 of a Bachelors of Science degree from an accredited university in biology, botany, ecology or a similar related field and a minimum of two years full time field experience as a wetlands professional or additional education that includes completion of a wetland-specific training program. This field experience may be in the form of certification from the Society of Wetlands Specialists or a list 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 shall include comprehensive information on wetland hydrology, hydric soils and hydroptic vegetation. Experience in wetland delineation should include delineating 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.

WIRELESS COMMUNICATION FACILITY (WCF) - Any facility designed and used for the purpose of transmitting, receiving, or relaying voice and data signals. Facilities include siting areas, transmission towers and antennas. This definition includes previously approved cell phone towers. Amateur radio, broadcast radio and television facilities, towers less than 20 feet in height that are mounted upon another structure and facilities with towers less than 40 feet in height above natural ground level are excluded from this definition. Minor modifications of WCFs are permitted. However, substantial changes to current WCFs (as determined by the Director), including, but not limited to, the physical expansion of a siting area or the extension of a transmission tower beyond 20 feet from its original height shall require a new or modified conditional use permit.

YARD - An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

YARD, FRONT - A yard extending along the full length of the front lot line between the side lot lines.

YARD, REAR - A yard extending along the full length of the rear lot line between the side lot lines.

YARD, SIDE - A yard extending along a side lot line from the front yard to the rear yard.

ZONE OR DISTRICT - The words "Zone" and "District" are interchangeable in this title. "Zone" or "District" means all land or water areas within a stated boundary.

ZOO - A collection of living mammals, birds, and/or reptiles located and housed for public display.

**SECTION 3.** That Section 9-15-12, Kootenai County Code, be and the same is hereby amended to read as follows:

**9-15-12: CONDOMINIUMS:** A condominium is defined in Idaho Code § 55-101B as “an estate consisting of (i) an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof, together with (ii) a separate interest in real property, in an interest or interests in real property, or in any combination thereof.” ~~Condominiums are defined as a system of separate ownership of individual units in a multiple unit building, together with an undivided ownership of the common areas and elements of the real property, by the owners of the individual units. They are an estate consisting of an undivided interest in real property, together with a separate, fee simple interest in a portion of the same property (ref. Idaho Code 55-101B).~~ Condominiums are created by recording a ~~plat and declaration of condominium~~ in accordance with ~~Idaho Code~~ Title 55, Chapter 15, Idaho Code, and a condominium plat in accordance with Title 55, Chapter 15, Idaho Code and section 10-2-7 of this code.

If allowed in the zoning district, non-residential structures or uses, and residential structures containing two, three or four or fewer dwelling units, may be platted as condominiums without creating a PUD. For example, if duplexes are allowed in the zoning district, a two unit condominium could be platted without obtaining a PUD approval permit. In some zones a Conditional Use Permit is, however, required.

If the proposed condominium contains dwelling units and the number of dwelling units eondominiums proposed exceeds the number of dwelling units allowed per parcel in the underlying zone, a PUD approval will be is required. The total number of dwelling units permitted in a PUD shall not exceed that allowed in the underlying zoning district or districts.

**SECTION 4.** That Section 10-1-4, Kootenai County Code, be and the same is hereby amended to read as follows:

**10-1-4: DEFINITIONS:**

Words used in the present tense include the future tense. Words used in singular number include the plural, and vice versa. The word "shall" and "must" are mandatory, and the word "may" indicates the use of discretion. Unless clearly stated otherwise, the following words and phrases shall have the following meanings:

**AFFECTED PERSON:** One having an interest in real property that may be affected by a decision.

**AGENCY:** Any city or political subdivision of the state, including, but not limited to, counties, school districts, highway districts, any agency of state government, and any city or political subdivision of another state.

**AGENT:** One who acts for or in the place of another.

**AMENDED PLAT:** A plat that has minor corrections or modifications.

**APPROACH:** An access point onto a public or private road.

**BEST MANAGEMENT PRACTICES (BMPs):** Land management practices, approved by the state of Idaho or other Idaho public agency, designed to minimize the discharge of sediment and other pollutants. These include, but are not limited to, the Idaho Forest Practices Rules, the Rules Governing Solid Waste Management, the Rules for Individual and Subsurface Sewage Disposal Systems, the Rules and Minimum Standards for Stream Channel Alterations, the Rathdrum Prairie sewage disposal and critical materials regulations, the Rules Governing Exploration and Surface Mining Operations in Idaho, the Idaho Well Construction Standards Rules, the Rules Governing Placer and Dredge Mining in Idaho, the Rules Governing Dairy Wastes, Best Management Practices for Containing Critical Materials During Above Ground Storage and Handling, and the Catalog of Storm Water Best Management Practices for Idaho Cities and Counties.

**BOARD:** The Kootenai County Board of Commissioners.

**BUILDING ENVELOPE:** A designated area, shown on a plat, within which all structures must be located.

**CONDOMINIUM:** Shall be as defined in Idaho Code § 55-101B.

**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 DESIGN SUBDIVISION:** A subdivision design that maximizes the conservation of open space and the natural, cultural or historic characteristics of an area. The subdivision name for a conservation design subdivision will be followed by the initialism "CDS."

**CONSERVATION EASEMENT:** A nonpossessory interest of a holder in real property, imposing limitations or affirmative obligations for retaining or protecting natural, scenic, or open space values of real property; for assuring its availability for agriculture, forest, recreation or open space use; for maintaining or enhancing air or water quality; or for preserving the historical, architectural, archeological or cultural aspects of real property (Idaho Code § 55-2101).

**CONSERVATION ORGANIZATION:** A charitable corporation, association, or trust, whose purposes or powers include: a) retaining or protecting the natural, scenic, or open space values of real property for agriculture, forest, recreation, or open space use, b) protecting natural resources, c) maintaining or enhancing air or water quality, or d) preserving the historical, architectural, archaeological, or cultural aspects of real property. Conservation organizations are allowed, by Idaho Code, to be the holders of conservation easements (Idaho Code § 55-2101).

**CONTIGUOUS:** Sharing a mutual boundary line.

**CONVEYANCE:** The transfer of title, or grant of an interest in land, by the owner. Conveyances may include land, easements, and rights of way transferred to either public or private entities.

**COOPERATIVE CORPORATION:** Any nonprofit corporation, operating on a cooperative basis, owned, operated, organized and maintained by its members, for the purpose of providing goods or services to its members.

**DECLARATION OF CONDOMINIUM:** A document, other than a condominium plat, which meets the relevant requirements of Idaho Code §§ 55-1504 and 55-1505.

**DEPARTMENT:** Kootenai County Building and Planning Department.

**DESIGN PROFESSIONAL:** An individual with specialized knowledge and experience, who is qualified to develop plans for various components of a subdivision development. With regard to storm water plans, the design professional must meet the definition found in the Kootenai County Site Disturbance Ordinance, Title 11, Chapter 2 of this code.

**DIRECTOR:** The director of the Kootenai County Building and Planning Department or their designee.

**DRAINAGEWAY:** A watercourse that does not meet the definition of a class I or class II stream.

**DRIVEWAY:** A means of vehicular access from a public or private road to a lot or parcel of land.

**DRIVEWAY, COMMON:** A driveway that provides vehicular access from a public or private road to not more than four (4) lots or parcels of land.

**EASEMENT:** A right of use, falling short of ownership, usually for a certain stated purpose (Idaho Code § 50-1301).

**FINAL PLAT:** The final drawing of a subdivision and associated conveyances, to be recorded as a public document.

**FINANCIAL GUARANTEE:** An irrevocable letter of credit, cash deposit, bank account, or surety bond, pledged to secure the performance of an obligation.

**FIRE DISTRICT:** A structural fire protection district.

**FRONTAGE:** The portion of a lot that is contiguous with the road used to access the lot.

**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.

**GATED COMMUNITY:** A form of closed community with more than ten (10) residential lots, characterized by a controlled entrance for pedestrians, bicycles, and automobiles, may be staffed by full time, private security guards, may lead into one or more small residential streets, with walls or fences surrounding the perimeter of the entire development. Many gated communities may have various amenities which make it possible for residents to stay within the community for day to day activities.

**GRADE:** Ground level. Also, the slope of a road specified in percent.

**GREEN SPACE:** Land meeting the definition of Green Space in chapter 4 of this title.

**GROSS ACREAGE:** The size of a lot or parcel including one-half (1/2) of adjoining rights of way.

**HEARING BODY:** The entity charged with the conduct of a public hearing and a decision or recommendation on an application. The hearing body may be a hearing examiner, the planning commission or the board of county commissioners.

**HYDROLOGIC PROTECTION AREA:** The area adjoining a lake, river, stream, wetland, watercourse or drainageway that must be reserved and shown on 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.

**INFRASTRUCTURE:** Support facilities for a subdivision including, but not limited to, water, sewer, road, fire protection, storm water and utility systems. This term includes both project support facilities, and public system facilities serving the area.

**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 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, settling or gravel ponds.

**LAND DISTURBING ACTIVITY:** Any manmade change to the land surface, including the removal of vegetation and topsoil, filling, and grading, but not including landscaping or agricultural land uses such as planting, cultivating and harvesting of crops or trees.

**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 feet (20'), are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form.

**LOT:** A legally created, platted parcel of land.

**MAINTENANCE ENTITY:** An organization, such as a homeowners' association, that provides maintenance for land, infrastructure or shared improvements within a subdivision.

**MAJOR SUBDIVISION:** A subdivision that proposes to: a) create five (5) or more lots, or b) redivide land that has been subdivided in the previous five (5) years, when the two (2) subdivisions together will create five (5) or more lots, or c) create two (2) to four (4) lots with shared infrastructure or improvements, or a water system that requires engineering, that must be constructed to meet the requirements of the county or other agencies.

**MINOR SUBDIVISION:** A subdivision that proposes to create four (4) or fewer lots, with no shared infrastructure or improvements other than a water system and/or a common driveway that does not require engineering that must be constructed to meet the requirements of the county or other agencies. Property that has been subdivided within the previous five (5) years cannot be

redivided as a minor subdivision, except when the two (2) 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.

**NATURAL SLOPE:** The slope of the land prior to any manmade disturbance.

**NET ACREAGE:** The size of a lot or parcel excluding adjoining rights of way.

**ORDINARY HIGH WATER MARK:** The mark on the bed and banks of watercourses, where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to impart upon the soil and vegetation a character distinct from that of the abutting upland.

**PARCEL:** A piece of land that is separately described in a deed of conveyance. Parcel boundaries, as used in this title, may or may not coincide with parcel boundaries as assigned by the Kootenai County assessor.

**PERPETUAL:** Continuing forever, valid for all time.

**PLANNED UNIT DEVELOPMENT (PUD):** An integrated design for development of residential, commercial or industrial uses, or combinations of uses, under single ownership or control, in which the standards of the zoning ordinance may be varied. PUDs allow flexibility and creativity in site and building design and location, in accordance with an approved plan, and the goals and policies of the zoning ordinance and comprehensive plan.

**PLAT:** A map or drawing of a subdivision of land into lots, blocks, and roads, along with associated conveyances, to be filed as a public document.

**PRELIMINARY SUBDIVISION PLAN:** A map or drawing illustrating a preliminary subdivision proposal.

**PROFESSIONAL FORESTER:** An individual with at least a Bachelor's Degree in Forestry.

**PROFESSIONAL WILDLIFE BIOLOGIST:** An individual with at least a Bachelor's Degree in Wildlife Biology.

**RATHDRUM AQUIFER:** A ground water aquifer located beneath the Rathdrum Prairie in northern Kootenai County. The official boundary of the Rathdrum Aquifer is designated in the February 9, 1978, Federal Register, volume 43, no. 28, and is depicted on an associated map published by the Environmental Protection Agency.

**REPLAT:** The process by which a previously recorded subdivision plat, or portion of a plat, is modified.

**RIGHT OF WAY:** Land conveyed to the public and under the jurisdiction of a public highway agency.

**ROAD, PRIVATE:** A travelway for vehicles, that is not owned or maintained by a public agency.

**ROAD, PUBLIC:** A travelway for vehicles, owned and/or maintained by a public agency.

**SANITARY RESTRICTIONS:** Water and sewer requirements imposed on a subdivision plat per Idaho Code § 50-1326.

**SENSITIVE AREAS:** Sensitive areas are defined as a) land in, or within three hundred feet (300') of wetlands, streams, or lakes, b) areas where the water table is within six feet (6') of ground surface at any time of the year, c) areas with slopes greater than or equal to twenty five percent ( $\geq 25\%$ ) or that exhibit signs of instability, d) habitat for rare, threatened or endangered plants or animals, e) areas where the ground surface is within fifty feet (50') of an unconsolidated, sand or gravel aquifer, and f) areas of special flood hazard (flood zones).

**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 drain field.

**SLOPE:** An incline, described by the vertical change in elevation that occurs in one hundred feet (100') 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.

**STREAM:** A natural watercourse of perceptible extent, with definite beds and banks, which confines and conducts continuously or intermittently flowing water. "Definite beds" are defined as having a sandy or rocky bottom which results from the scouring action of water flow.

Class I: A stream used for domestic water supply, or which is important for the spawning, rearing or migration of fish. Such waters will be considered to be class I upstream from the point of domestic diversion for a minimum distance of one thousand three hundred twenty feet (1,320').

Class II: Usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, streams shall be considered class II where the total upstream watershed is less than two hundred forty (240) acres. The principal value of class II streams lies in their influence on water quality and quantity in class I streams.

**STRUCTURE:** That which is built or constructed.

**SUBDIVISION:** The division of land into two (2) or more lots or parcels of land by recording a deed or plat.

**SUBSTANTIAL CHANGE:** Any change that will likely cause a material or directly relevant bearing on the decision making process or the public's, or an agency's, reasonable expectation of information provided at the time of application. Additionally, for purposes of this section, any change in the number or configuration of lots may constitute a substantial change.

**TOPOGRAPHIC MAP:** A map with lines of equal elevation, showing the relief and configuration of the ground surface.

**TOPOGRAPHY:** The configuration of the ground surface.

**UNOBTRUSIVE:** Inconspicuous, not prominent.

**UTILITY:** A service provided to a subdivision, including water, telephone, power, cable, sewer and storm water treatment and disposal.

**VESTED:** Guaranteed as a legal right. The right to have a subdivision application processed according to regulations in place at the time a complete application was submitted.

**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 (2) or more lots within a subdivision.

**WATERSHED:** The surrounding land areas from which water drains to a given point.

**WETLAND:** 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.

**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 or a similar related field and a minimum of two (2) years' full time field experience as a wetlands professional or additional education that includes completion of a wetland specific training program. This field experience may be in the form of certification from the Society of Wetlands Specialists or a list 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 shall include comprehensive information on wetland hydrology, hydric soils and hydrophytic vegetation. Experience in wetland delineation should include delineating 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 a sewage system indicating that the system has the capacity to provide water or sewage service, and that the owner is willing to provide service, to all of the lots in the proposed subdivision.

**SECTION 5.** That Section 10-1-7, Kootenai County Code, be and the same is hereby added to read as follows:

**10-1-7: 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 Idaho Code § 6-904(1).

**SECTION 6.** That Section 10-2-7, Kootenai County Code, be and the same is hereby added to read as follows:

**10-2-7: CONDOMINIUM PLATS:**

A. Applicability: The procedure set forth in this section 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, depending on the number of lots created. 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 section 9-22-8 of this title.

B. Application Requirements:

1. The applicant shall make application on a form prescribed by the director. 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 sections 10-2-1 and 10-2-2 of this chapter, except as may be waived by the director. 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. The fee for an application for a minor subdivision shall apply until a condominium plat application fee is specifically established.
2. A proposed condominium plat shall include all information required under Title 50, Chapter 13, Idaho Code and Title 55, Chapter 15, Idaho Code. The proposed condominium plat shall also include all information required for minor subdivisions in Table 2-1 of this chapter with the exception of final lot lines. The proposed condominium plat shall include a signature line for the director in addition to all other required signature lines.

3. Compliance with Zoning Ordinance:

- a. The proposed condominium plat shall comply with all requirements of the underlying zone as set forth in the Kootenai County Zoning Ordinance, Title 9 of this code.
  - b. 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 Title 9, Chapter 15 of this code, including any modifications of other zoning standards allowed therein.
4. A lot 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 chapter 3 of this title.
5. 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.

C. 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 include the following information in addition to the information required by this chapter:
  - 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 and/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.

D. Approval Process and Requirements: The steps for gaining approval of a condominium plat are as follows:

1. **Condominium Design.** Prior to filing an application for condominium plat approval, the applicant and the applicant's design consultant lay out the proposed declaration of condominium and proposed condominium plat, and the project surveyor then draws the plat.
2. **Site Inspection and Plan Review with a County Planner.** The applicant must provide a proposed declaration of condominium and proposed condominium plat. The planner and applicant will review the approval process, compliance with the requirements of this section and other relevant provisions of Kootenai County Code, and consider the feasibility of the proposed condominium.
3. **Existing Site Disturbances and Code Violations.** If any un-permitted 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 meeting the requirements of the Kootenai County Site Disturbance Ordinance, Title 10, Chapter 2 of this code, associated resolutions, and applicable BMP's must be installed and approved before an application for approval of a condominium plat will be accepted. As a condition of approval, the Board may require replacement of trees and vegetation needed for screening and buffering of the condominium. Any other violations of County ordinances shall also be corrected prior to application.
4. **Neighborhood Meeting.** Prior to submitting an application for a condominium plat, the Applicant is encouraged, but not required, to meet with neighbors to discuss the proposed project.
5. **Application.** The Applicant submits complete application packets for the County and other reviewing agencies, as determined by the Director. Incomplete applications will not be processed.
6. **Agency Review.** If the application is complete, the County forwards it to other agencies and organizations with relevant expertise and jurisdiction, requesting their review and response within thirty (30) days. Some agencies have additional requirements, and after the packets have been mailed, the applicant should contact each agency and meet their requirements. Agency responses should explain whether the proposal appears feasible and will meet the agency's requirements; any negative effects that may result from the condominium; any actions needed to mitigate negative 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 recordation. If an agency requests actions or fees to mitigate impacts of the condominium, the requested mitigation must be commensurate with the impacts and fees must be authorized by law.

Entities that may be asked to comment include, but are not limited to: the Fire District, Panhandle Health District, Highway District, ITD, School District, cities (for projects in an Area of City Impact), DEQ, IDWR, water and sewer service purveyors, utility

providers, Army Corps of Engineers, Kootenai County Noxious Weeds Department, Idaho Department of Lands, Idaho Department of Fish and Game, the Kootenai-Shoshone Soil Conservation District, and the Coeur d'Alene Tribe. In addition to providing general comments, agencies shall be asked to address the following items:

Panhandle Health District - What is required to lift the sanitary restrictions (sanitary restrictions must be lifted on all lots prior to recordation).

Water Purveyor - A "will serve" letter, any action required to secure water connections (e.g. payment of connection fees), confirmation that the water system is adequate, and whether improvements are required.

Sewer District - A "will serve" letter and any action required to secure sewer connections.

7. Comment Period. After all required agency letters are received, the Department will review the application and schedule it for a thirty (30) day public comment period. The Department publishes a Notice of Comment Period in the newspaper. In accordance with instructions provided by the Department, the Applicant mails the notice to property owners within three hundred feet (300') of the site (including any contiguous lots or parcels under the same ownership). Notices to neighbors must be mailed on or before the first day of the comment period. Information submitted prior to the close of the comment period will become a part of the record on the application.
8. Order of Decision and Required Findings. After the close of the comment period, the director reviews the relevant evidence in the record and issues an order of decision. The order shall cite the applicable legal standards, state the evidence and conclusions on which the decision was based, explain any relevant contested facts and his evaluation of these facts, and if the decision is a denial, the actions, if any, the applicant could take to gain approval. The applicant bears the burden of demonstrating compliance with requirements. To approve a condominium plat, the director must make the following findings:
  - a. The applicant provided adequate information to determine compliance with requirements.
  - 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 Table 2-1 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 this title and other provisions of this code without variances (e.g., Zoning, Site Disturbance, Road Naming, Area of City Impact and Flood Ordinances).

- e. The condominium plat and the project meet the requirements of other agencies.
- 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 for condominium residents are available and adequate; if necessary and authorized by law, payments have been made to mitigate the impacts of the condominium, so that it does not compromise the quality or increase the cost of services. Mitigation actions must be commensurate with the impacts of the condominium.
- 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, and/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 are ready to be recorded with the condominium plat.
- l. Public notice and the processing of this application met the requirements set forth in this title and Idaho Code.

Unless otherwise approved by the applicant or scheduled for public hearing pursuant to subsection (D)(9) of this section, the director shall make a decision within five (5) weeks of the close of the comment period. If the proposal meets these requirements, it shall be approved. Conditions may be attached to the approval, and the County will check for compliance with these conditions before the plat is recorded. If it does not meet these requirements, or if insufficient information was provided to determine compliance, it may be denied. The director's decision may be appealed in accordance with the process outlined in Section 10-5-2 of this title.

9. Public Hearing in the Event of Specific Opposition.

- a. In the event there is opposition specifically related to the compatibility of the request to the surrounding area, negative environmental, social or economic impacts, or the

lack of available services or facilities submitted during the comment period, a public hearing before the Board will be scheduled. Notice of public hearing shall follow the public notification requirements in Idaho Code § 67-6509. The Applicant shall be responsible for the additional public notice.

- b. The Board's decision shall be based on compatibility of the request with the surrounding area and the potential to cause an adverse affect on infrastructure, or the health, safety or welfare of the citizens of Kootenai County. The Board shall have the authority to impose additional reasonable conditions which would mitigate or eliminate any adverse affects.
  - c. The Board shall render its decision in writing within thirty (30) days of the close of the public hearing. The Board shall outline the provisions and standards of this title used, the facts of the application, and such conclusions as support its decision. If the Board denies the application, it shall specify in its decision the actions, if any, which the Applicant could take to obtain approval.
- E. Recordation. Within one hundred twenty (120) days of approval, the Applicant must meet any conditions and submit the Mylar plat and any associated documents in a form ready to record. The Applicant shall obtain all signatures on the plat and documents, except County signatures. All signatures and stamps must be in reproducible, quick drying, permanent, indelible, black ink. A current title report, or similar document verifying ownership, must also be submitted with the plat. The department will obtain the necessary County signatures and with the Applicant records the plat and other documents. If the plat is not submitted within one hundred twenty (120) days, and an extension is not granted by the director, approval shall be deemed null and void and a new application must be submitted. An extension of time for recordation may be granted by the director for cause. As part of a subsequent application, updated agency letters may be required, if conditions or approvals may have changed.
- F. Premature Sale of Interests in Condominium. 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 owners. If the property is sold in its entirety, a new application shall not be required, and the new owner may proceed through the condominium plat approval process under the existing application.

**SECTION 7.** That Section 10-5-3, Kootenai County Code, be and the same is hereby amended to read as follows:

**10-5-3: ENFORCEMENT:**

- A. Unlawful Subdivision, Recordation of Plats, and Site Work. As provided in Idaho Code § 67-6518 and § 67-6527, 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 title. Any subdivision or

condominium plat which is recorded in violation of the provisions of this title, or of Title 50, Chapter 13, Idaho Code, shall be deemed void *ab initio*. In addition to the actions and penalties provided in ~~Idaho Code~~ 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 title may be subject to the following criminal and civil remedies, fines and penalties.

- B. Criminal Penalties. As provided in Idaho Code § 67-6518 and § 67-6527, a violation of this title shall be a misdemeanor punishable as set forth in section 1-4-1 of this code, with each day of an ongoing offense considered a separate violation. In addition, if found guilty, the violator shall pay all reasonable expenses incurred in enforcing this title. In cases where multiple individuals, firms, corporations or agents participated in violating this title, they shall be held jointly and severally liable for the above payment and any restitution awarded by the court and each person so involved, either as a principal or a co-conspirator, shall be subject to the full criminal penalties.
- C. Civil Enforcement. The County may also take civil action in district court 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 a sum equal to two times the monetary gain associated with the violation and shall pay all reasonable expenses incurred in enforcing this title. In cases where multiple individuals, firms, corporations or agents participated in violating this title, they shall be held jointly and severally liable for the above penalties and payments.
- D. Stop Work Order. Whenever any terrain modification, construction, or other site work is not in compliance with this title, specific conditions of approval, or other related laws, ordinances, or requirements, the director may order the work stopped by written notice. Such notice 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. Stop work orders may be appealed according to the procedure outlined in Section 10-5-2 of this title.
- E. Withholding of Permits. The director may withhold issuance of permits, including building permits, for subdivisions, lots, or parcels of land that are in violation of this title. Withholding of permits may be appealed according to the procedure outlined in Section 10-5-2 of this title.
- F. Processing of Applications. Applications for approvals authorized by this title will not be accepted until all violations of county ordinances are corrected, and the property is brought into compliance. 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 the Kootenai County Site Disturbance Ordinance, Title 11, Chapter 2 of this code, and applicable BMP's, must be installed and

approved before an application will be accepted. These requirements may be appealed according to the procedure outlined in Section 10-5-2 of this title.

**SECTION 8.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 9.** Neither the adoption of this Ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the Kootenai County Board of Commissioners or the validity of any such action to be taken upon matters pending before the Kootenai County Board of Commissioners on the effective date of this Ordinance.

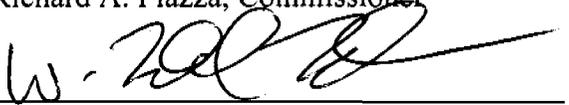
**SECTION 10.** This Ordinance shall take effect and be in full force from and after its passage, approval, and publication in the Coeur d'Alene Press.

ADOPTED this 24<sup>th</sup> day of July, 2008.

**KOOTENAI COUNTY  
BOARD OF COMMISSIONERS**

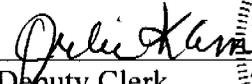
  
Elmer R. Currie, Chairman

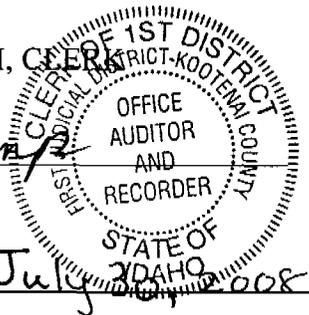
absent from decision  
Richard A. Piazza, Commissioner

  
W. Todd Tondee, Commissioner

**ATTEST:**

DANIEL J. ENGLISH, CLERK

By:   
Deputy Clerk



Publication Date: July 20, 2008

C: Legal Services, Building and Planning, Prosecuting Attorney, Assessor, Surveyor, Recorder, Sterling Codifiers