

ORDINANCE NO. 514
CASE NO. ORA17-0003
OMNIBUS LAND USE AND DEVELOPMENT CODE AMENDMENTS

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO LAND USE REGULATION; ADDING PUBLIC SAFETY FACILITIES AS A USE PERMITTED BY RIGHT ON PARCELS IN ALL ZONES, ADDING PUBLIC SERVICE FACILITIES AS A USE PERMITTED BY RIGHT IN THE COMMERCIAL, LIGHT INDUSTRIAL, AND INDUSTRIAL ZONES AND AS A USE REQUIRING A CONDITIONAL USE PERMIT IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, AND RESTRICTED RESIDENTIAL ZONES, ALLOWING THE CONSTRUCTION OF ONE (1) PERSONAL STORAGE BUILDING NOT TO EXCEED 5,000 SQUARE FEET ON PARCELS OF FIVE (5.00) ACRES IN SIZE PRIOR TO THE ESTABLISHMENT OF A PRIMARY USE IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, AND RESTRICTED RESIDENTIAL ZONES, ALLOWING TEMPORARY OR INTERMITTENT RECREATIONAL USE OF UP TO TWO (2) RECREATIONAL VEHICLES ON PARCELS OF ALL SIZES IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, AND RESTRICTED RESIDENTIAL ZONES, EXEMPTING PUBLIC SAFETY FACILITIES AND PUBLIC SERVICE FACILITIES FROM MINIMUM PARCEL SIZE, PARCEL COVERAGE AND BUILDING LOT REQUIREMENTS AND FROM THE PERFORMANCE STANDARDS GENERALLY APPLICABLE IN THE COMMERCIAL, LIGHT INDUSTRIAL, AND INDUSTRIAL ZONES, ALLOWING RAILROAD CARS, TRUCK CARGO CONTAINERS AND TRAILERS AS A USE PERMITTED BY RIGHT ON PARCELS IN THE MINING, LIGHT INDUSTRIAL, AND INDUSTRIAL ZONES, PROVIDING THAT ACCESSORY LIVING UNITS SHALL NOT EXCEED 1,000 SQUARE FEET OR FIFTY PERCENT (50%) OF THE HABITABLE SPACE OF, AND SHALL NOT BE LARGER THAN, THE PRIMARY STRUCTURE, WHICHEVER IS GREATER, PROVIDING THAT PARK MODEL RECREATIONAL VEHICLES (ALSO KNOWN AS PARK MODELS OR PARK TRAILERS) SHALL BE SUBJECT TO THE REGULATIONS THAT APPLY TO RECREATIONAL VEHICLES, AMENDING LANDSCAPE STANDARDS, ADDING PARKING STANDARDS FOR PUBLIC SAFETY FACILITIES, PUBLIC SERVICE FACILITIES, COMMERCIAL MARINAS, AND PUBLIC UTILITY COMPLEXES WITH REGULAR ON-SITE EMPLOYEES, EXEMPTING RETAINING WALLS FROM SETBACK REQUIREMENTS REGARDLESS OF HEIGHT, ADDING CONDITIONAL USE PERMITTING STANDARDS FOR PUBLIC SERVICE FACILITIES TO BE LOCATED IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, AND RESTRICTED RESIDENTIAL ZONES, ADDING STANDARDS AND EXEMPTIONS APPLICABLE TO SOLID WASTE RURAL COLLECTION SITES, EXEMPTING DIVISIONS OF LAND MADE PURSUANT TO A WILL, TRUST, OR OTHER INSTRUMENT ASSOCIATED WITH A DECEDENT'S ESTATE REGARDLESS OF THE NUMBER OF PARCELS TO BE CREATED, AMENDING PROVISIONS REGARDING NONCONFORMING USES AND STRUCTURES, ADDING DEFINITIONS OF LANDFILL, PUBLIC SAFETY FACILITY, PUBLIC SERVICE FACILITY, SOLID WASTE RURAL COLLECTION SITE, SOLID WASTE TRANSFER STATION, AND TEMPORARY GROUP HOUSING FACILITY, AMENDING THE DEFINITIONS OF AIRPORT ADVISORY BOARD, AIRPORT DEVELOPMENT CONTROL COMMITTEE, BUILDING HEIGHT, MODULAR

BUILDING, PARK MODEL RECREATIONAL VEHICLE, PUBLIC UTILITY, PUBLIC UTILITY COMPLEX FACILITY, RENTAL WAREHOUSE, UTILITY, AND UTILITY COMPLEX, AND MAKING MISCELLANEOUS TECHNICAL CORRECTIONS; PROVIDING FOR RATIFICATION OF NON-SUBSTANTIVE CORRECTIONS PREVIOUSLY MADE TO TITLE 8, KOOTENAI COUNTY CODE BY STERLING CODIFIERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-WAIVER OF ACTIONS REGARDING VIOLATIONS OCCURRING WHILE PRIOR ORDINANCES WERE IN EFFECT; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 8.1.404, Kootenai County Code, be, and the same is hereby amended as follows:

8.1.404: REQUIRED FINDINGS FOR TEXT AMENDMENTS:

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

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

SECTION 2. That Section 8.2.105, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary uses.

1. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.

2. One single-family dwelling, which may be a Class A or Class B manufactured home, with accessory buildings.

3. Public Safety Wireless Communications Facilities.

4. Utility Complexes.

5. Utility Services.

6. Public Safety Facilities.

B. Accessory Uses.

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

C. One (1) personal storage building not to exceed 5,000 ~~3,000~~-square feet may be built prior to the establishment of one or both of the uses listed in subsection (A) or (B) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the lot or parcel is less than two (2.00) acres in size, and such buildings shall not exceed 2,000 square feet. *See* subsection 8.2.110(B) of this article.

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

E. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 3. That Section 8.2.106, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary uses.

1. General farming and forestry.
2. Sales of agricultural products produced on the premises or on parcels under common ownership. The amount of space dedicated to such use shall not exceed three hundred (300) square feet of building area.
3. One (1) single-family dwelling, which may be a Class A or Class B manufactured home.
4. Publicly-owned parks, playgrounds, and recreational facilities.
5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
6. One (1) two-family dwelling.
7. Processing plants, feed mills, packing plants, and warehouses for the purpose of processing, packing, and storage of agricultural products, employing regularly not more than ten (10)

persons, but excluding meat, poultry, slaughterhouses, and commercial fertilizer manufacturing.

8. Dairy product manufacturing facilities.

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

10. Public safety wireless communications facilities.

11. Utility Complexes.

12. Utility Services.

13. Public Safety Facilities.

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

1. Accessory buildings.

2. One (1) accessory living unit, subject to the standards set forth in section 8.4.301 of this title.

3. Temporary hardship use, subject to the standards set forth in section 8.4.302 of this title.

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

5. Automotive hobby activities, subject to the standards set forth in section 8.4.503 of this title.

6. Cottage industries, subject to the standards set forth in section 8.4.504 of this title.

7. Non-commercial kennels, subject to the standards set forth in section 8.4.505 of this title.

C. One (1) personal storage building not to exceed 5,000 ~~3,000~~-square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above.

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

E. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 4. That Section 8.2.109, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.109: USES REQUIRING A CONDITIONAL USE PERMIT:

A. Agricultural Products Sales Stores

- B. Airports or Airstrips
- C. Automobile Wrecking Yards or Junkyards
- D. Child Care Centers, Preschools, or Head Start Facilities
- E. Commercial Fur Farms
- F. Commercial Kennels
- G. Commercial Resorts
- H. Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities
- I. Feedlots
- J. Fish Hatcheries or Fish Farms (Aquacultural facilities)
- K. Golf Courses or Driving Ranges
- L. Gun Clubs, Rifle Ranges, or Archery Ranges
- M. Hospitals
- N. Mini-Storage Facilities or Rental Warehouses
- O. Nonprofit Trade or Business Associations
- P. Places of Worship or Assembly
- Q. Privately Owned Recreational Facilities which are open to public use
- R. Public Service Facilities
- S. Racetracks
- ~~T~~S. Residential Care Facilities
- ~~U~~F. Resort Lodges, Retreat Centers, or Guest Ranches.
- ~~V~~U. Restricted Surface Mining Operations
- ~~W~~V. Schools
- ~~X~~W. Sawmills, Shingle or Planing Mills, or Woodworking Plants
- ~~Y~~X. Slaughterhouses or Rendering Plants
- ~~Z~~Y. Special Event Locations

AAZ. Veterinary Hospitals or Clinics

BBAA. Wholesale Greenhouses

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

SECTION 5. That Section 8.2.204, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary uses.

1. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.
2. One single-family dwelling, which may be a Class A or Class B manufactured home, with accessory buildings.
3. Public safety wireless communications facilities.
4. Utility Services.
5. Public Safety Facilities.

B. Accessory Uses.

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

C. One (1) personal storage building not to exceed 5,000 ~~3,000~~ square feet may be built prior to the establishment of one or both of the uses listed in subsection (A) or (B) of this section; provided, however, that a special notice permit shall be required for such personal storage buildings where the lot or parcel is less than two (2.00) acres in size, and such buildings shall not exceed 2,000 square feet. *See* subsection 8.2.209(B) of this article.

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

E. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 6. That Section 8.2.205, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary uses.

1. General farming and forestry.
2. Sales of agricultural products produced on the premises or on parcels under common ownership. The amount of space dedicated to such use shall not exceed three hundred (300) square feet of building area.
3. One (1) single-family dwelling, which may be a Class A or Class B manufactured home.
4. Publicly-owned parks, playgrounds, and recreational facilities.
5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
6. One (1) two-family dwelling.
7. Cemeteries, provided that they meet all standards of the Idaho Code and are approved by Panhandle Health District.
8. Public safety wireless communications facilities.
9. Utility Services.
10. Public Safety Facilities.

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

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

6. Cottage industries, subject to the standards set forth in section 8.4.504 of this title.

7. Non-commercial kennels, subject to the standards set forth in section 8.4.505 of this title.

C. One (1) personal storage building not to exceed 5,000 ~~3,000~~-square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above.

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

E. Continued operation of airports or airstrips that were in existence on June 9, 2016.

F. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 7. That Section 8.2.208, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.208: USES REQUIRING A CONDITIONAL USE PERMIT:

A. Agricultural Products Sales Stores

B. Airports or Airstrips

C. Asphalt or Concrete Batch Plants

D. Automobile Wrecking Yards or Junkyards

E. Child Care Centers, Preschools, or Head Start Facilities

F. Commercial Fur Farms

G. Commercial Kennels

H. Commercial Resorts

I. Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities

J. Explosive Manufacturing or Storage Facilities

K. Golf Courses or Driving Ranges

L. Gun Clubs, Rifle Ranges, or Archery Ranges

M. Hospitals

N. Mini-Storage Facilities or Rental Warehouses

O. Nonprofit Trade or Business Associations

P. Outdoor Theaters

Q. Places of Worship or Assembly

R. Privately Owned Recreational Facilities which are open to public use

S. Public Utility Complex Facilities

T. Public Service Facilities

U. Racetracks

~~VU~~. Residential Care Facilities

~~WV~~. Resort Lodges, Retreat Centers, or Guest Ranches.

~~XW~~. Restricted Surface Mining Operations

~~YX~~. Sanitary Landfills

~~ZY~~. Sawmills, Shingle or Planing Mills, or Woodworking Plants

~~AAZ~~. Schools

~~BBAA~~. Special Event Locations

~~CCBB~~. Veterinary Hospitals or Clinics

~~DDCC~~. Wholesale Greenhouses

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

~~FFEE~~. Zoos

SECTION 8. That Section 8.2.304, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.304: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN 8,250 SQUARE FEET: Parcels created prior to January 3, 1973 which are less than 8,250 square feet in size shall be regarded as conforming parcels for purposes of this title. However, the use permitted of right shall be limited to one (1) single-family dwelling, which may be a Class A manufactured home, ~~with~~ accessory buildings, utility services, public safety facilities, ~~and~~ home occupations, subject to the standards set forth in section 8.4.501 of this title, and temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 9. That Section 8.2.305, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary Uses.

1. One (1) single-family dwelling, which may be a Class A manufactured home.
2. One (1) two-family dwelling.
3. Publicly-owned parks, playgrounds, or recreational facilities.
4. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
5. Temporary office for the sale of real estate, for a period not to exceed two (2) years.
6. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.
7. Utility Services.
8. Public Safety Facilities.

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

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

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

D. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 10. That Section 8.2.306, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary Uses:

1. General farming and forestry, provided that the minimum area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.
2. One (1) single-family dwelling, which may be a Class A manufactured home.
3. One (1) two-family dwelling.
4. Publicly-owned parks, playgrounds, or recreational facilities.
5. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
6. Temporary office for the sale of real estate, for a period not to exceed two (2) years.
7. Public Safety Wireless Communications Facilities.
8. Utility Services.
9. Public Safety Facilities.

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

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

C. One (1) personal storage building ~~not to exceed 2,000 square feet~~ may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above. Such building

shall not exceed 2,000 square feet on parcels of less than five (5.00) acres in size, and shall not exceed 5,000 square feet on parcels of five (5.00) acres or greater in size.

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

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

F. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 11. That Section 8.2.308, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.308: SETBACKS AND OFF-STREET PARKING:

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

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

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

SECTION 12. That Section 8.2.309, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.309: USES REQUIRING A CONDITIONAL USE PERMIT:

A. Cemeteries

B. Child Care Centers, Preschools, or Head Start Facilities

- C. Commercial Kennels
- D. Commercial Resorts
- E. Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities
- F. Golf Courses or Driving Ranges
- G. Hospitals
- H. Medical or Dental Clinics
- I. Mini-Storage Facilities or Rental Warehouses
- J. Places of Worship or Assembly
- K. Privately-Owned Recreational Facilities which are open to public use
- L. Public Service Facilities
- M. Public Utility Complex Facilities
- ~~N~~. Residential Care Facilities
- ~~O~~N. Resort Lodges, Retreat Centers, or Guest Ranches.
- ~~P~~Ø. Schools
- ~~Q~~P. Veterinary Hospitals or Clinics
- ~~R~~Q. Wholesale Greenhouses

SR. Wireless Communication Facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right. The minimum lot size for Wireless Communication Facilities in the Agricultural Suburban zone, including Public Safety Wireless Communication Facilities, shall be two (2) acres.

SECTION 13. That Section 8.2.404, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.404: USES OF RIGHT ON EXISTING PARCELS OF LESS THAN 8,250 SQUARE FEET: Parcels created prior to January 3, 1973 which are less than 8,250 square feet in size shall be regarded as conforming parcels for purposes of this title. However, the use permitted of right shall be limited to one (1) single-family dwelling, including Class A manufactured homes, ~~with~~ accessory buildings, public safety facilities, and utility services, and temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 14. That Section 8.2.405, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary Uses:

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

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

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

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

D. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 15. That Section 8.2.407, Kootenai County Code, be, and the same is hereby amended as follows:

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

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

B. Accessory Uses:

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

2. The keeping of livestock, subject to the following limitations:

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

b. The minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.

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

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

D. One (1) personal storage building not to exceed 5,000 ~~2,000~~-square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above.

SECTION 16. That Section 8.2.410, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.410: USES REQUIRING A CONDITIONAL USE PERMIT:

A. Child Care Centers, Preschools, or Head Start Facilities

B. Commercial Resorts

C. Golf Courses or Driving Ranges

D. Places of Worship or Assembly

E. Privately Owned Recreational Facilities which are open to public use

F. Public Service Facilities

G. Public Utility Complex Facilities

HG. Residential Care Facilities

IH. Resort Lodges, Retreat Centers, or Guest Ranches

JH. Schools

SECTION 17. That Section 8.2.504, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary Uses:

1. One (1) single-family dwelling. On parcels of not less than six thousand (6,000) square feet with frontage on a public road, one (1) Class A or Class B manufactured home may be used as a single-family dwelling.
2. One (1) two-family dwelling.
3. Publicly-owned parks, playgrounds, or recreational facilities.
4. Bed and breakfast inns, subject to the standards set forth in section 8.4.502 of this title.
5. Temporary office for the sale of real estate for a period not to exceed two (2) years.
6. Multiple Family Dwellings are permitted of right on parcels of not less than twelve thousand square feet (12,000 sq. ft.) in size with frontage on a public road. There shall be a ratio of not less than three thousand square feet (3,000 sq. ft.) of land per dwelling unit.
7. Utility Services.
8. Public Safety Facilities.

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

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

C. Temporary or intermittent recreational use of one (1) recreational vehicle, subject to the standards set forth in section 8.4.401 of this title.

D. Public safety facilities may be located on a lot that is otherwise ineligible for building permits.

SECTION 18. That Section 8.2.603, Kootenai County Code, be, and the same is hereby amended as follows:

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

A. Primary Uses:

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

18. Public Service Facilities.

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

1. Accessory buildings.
2. Single family, two-family or multi-family dwellings may be located above the first floor of the primary structure, or in one or more separate accessory structures. The maximum density of residential uses shall be one (1) dwelling unit per 3,000 square feet.
3. Processing and manufacturing operations which are part of, and ancillary to, the operation of a permitted use.

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

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

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

8.2.703: USES PERMITTED:

A. The following uses are permitted of right:

1A. All surface and subsurface mining operations, including the processing of materials, necessary plants and offices, equipment, storage space and other facilities directly related to the mining operation.

2B. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths (³/₄) acre.

3C. One (1) residential structure for use as a caretaker's quarters.

4D. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in section 8.4.1410 of this title.

5E. Utility Complexes and Utility Services.

6. Railroad cars, truck cargo containers and trailers.

7. Public Safety Facilities.

8. Public Service Facilities.

BF. Performance Standards. Performance standards generally applicable within the Mining zone are set forth in section 8.4.1303 of this title.

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

SECTION 20. That Section 8.2.706, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.706: USES REQUIRING A SPECIAL NOTICE PERMIT:

A. Asphalt or Concrete Batch Plants.

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

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

~~CD.~~ Public Utility Complex Facilities.

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

8.2.803: USES PERMITTED:

A. The following uses are permitted of right:

1A. General farming and forestry, provided that the minimum lot area for the keeping of livestock shall be three-fourths ($\frac{3}{4}$) acre.

2B. Publicly-owned parks, playgrounds, or recreational facilities.

3C. Any commercial, manufacturing, or industrial use that complies with the performance standards set forth in chapter 4, sections 8.4.1304 and 8.4.1305 of this title and are not prohibited under section 8.2.804 of this article.

4D. Public Safety Wireless Communications Facilities.

5E. Racetracks, subject to the standards set forth in section 8.5.122 of this title.

6F. Wholesale, retail or service businesses.

7G. Mini-storage facilities or rental warehouses.

8H. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.

9. Railroad cars, truck cargo containers and trailers.

10I. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.

11J. Utility Complexes and Utility Services.

12K. Golf courses and driving ranges.

13. Public Safety Facilities.

14. Public Service Facilities.

~~B.~~ Performance Standards. Performance standards generally applicable within the Light Industrial zone are set forth in sections 8.4.1304 and 8.4.1305 of this title.

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

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

8.2.807: USES REQUIRING A CONDITIONAL USE PERMIT:

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

B. Automobile wrecking yards or junkyards.

C. Gun clubs, rifle ranges, or archery ranges. ~~Public or private office buildings.~~

D. Slaughterhouses or rendering plants.

E. Special event locations.

~~F. Gun clubs, rifle ranges, or archery ranges.~~ G. Wireless communication facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right.

SECTION 23. That Section 8.2.808, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.808: USES REQUIRING A SPECIAL NOTICE PERMIT:

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

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

BC. Lighting for any outdoor recreational facility, ~~regardless of whether the use requesting such lighting is a permitted of right, use or a conditional use.~~

~~C~~D. Public utility complex facilities.

SECTION 24. That Section 8.2.903, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.903: USES PERMITTED:

A. The following uses are permitted of right:

1. Any trade, industry, or processing facility of any type that complies with the performance standards set forth in chapter 4, sections 8.4.1304 and 8.4.1306 of this article and are not prohibited in section 8.2.904 of this article.

~~2~~B. Recreational buildings.

~~3~~C. Publicly-owned parks, playgrounds, or recreational facilities.

~~4~~D. Golf courses and driving ranges.

~~5~~E. Oil and gas drilling and extraction operations, and exploration operations involving ground disturbances, except as prohibited in section 8.2.904 of this article.

~~6~~F. Public Safety Wireless Communications Facilities.

~~7~~G. Racetracks, subject to the standards set forth in section 8.5.124 of this title.

~~8~~H. Sexually oriented businesses, subject to the standards set forth in section 8.4.1202 of this title.

~~9~~I. Transfer, storage, and warehouse facilities, and contractor storage. Storage shall comply with the requirements of section 8.4.605 of this title unless an alternative method of compliance is approved pursuant to section 8.4.606 of this title.

10. Railroad cars, truck cargo containers and trailers.

~~11~~J. Mobile commercial vehicles and temporary commercial structures, subject to the standards set forth in chapter 4, section 8.4.1410 of this title.

~~12~~K. Utility Complexes and Utility Services.

13. Public Safety Facilities.

14. Public Service Facilities.

~~B~~L. Performance Standards. Performance standards generally applicable within the Industrial zone are set forth in sections 8.4.1304 and 8.4.1306 of this title.

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

SECTION 25. That Section 8.2.907, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.907: USES REQUIRING A SPECIAL NOTICE PERMIT:

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

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

~~BC.~~ Lighting for any outdoor recreational facility, regardless of whether the use requesting such lighting is a permitted of right use or a conditional use.

~~CD.~~ Public utility complex facilities.

SECTION 26. That Table 2-1101 in Title 8, Chapter 2, Article 2.11, Kootenai County Code, be, and the same is hereby amended as follows:

**Table 2-1101
Residential Uses**

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

¹ Permitted above the first floor of a permitted primary use or in a separate accessory building. Maximum density is one (1) dwelling unit per 3,000 sq. ft.

² Accessory uses which are permitted after the establishment of a primary use.

³ One (1) personal storage building is permitted prior to the establishment of a primary use.

⁴ A special notice permit is required if the parcel is less than two (2) acres; maximum building size is 2,000 sq. ft.

⁵ Minimum parcel size is 9,900 sq. ft.

- ⁶ Minimum parcel size is 12,000 sq. ft.; parcel must have frontage on a public road; maximum density is 3,000 sq. ft. per dwelling unit.
- ⁷ A Class A or Class B manufactured home is permitted if the parcel size is at least 6,000 sq. ft. and the parcel has frontage on a public road.
- ⁸ Minimum parcel size is two (2) acres.
- ⁹ A conditional use permit is required if the use is not on the same parcel as the primary use or is being established prior to the establishment of a primary use on that parcel.
- ¹⁰ One (1) residential structure for use as a caretaker’s quarters is permitted of right.

SECTION 27. That Table 2-1103 in Title 8, Chapter 2, Article 2.11, Kootenai County Code, be, and the same is hereby amended as follows:

**Table 2-1103
Uses Related to Agriculture**

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

- ¹ Minimum parcel size is five (5) acres.
- ² Minimum area for this use is three-fourths (¾) acre.
- ³ Excluding meat or poultry processing, slaughterhouses, and commercial fertilizer manufacturing.

//

//

//

//

SECTION 28. That Table 2-1105 in Title 8, Chapter 2, Article 2.11, Kootenai County Code, be, and the same is hereby amended as follows:

**Table 2-1105
Lodging, Recreation and Entertainment Uses**

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

¹ Temporary or intermittent use of only one (1) RV is allowed in the HDR zone. See subsection 8.2.504(C).

SECTION 29. That Table 2-1106 in Title 8, Chapter 2, Article 2.11, Kootenai County Code, be, and the same is hereby amended as follows:

**Table 2-1106
Communications, Utility and Transportation Uses**

Use	A	R	AS	RR	HDR	C	M	LI	I
Public utility complex facilities	S	C	C	C	C	S	S	S	S
Utility complexes	P	S	S	S	S	P	P	P	P
Utility services	P	P	P	P	P	P	P	P	P
Wireless communication facilities (WCFs)	C	C	C ²			C		C	C
Public safety WCFs (including radio and televisions towers)	P	P	P ²			P	<u>P</u>	P	P
Airports or Airstrips	C	C ¹	X ¹						
Public Safety Facilities	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Public Service Facilities	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

¹ Continued operation of airports or airstrips that were in existence on June 9, 2016 are permitted on parcels of five (5.00) acres or more in the R zone, and on parcels of two (2.00) acres or more in the AS zone.

² Minimum parcel size is two (2) acres.

SECTION 30. That Table 2-1107 in Title 8, Chapter 2, Article 2.11, Kootenai County Code, be, and the same is hereby amended as follows:

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

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

¹ Uses must comply with applicable performance standards.

² Uses are permitted if they are accessory to a permitted use.

³ Except as prohibited in Section 8.2.904.

⁴ Surface mining only.

⁵ Contractor storage may also be allowed as part of a cottage industry conditional-use permit for a cottage industry.

SECTION 31. That Section 8.4.301, Kootenai County Code, be, and the same is hereby amended as follows:

8.4.301: ACCESSORY LIVING UNITS:

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

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

1. The square footage of the accessory living unit shall not exceed 1,000 square feet of habitable space or fifty percent (50%) of the habitable space of ~~and shall not be larger than the~~ primary structure, whichever is greater. New structures that will be used solely for accessory living units shall be measured from the exterior walls. Existing structures that will add habitable space will be measured from interior dimensions of the habitable space.
2. For purposes of this section, habitable space shall include all enclosed areas used for living, cooking, eating, sanitation, and sleeping. Garage areas will not be included as habitable space if the garage has a door which is at least eight feet (8') wide.
3. The footprint of the accessory living unit shall count toward the calculation of lot coverage.
4. No parcel shall contain more than one (1) accessory living unit.
5. Accessory living units shall comply with the setback requirements for accessory buildings which apply within the underlying zone.

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

1. The permit application shall be on a form provided by the Department and shall include a site plan, a narrative and an affidavit attesting to the validity of the information provided.
2. The procedure for approval of a accessory living unit permit shall be as set forth in section 8.8.204 of this title.
3. Upon review of the information provided, the Director shall determine if the minimum requirements have been met and either approve or deny the permit application.
4. The decision of the Director to grant or deny an accessory living unit permit may be appealed to the Board in accordance with chapter 8, article 8.5 of this title.

SECTION 32. That a new Section 8.4.403, Kootenai County Code, be, and the same is hereby added as follows:

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

SECTION 33. That Section 8.4.603, Kootenai County Code, be, and the same is hereby amended as follows:

8.4.603: LANDSCAPE STANDARDS:

A. General Requirements.

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

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

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

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

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

1600 X 10% = 160 square feet of landscaped area

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

C. Areas Adjacent to Residential Zones.

1. A fifteen foot (15') wide minimum planting strip buffer in conjunction with a 50% site obscuring fence not less than six feet in height shall also be required where the development abuts an existing residential zone or existing residential use.
2. Planting strip buffers shall consist of sight-obscuring vegetative screening, and shall attain 50% sight obscurity along the entire strip within three years. (Only 50% of the site is visible from the street or from an adjacent residential property after three years of plant growth.)
3. Buffering shall provide a year-round visual screen in order to minimize adverse impacts on adjacent property. No buildings, structures, accessory structures, parking, driveways, loading areas or storage of materials shall be permitted in the buffer area.

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

E. Public Road Frontage. Frontage buffer areas shall be provided for all nonresidential uses adjacent to all public roads. The minimum depth of said buffer shall be fifteen feet (15'). Frontage buffers shall be planted with grasses or approved groundcovers, deciduous or evergreen trees, ~~evergreens, or and may include~~ constructed of berms, boulder accents, mounds or combinations thereof. Frontage buffers shall require a minimum of one (1) three (3) trees and three (3) shrubs for every thirty feet (30') of street frontage. If a landscaped berm is provided, the berm shall be at least two and one half feet (2.5') higher than the finished elevation of the parking lot and planting requirements may be reduced to one (1) two (2) trees and three (3) shrubs for every forty thirty feet (~~40~~³⁰) of public road frontage. If planted berms are used, the minimum top width shall be four feet (4'), and the maximum side slope shall be 2:1. No buildings, structures, accessory structures, parking, driveways, loading areas or storage of materials shall be permitted in the buffer area.

SECTION 34. That Section 8.4.703, Kootenai County Code, be, and the same is hereby amended as follows:

8.4.703: PARKING LOT DESIGN STANDARDS:

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

1. Manufactured home parks: 2 per dwelling unit

2. Community uses:

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

Fixed Seating: 1 per 4 seats

No Fixed Seating: 1 per 150 square feet

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

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

d. Hospitals: 1 per each bed

e. Libraries: 1 per 250 square feet

f. Nursing homes: 1 per 5 beds

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

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

3. Commercial:

a. Offices: 3 per 1000 square feet

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

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

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

- e. Hotels or motels: 1 per rental unit, and 1 per each regular employee of the largest shift
- f. Indoor recreation, such as bowling alleys or skating rinks: 1 per 100 square feet
- g. Restaurants, nightclubs or bars: 1 per 250 square feet
- h. Outdoor recreation activities (depending upon the activity):
 - 1 per every cabin; or
 - 1 per every equestrian stall; or
 - 1 per every 100 square foot of floor space in the primary lodge or club; or
 - 1 per every 4 tickets sold.
- i. Research parks: 1 per 600 square feet
- j. Utility complexes, utility services and wireless communication facilities: None

4. Industrial:

- a. Manufacturing: 1 for every 2 employees on the largest shift
- b. Warehouse or wholesale facility: 1 per 800 square feet
- c. Mining: 1 for every 2 employees on the largest shift

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

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

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

C. Dimensions.

- 1. Parking Lot Space Dimensions - Eight feet (8') in width by eighteen feet (18') in length. At the developer's option, 25 percent (25%) of the lot may be marked "compact only" with

individual parking space dimensions of seven and one-half feet (72") in width by fifteen feet (15') in length.

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

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

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

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

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

1. Parking spaces shall comply with the requirements of the applicable adopted building codes and the Americans with Disabilities Act Accessibility Guidelines (ADAAG), 36 C.F.R. Part 1191, appendices B and D.
2. Spaces shall be signed in accordance with section 49-213695, Idaho Code.
3. Spaces shall be located on the shortest possible accessible circulation route to an accessible entrance to a building.
4. If there is any conflict or inconsistency between the standards set forth or referenced in this subsection, the most stringent standard shall be met.

F. Construction Requirements.

1. Required off-street parking areas and access driveways shall be paved with asphalt, concrete, traffic rated concrete unit pavers, crushed stone, gravel, or an equivalent surfacing material approved by the Director.
2. There shall be continuous curbing between parking areas and buildings and along both sides of the approach(es) across the road right-of-way. Curb cuts shall be allowed for driveways, access ways, walkways, and stormwater conveyance.
3. Where four (4) or more parking spaces are required, each parking space shall be designated by a three inch (3") painted line defining the side of each space for its entire length.

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

G. Circulation Requirements.

1. All on-site traffic patterns shall be designated and clearly marked.
2. Circulation within an off-street parking lot shall be such that a vehicle shall not have to exit and re-enter the lot in order to reach another parking aisle, and a vehicle shall not have to exit the parking lot by backing into the street.
3. Turnarounds shall be a minimum of twenty-four feet (24') in width.

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

SECTION 35. That Section 8.4.1106, Kootenai County Code, be, and the same is hereby amended as follows:

8.4.1106: SETBACKS:

A. Measurement of Setbacks.

1. Setbacks from public roads which have a definite right-of-way location and width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County shall be measured from the edge of the right-of-way regardless of the presence or absence of improvements within the right-of-way.
2. Setbacks from public roads which do not have a definite right-of-way location or width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County shall be measured from a line twenty-five feet (25') from, and parallel to, the centerline of the roadway.
3. Setbacks from private roads which have a definite right-of-way location and width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County shall be measured from the edge of the right-of-way if the roadway is actually located entirely within such right-of-way.
4. Setbacks from private roads shall be measured from the edge of the roadway when either:
 - a. There is not a definite right-of-way location or width set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County; or

b. The roadway is actually located entirely or partially outside of the right-of-way set forth in a plat, deed, record of survey, or other instrument recorded in the official records of Kootenai County.

B. Effect of Prior Interpretations. Notwithstanding the provisions of subsection (A) of this section, prior interpretations and determinations pertaining to the setbacks that apply to an existing parcel shall remain effective as to that parcel, and shall not cause the parcel to be regarded as nonconforming.

C. Exceptions to Setback Requirements. The setback requirements set forth in this title shall not apply to:

1. Fences ~~and retaining walls~~ which are less than eight feet (8') in height;
2. Poured concrete structures on grade, such as patios and sidewalks;
3. Platforms necessary for access from roadways to garages or for parking purposes and which are not enclosed;
4. Stairways, walkways, and stairway landings which comply the following standards:
 - a. Stairways and walkways shall not exceed four feet (4') in width.
 - b. Stairway landings shall not exceed six feet (6') in width or length.
 - c. The following setback requirements shall apply:
 - i. Front and Rear Yard: none
 - ii. Side Yard: five feet (5')
5. Eave projections which:
 - a. Do not exceed two feet (2'); or
 - b. Are for the purpose of covering a stairway or walkway permitted pursuant to this subsection. The setback requirements contained in this subsection shall also apply to such eave projections.
6. Driveways and common driveways.
7. Unimproved private road rights-of-way.
8. Retaining walls.

SECTION 36. That a new Section 8.5.134, Kootenai County Code, be, and the same is hereby added as follows:

8.5.134: PUBLIC SERVICE FACILITIES:

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

B. A public service facility may be located on a lot that is otherwise ineligible for building permits, and need not comply with the minimum lot size requirement for the zone in which it is located.

C. Parking and loading requirements shall be as set forth in section 8.4.703 of this code unless modified in the permit.

D. Adequate fencing shall be provided around the entire facility.

E. A site plan shall be submitted which includes the location of existing and proposed structures, fencing, parking areas, other associated activities, and other existing or proposed improvements.

SECTION 37. That Section 8.5.206, Kootenai County Code, be, and the same is hereby amended as follows:

8.5.206: UTILITY COMPLEXES:

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

B. Lot coverage by buildings shall not exceed thirty-five (35) percent of the total lot area.

C. In determining whether a permit application should be approved, the Director ~~administrator~~ shall consider the following factors:

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

D. Specific conditions with respect to emissions of noise, particulate matter, or vibrations, may deviate from the standards which would otherwise apply in the underlying zone in order to ensure consistency with applicable State and Federal standards.

E. Utility complexes in existence as of January 3, 1973 shall not be subject to ~~conditional-use~~ permitting requirements, and shall be exempt from the standards set forth in this section. However, depending upon the underlying zone, a special notice permit may be required in conjunction with the creation of a new facility or the expansion of an existing facility involving a material increase in the facility's physical boundaries.

F. Notwithstanding anything contained in this code which may be construed to the contrary, an application for a utility complex justified in accordance with applicable federal law may not be denied, and the County's review shall be limited to the consideration of conditions of approval to

mitigate potential adverse effects upon adjoining properties without hindering the operations of the facility.

G. Solid waste rural collection sites. The following shall apply to solid waste rural collection sites, whether permitted of right or with a special notice permit:

1 Parking: Solid waste rural collection sites with one or more structures shall have one parking space plus one additional parking space for persons with disabilities. Compliance with the standards set forth in Chapter 4, Article 4.7 of this title is not required.

2. Loading: Containers must be spaced so as to facilitate transfer of waste from private vehicles into containers and transfer of waste from containers into haulers. Compliance with the standards set forth in Chapter 4, Article 4.7 of this title is not required.

3. Exemptions: Solid waste rural collection sites may be located on a lot that is otherwise ineligible for building permits, and need not comply with the minimum lot size requirements for the zone in which it is located.

SECTION 38. That Section 8.6.103, Kootenai County Code, be, and the same is hereby amended as follows:

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

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

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

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

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

1. Boundary line adjustments to legally created parcels must comply with the following requirements:

a. No additional parcels are created;

b. The resulting parcels meet the minimum size for the zone and are otherwise in conformance with all applicable provisions of this title; and

c. The adjustment does not result in parcels separated by a public road or a public or improved private right-of-way.

2. A boundary line adjustment may add land from an unplatted parcel to an existing lot or from an existing lot to an unplatted parcel.

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

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

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

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

~~1. No more than four (4) parcels are created;~~

~~2. Each parcel has legal access to a public road;~~

~~3. Each parcel meets the minimum size for the zone, and~~

~~4. Each parcel is otherwise in conformance with all applicable provisions of this title.~~

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

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

SECTION 39. That Section 8.6.503, Kootenai County Code, be, and the same is hereby amended as follows:

8.6.503: APPROVAL PROCEDURE:

A. Procedure for Processing of Applications.

1. Site Inspection and Plan Review. The applicant must provide a draft declaration of condominium and conceptual condominium plat drawing. The planner and applicant will review the approval process with the applicant and will confer with the applicant as to the design and feasibility of the proposal.

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

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

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

5. Application. The applicant must then submit a complete application packet to the Department, including a sufficient number of complete agency review packets as determined by the Director. The application, the proposed declaration and proposed plat must meet the requirements of section 8.6.502 ~~8.6.302~~ of this article. Incomplete applications will not be processed except as provided in this article.

6. Agency Review.

a. If the application is complete, the Department will forward it to other agencies with relevant jurisdiction or expertise with a request for review and comment within thirty (30) days of receipt. After the packets have been sent, the applicant should contact each agency

to determine whether there are additional requirements which will apply to the proposed subdivision. Agency responses should explain whether the proposal appears feasible and will meet the agency's requirements, any negative effects that may result from the subdivision and any actions which may be needed to mitigate those effects and ensure that the development does not compromise the quality, or increase the cost, of public services and facilities, any additional information that may be needed, and what is required or recommended prior to final approval.

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

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

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

B. Order of Decision and Required Findings.

1. After the close of the comment period, the Director shall review the relevant evidence in the record and the standards for approval, and shall issue an Order of Decision. The applicant shall bear the burden of proof (including both the burden of going forward with evidence and

the burden of persuasion) that the application complies with the applicable requirements of this article. To approve a condominium plat, the Director must make the following findings:

- a. The applicant has provided information sufficient to determine whether the application complies with the relevant requirements of this chapter.
- b. The declaration of condominium meets the relevant requirements of Title 55, Chapter 15, Idaho Code.
- c. The condominium plat meets the relevant requirements of subsection 8.6.302(C) of this chapter, Title 50, Chapter 13, Idaho Code, and Title 55, Chapter 15, Idaho Code.
- d. The condominium plat and the project are in compliance with other applicable provisions of this code without variances, or with such variances to, or deviations from, requirements or standards as may be approved by the Director.
- e. The condominium plat and the project meet the requirements of all agencies with jurisdiction and those providing services.
- f. The design and proposed uses are compatible with existing homes, businesses and neighborhoods, and with the natural characteristics of the area. The condominium creates individual units and common areas of reasonable utility and livability, capable of being built upon without imposing an unreasonable burden on future owners. Areas not suited for development are designated as common areas of the condominium and as open space.
- g. Negative environmental, social and economic impacts have been, or will be mitigated. Driveway construction and disturbance of the terrain, vegetation and drainageways will be minimized and will not result in soil erosion. The design adequately addressed site constraints or hazards.
- h. Services and facilities which will serve the subdivision are available and adequate. On- and off-site improvements, or payments in lieu of such improvements, that are roughly proportional, both in nature and extent, to the impact of the proposed development have been made in order to mitigate the impacts of the subdivision so that it does not compromise the quality or increase the cost of services.
- i. The sanitary restrictions will be lifted prior to recordation.
- j. Appropriate documents which establish a condominium owners' association which will bear responsibility for maintenance of commonly owned land, infrastructure, or other improvements, have been approved by the Director and are ready to be recorded with the condominium plat.
- k. Any required conservation easements or other documents have been approved by the Director and are ready to be recorded with the condominium plat.
- l. Public notice and an opportunity for interested parties to comment on the application have been given in accordance with the applicable provisions of Idaho Code and this title.

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

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

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

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

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

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

SECTION 40. That Section 8.8.703, Kootenai County Code, be, and the same is hereby amended as follows:

8.8.703: NONCONFORMING USE OF STRUCTURES, LAND, OR STRUCTURES AND LAND IN COMBINATION:

A. The nonconforming use of a structure, land, or structure and land in combination, shall not be enlarged or expanded beyond that which lawfully existed on the effective date of this title or previously adopted applicable ordinances. The criteria to be used to determine the fundamental and primary use of the property, and whether such use has been enlarged or expanded, may expansion shall include, without limitation, hours of operation, square footage of structures or area used, traffic generated, volume of goods handled, number of dwelling units, and the International Building Code classification of uses. Mere intensification of an existing nonconforming use shall not constitute an unlawful enlargement or expansion of the use. A nonconforming use shall not be used as justification for expanding or adding structures or other nonconforming uses other than the fundamental and primary use of the property then existing.

B. Upon written request to, and approval by, the Director, a nonconforming use may be changed to another nonconforming use, providing the new use would result in the same or greater conformity to this title, and providing the previous use is permanently abandoned. ~~Nonconforming uses must progress towards conformity.~~ For example, a nonconforming business that produces noise and emissions could be replaced by another nonconforming business that is quieter and does not produce emissions. If a nonconforming use is replaced with a permitted use, nonconforming uses shall not thereafter be allowed.

C. When any nonconforming use is discontinued for a period of twelve (12) consecutive months, any subsequent use shall conform to this title. Nonconforming uses that are discontinued are also governed by the requirements of section 67-6538, Idaho Code.

D. Ordinary repairs and additions may be performed on a structure housing a nonconforming use, including, without limitation, repair or replacement of the roof, walls, fixtures, wiring or plumbing, provided that such work does not enlarge or expand ~~increase~~ the nonconformity.

E. A structure housing a nonconforming use that is completely removed may not be replaced unless the use and structure are in conformance with this title.

SECTION 41. That the following definitions in Section 8.9.101, Kootenai County Code, be, and the same are hereby amended as follows:

AIRPORT ADVISORY BOARD: The Board consisting of members as defined by current by-laws to provide information and recommendations to the Airport Manager and County Commissioners pertaining to airport flight-line operations and development in the Airport Overlay zone ~~Operations Area~~.

AIRPORT DEVELOPMENT CONTROL COMMITTEE: A committee consisting of members as defined by current by-laws to provide information and recommendations to the Airport Manager and County Commissioners pertaining to development ~~in the Light Industrial and Terminal Support Areas~~ in the Airport Overlay zone ~~District~~.

SECTION 42. That the following definition in Section 8.9.102, Kootenai County Code, be, and the same is hereby amended as follows:

BUILDING HEIGHT: The vertical distance at the center of the building's front measured from the average elevation of the finished grade along the front of the building to the highest point of the coping eaving of a flat roof, or to the deck line of a mansard ~~measured~~ roof, or to the average height of the highest gable of a pitch or hip roof, excepting chimneys and steeples.

SECTION 43. That the following new definition be, and the same is hereby added to Section 8.9.301, Kootenai County Code, as follows:

LANDFILL: A facility to which solid waste is brought for final disposal. Landfills may also include recycling facilities or energy generation facilities.

SECTION 44. That the following definitions in Section 8.9.401, Kootenai County Code, be, and the same are hereby added and amended as follows:

~~PARK TRAILER or PARK MODEL RECREATIONAL VEHICLE: A vehicle meeting the definition of park model recreational vehicle, trailer as defined in section 49-117, Idaho Code the American National Standards Institute (ANSI) A119.5 Standard for Park Trailers.~~

PARK TRAILER or PARK MODEL: See PARK MODEL RECREATIONAL VEHICLE.

PUBLIC SAFETY FACILITY: A facility operated by the County or a city, fire protection district, ambulance district, or other similar public entity associated with the provision of firefighting, law enforcement, emergency medical, emergency communications, or emergency management services. Such facilities may include any of the following: offices, equipment storage, personnel quarters, meeting rooms, operations centers, training facilities, detention or correctional facilities, repair or maintenance facilities, or other support facilities or operations.

PUBLIC SERVICE FACILITY: A public facility operated by the County or any city, taxing district, or other public entity which is not a public safety facility or utility.

PUBLIC UTILITY: A public or private enterprise regulated by the federal government, ~~or~~ the State of Idaho, or any political subdivision or taxing district, which provides to the public a utility service deemed necessary for the public health, safety, and welfare. Public utilities may include, without limitation, systems for the delivery of natural gas, electricity, ~~and~~ telecommunications services such as telephone, television, or Internet, water, wastewater treatment and disposal, stormwater treatment and disposal, or solid waste disposal and recycling.

PUBLIC UTILITY COMPLEX FACILITY: A public utility facility of major importance involving construction of facilities of a complex nature including, but not limited to: station houses or station grounds, pumping stations, dam structures, water storage facilities which hold more than 100,000 gallons or are greater than 25 feet in height, solid waste transfer stations, landfills, ~~fire stations,~~ telephone transmission stations, sewage disposal or storage stations, railroad transportation lines, spurs, or classification yards, or other structures principally used in interstate transmission of electricity, natural gas, or fuel. This definition shall not include wireless communication facilities ~~or radio or television towers.~~

SECTION 45. That the following definitions in Section 8.9.402, Kootenai County Code, be, and the same are hereby added and amended as follows:

RENTAL WAREHOUSE: A storage facility available for sale or lease, with or without individual units, that does not meet the ~~performance~~ standards set forth in subsection 8.5.117(C) of this title.

RESIDENTIAL CARE FACILITY: A facility in which nine (9) or more unrelated elderly persons or persons with disabilities reside, generally on a long-term basis, and receive on-site supervision in connection with their disability or age related infirmity. The facility may also provide short-term rehabilitation services for such persons. Resident staff, if employed, need not be related to each other or to any of the other persons residing in the facility.

SECTION 46. That the following new definitions be, and the same are hereby added to Section 8.9.403, Kootenai County Code, as follows:

SOLID WASTE RURAL COLLECTION SITE: A facility at which solid waste may be disposed and held while awaiting transfer to a solid waste transfer station or to a landfill.

SOLID WASTE TRANSFER STATION: A facility at which solid waste may be disposed, separated and held while awaiting transfer to a landfill, recycling facility, energy generation facility, or other final disposal site. Transfer Stations may also include recycling facilities or energy generation facilities.

SECTION 47. That the following definitions in Section 8.9.502, Kootenai County Code, be, and the same are hereby amended as follows:

UTILITY: A service provided to one (1) or more subdivisions or to five (5) or more parcels, which may include, without limitation, water, electricity, natural gas, telephone, television, Internet, wastewater treatment and disposal, ~~or stormwater treatment and disposal,~~ or solid waste disposal and recycling.

UTILITY COMPLEX: A facility providing one or more utility services which does not rise to the level of a public utility complex facility. A utility complex is more local in application and scope than a public utility complex facility. Utility complexes include electrical distribution substations, natural gas gate stations, natural gas regulator stations, community solar or wind facilities, solid waste rural collection sites, and other similar facilities which are located to support load demand and overall system operations for better customer service. This definition shall not include ~~radio or television towers~~ or wireless communication facilities.

SECTION 48. All corrections to numbering, cross-references, and other non-substantive provisions of the codified Title 8, Kootenai County Code by Sterling Codifiers between June 14, 2016 and the effective date of this Ordinance that are not specifically indicated in this Ordinance are hereby ratified.

SECTION 49. If any section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 50. 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 51. This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the *Coeur d'Alene Press*.

ADOPTED this 28th day of September 2017

**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**

Marc Eberlein, Chairman

Chris Fillios, Commissioner

Bob Bingham, Commissioner

ATTEST:
JIM BRANNON, CLERK

By: _____
Deputy Clerk

Publication Date: October 4, 2017

C: Community Development, Prosecuting Attorney (Civil Division), Sheriff, Sterling Codifiers, Ordinance File