

ORDINANCE NO. 517
CASE NO. ORA17-0004
SECOND SET OF OMNIBUS AMENDMENTS TO THE
KOOTENAI COUNTY LAND USE AND DEVELOPMENT CODE

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO LAND USE REGULATION; DEFINING TRANSITIONAL GROUP HOUSING FACILITY AND ALLOWING SUCH USE AS A CONDITIONAL USE IN THE HIGH DENSITY RESIDENTIAL AND COMMERCIAL ZONES AND PROVIDING PERFORMANCE STANDARDS FOR SUCH USE, REQUIRING APPROVAL OF CONDITIONAL USE PERMITS FOR PUBLIC SAFETY FACILITIES IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, RESTRICTED RESIDENTIAL AND HIGH DENSITY RESIDENTIAL ZONES AND PROVIDING PERFORMANCE STANDARDS FOR SUCH USE, EXPANDING NOTICE TO ADJACENT OR NEARBY PROPERTY OWNERS TO THOSE LOCATED WITHIN FIVE HUNDRED FEET (500') OF THE PROPERTY UNDER CONSIDERATION IF IT IS FIVE (5.00) ACRES IN SIZE OR GREATER IN THE AGGREGATE, DEFINING HIGH INTENSITY USE AND EXPANDING NOTICE TO ADJACENT OR NEARBY PROPERTY OWNERS TO THOSE LOCATED WITHIN ONE THOUSAND FEET (1,000') OF THE PROPERTY UNDER CONSIDERATION IF A HIGH INTENSITY USE IS PROPOSED, CLARIFYING THAT A SINGLE FAMILY DWELLING OR A TWO-FAMILY DWELLING ARE MUTUALLY EXCLUSIVE USES PERMITTED BY RIGHT IN THE AGRICULTURAL, RURAL, AGRICULTURAL SUBURBAN, RESTRICTED RESIDENTIAL AND HIGH DENSITY RESIDENTIAL ZONES, EXEMPTING DECKS NO GREATER THAN ONE FOOT (1') HIGH FROM SETBACK REQUIREMENTS, CLARIFYING THAT THE MINIMUM LOT SIZE IN CONSERVATION SUBDIVISIONS IN ALL RESIDENTIAL ZONES IS 8,250 SQUARE FEET, AND MAKING MISCELLANEOUS TECHNICAL CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR SURVIVAL AND NON-WAIVER OF ENFORCEMENT ACTIONS UNDER PREVIOUSLY ADOPTED ORDINANCES AND CODES; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

A. Primary uses.

1. General farming and forestry, provided that the minimum 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 square feet may be built prior to the establishment of one or ~~more~~ ~~both~~ of the primary 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 2. 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 as open space free from structures:

A. Primary uses.

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

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

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

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

~~6. One (1) two-family dwelling.~~

~~67.~~ 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.

~~78.~~ Dairy product manufacturing facilities.

~~89.~~ Cemeteries, provided that they meet all standards of the Idaho Code and are approved by the Panhandle Health District.

~~910.~~ Public safety wireless communications facilities.

~~101.~~ Utility Complexes.

~~112.~~ 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 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 3. 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:

- Agricultural Products Sales Stores
- Airports or Airstrips
- Automobile Wrecking Yards or Junkyards
- Child Care Centers, Preschools, or Head Start Facilities
- Commercial Fur Farms
- Commercial Kennels
- Commercial Resorts
- Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities
- Feedlots
- Fish Hatcheries or Fish Farms (Aquacultural facilities)
- Golf Courses or Driving Ranges
- Gun Clubs, Rifle Ranges, or Archery Ranges
- Hospitals
- Mini-Storage Facilities or Rental Warehouses
- Nonprofit Trade or Business Associations
- Places of Worship or Assembly
- Privately Owned Recreational Facilities which are open to public use
- Public Safety Facilities or Public Service Facilities
- Racetracks
- Residential Care Facilities
- Resort Lodges, Retreat Centers, or Guest Ranches.
- Restricted Surface Mining Operations
- Schools
- Sawmills, Shingle or Planing Mills, or Woodworking Plants
- Slaughterhouses or Rendering Plants
- Special Event Locations

Veterinary Hospitals or Clinics

Wholesale Greenhouses

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

SECTION 4. That Section 8.2.203, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.203: LOT SIZE, DENSITY AND SITE AREA: The minimum lot size in the Rural zone, except in conservation subdivisions, shall be five (5.00) acres. ~~The maximum base density in conservation subdivisions shall be one (1) lot per 5.00 acres, with a minimum lot size of 14,520 sq. ft.~~

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 square feet may be built prior to the establishment of one or ~~more~~ ~~both~~ of the primary 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 as open space free from structures:

A. Primary uses.

1. General farming and forestry.

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

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

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

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

~~6. One (1) two-family dwelling.~~

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

78. Public safety wireless communications facilities.

89. 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 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:

- Agricultural Products Sales Stores
- Airports or Airstrips
- Asphalt or Concrete Batch Plants
- Automobile Wrecking Yards or Junkyards
- Child Care Centers, Preschools, or Head Start Facilities
- Commercial Fur Farms
- Commercial Kennels
- Commercial Resorts
- Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities
- Explosive Manufacturing or Storage Facilities
- Golf Courses or Driving Ranges
- Gun Clubs, Rifle Ranges, or Archery Ranges
- Hospitals
- Mini-Storage Facilities or Rental Warehouses

Nonprofit Trade or Business Associations
 Outdoor Theaters
 Places of Worship or Assembly
 Privately Owned Recreational Facilities which are open to public use
 Public Utility Complex Facilities
Public Safety Facilities or Public Service Facilities
 Racetracks
 Residential Care Facilities
 Resort Lodges, Retreat Centers, or Guest Ranches
 Restricted Surface Mining Operations
~~Sanitary Landfills~~
 Sawmills, Shingle or Planing Mills, or Woodworking Plants
 Schools
 Special Event Locations
 Veterinary Hospitals or Clinics
 Wholesale Greenhouses
 Wireless Communication Facilities; provided, however, that Public Safety Wireless Communication Facilities shall be permitted of right.
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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, accessory buildings, utility services, ~~public safety facilities~~, home occupations, subject to the standards set forth in section 8.4.501 of this title, and temporary or intermittent recreational use of up to two (2) recreational vehicles, subject to the standards set forth in section 8.4.401 of this title. ~~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 as open space free from structures:

A. Primary Uses.

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

~~2. 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 (¾) 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 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, or one (1) two-family dwelling.
- ~~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 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 8.2.309, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.309: USES REQUIRING A CONDITIONAL USE PERMIT:

Cemeteries

Child Care Centers, Preschools, or Head Start Facilities

Commercial Kennels

Commercial Resorts

Commercial Riding Arenas, Boarding Stables, or Equine Training Facilities

Golf Courses or Driving Ranges

Hospitals

Medical or Dental Clinics

Mini-Storage Facilities or Rental Warehouses

Places of Worship or Assembly

Privately-Owned Recreational Facilities which are open to public use

Public Safety Facilities or Public Service Facilities

Public Utility Complex Facilities

Residential Care Facilities

Resort Lodges, Retreat Centers, or Guest Ranches.

Schools

Veterinary Hospitals or Clinics

Wholesale Greenhouses

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

SECTION 12. 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, accessory buildings, ~~public safety facilities~~, 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 13. 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 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 14. That Section 8.2.406, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.406: USES OF RIGHT ON PARCELS OF 9,900 SQUARE FEET OR MORE BUT LESS THAN FIVE (5.00) ACRES: On parcels that are a minimum of nine thousand nine hundred (9,900) square feet but less than five (5.00) acres in size, the following uses are permitted, provided that all uses shall leave sixty-five percent (65%) of the parcel 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, or one (1) two-family dwelling.

~~2.~~ Any of the other primary uses listed in section 8.2.405 of this article.

~~2. One (1) two-family dwelling.~~

B. Accessory Uses. 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.

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. On lots of two (2.00) acres or greater in size, one (1) personal storage building not to exceed 2,000 square feet may be built prior to the establishment of one or more of the primary uses listed in subsection (A) above.

SECTION 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 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 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:

- Child Care Centers, Preschools, or Head Start Facilities
- Commercial Resorts
- Golf Courses or Driving Ranges
- Places of Worship or Assembly
- Privately Owned Recreational Facilities which are open to public use
- Public Safety Facilities or Public Service Facilities
- Public Utility Complex Facilities
- Residential Care Facilities
- Resort Lodges, Retreat Centers, or Guest Ranches
- Schools

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 as open space free from structures:

A. Primary Uses:

1. One (1) single-family dwelling or one (1) two-family dwelling. On parcels of not less than six thousand (6,000) square feet with frontage on a public road, one (1) Class A or Class B manufactured home may be used as a single-family dwelling.
- ~~2. 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.

56. 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.

67. 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.

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

SECTION 18. That Section 8.2.507, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.507: USES REQUIRING A CONDITIONAL USE PERMIT:

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

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

Child Care Centers, Preschools, or Head Start Facilities

Golf Courses or Driving Ranges

Manufactured Home Parks

Public Safety Facilities

Public Utility Complex Facilities

Residential Care Facilities

Transitional Group Housing Facilities

SECTION 19. That Section 8.2.606, Kootenai County Code, be, and the same is hereby amended as follows:

8.2.606: USES REQUIRING A CONDITIONAL USE PERMIT:

Outdoor Theaters

Special Event Locations

Transitional Group Housing Facilities

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

Zoos

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

8.2.705: USES REQUIRING A CONDITIONAL USE PERMIT:

~~A. Sanitary Landfills.~~

Special Event Locations

SECTION 21. That Table 2-1102 in Title 8, Chapter 2, Article 2.11, Kootenai County Code, be, and the same is hereby amended as follows:

**Table 2-1102
Institutional Uses**

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

SECTION 22. 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 follows on next page)

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

Use	A	R	AS	RR	HDR	C	M	LI	I
Public utility complex facilities	S	C	C	C	C	S	S	S	S
Utility complexes	P	S	S	S	S	P	P	P	P
Utility services	P	P	P	P	P	P	P	P	P
Wireless communication facilities (WCFs)	C	C	C ²			C		C	C
Public safety WCFs	P	P	P ²			P		P	P
Airports or Airstrips	C	C ¹	X ¹						
Public Safety Facilities	C	C	C	C	C	P	P	P	P
Public Service Facilities	C	C	C	C		P	P	P	P

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

² Minimum parcel size is two (2) acres. (Ord. 514, 10-4-17)

SECTION 23. That Section 8.4.1303, Kootenai County Code, be, and the same is hereby amended as follows:

8.4.1303: MINING ZONE STANDARDS:

A. No use of land in the Mining zone shall be conducted on a parcel of land less than five (5) acres except for general farming and forestry.

B. Mining operations shall comply with the applicable provisions of Idaho law and the administrative rules and permitting requirements of the Idaho Department of Lands.

C. All mining operations shall be set back at least one thousand feet (1,000') from any parcel within the Agricultural, Rural, Agricultural Suburban, Restricted Residential, or High Density Residential zone, except that a setback of at least two hundred feet (200') may be allowed in conjunction with a structural or vegetative buffer designed to provide adequate visual, noise and dust screening of mining operations required as part of a conditional zoning development agreement executed in accordance with the provisions of chapter 4, article 4.9 of this title.

C. Excavations shall be at least fifty feet (50') from any property line and seventy-five feet (75') from any public highway right-of-way unless a greater setback is required by the Idaho Department of Lands or by the highway agency with jurisdiction.

D. Whenever use of a site has been terminated, the owner shall engage in reclamation of the site in accordance with the reclamation plan approved by the Idaho Department of Lands.

E. Topsoil removed during mining operations shall be retained and stored so that it may be used for reclamation. Topsoil may be retained and stored off-site until needed for reclamation operations.

F. Fencing shall be sufficient to exclude people and animals.

G. Road approaches to a site shall meet the requirements of the appropriate agency with jurisdiction.

H. Outdoor storage of materials and machinery must comply with the setback areas set forth in this section.

~~I. Sanitary landfills permitted via conditional use permit shall comply with the applicable requirements of all agencies with jurisdiction.~~

SECTION 24. 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 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 paragraph (4) of this subsection shall also apply to such eave projections.
6. Driveways and common driveways.
7. Unimproved private road rights-of-way.
8. Retaining walls.
9. Decks that are no higher than one foot (1') above grade.

SECTION 25. That Section 8.5.134, Kootenai County Code, be, and the same is hereby amended as follows:

8.5.134: PUBLIC SAFETY FACILITIES AND PUBLIC SERVICE FACILITIES:

A. Zones Permitted: Agricultural, Rural, Agricultural Suburban, Restricted Residential, High Density Residential (public safety facilities only)

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

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

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

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

SECTION 26. That a new Section 8.5.135, Kootenai County Code, be, and the same is hereby added as follows:

8.5.135: TRANSITIONAL GROUP HOUSING FACILITIES:

A. Zones Permitted: High Density Residential, Commercial

B. Scope: The requirement to obtain a conditional use permit, and the standards set forth in this section, shall apply only to transitional group housing facilities designed to house nine (9) or more residents.

C. Minimum Area: three (3) acres

D. A minimum of six (6) off-street parking spaces shall be provided.

E. Adequate fencing and screening shall be provided around the entire facility.

F. The facility shall not allow any person on the premises who has been convicted of any crime of a sexual nature, any felony involving violence against another person, any misdemeanor involving domestic violence, or any crime involving trafficking, delivery, or possession with intent to deliver any controlled substance, whether in Idaho or any other jurisdiction.

G. A narrative shall be submitted which addresses facility security, transportation of residents, services to be provided on site, and all other requirements set forth in this section.

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

I. The applicant shall conduct a neighborhood meeting regarding the application. Completion of this requirement shall be a prerequisite for scheduling of the application for hearing before the hearing examiner.

J. A conditional use permit for a transitional group housing facility may be granted for a period not to exceed five (5) years, and may be renewed for successive periods of up to five (5) years each. Extension requests shall comply with the procedure for approval of conditional use permits.

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

SECTION 27. That Section 8.8.402, Kootenai County Code, be, and the same is hereby amended as follows:

8.8.402: NOTICE:

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

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

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

3. Newspaper, other media, political subdivisions. At least twenty-eight (28) days prior to a public hearing, a copy of the notice shall be published in a newspaper of general circulation in Kootenai County, and shall be made available to other newspapers, radio and television stations. At least twenty-eight (28) days prior to the hearing the notice shall also be mailed to all political subdivisions providing services within Kootenai County, including school districts.

4. Property Owners.

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

b. For purposes of this subsection:

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

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

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

~~4. Property Owners. When notice of adjacent and nearby property owners is required by law, hearing notices shall be mailed via certified mail at least 28 days prior to the hearing. The notice shall be mailed to property owners or purchasers of record within the land being considered, and within three hundred feet (300') of the exterior boundaries of that site, including any contiguous properties under the same ownership. Kootenai County may also require that notice be provided to other areas that may be affected by the proposed change. Additional procedures for notification of property owners may be established by the Department.~~

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

6. Alternate Forms of Notice in Lieu of Mailing. When notice is required to two hundred (200) or more property owners or purchasers of record, notice may be provided through a display advertisement at least four (4) inches by two (2) columns in size, in the official newspaper of Kootenai County, published at least twenty-eight (28) days prior to the hearing. Notices of the hearing must also be posted at the external boundaries of the site adjoining public or private roads. If the site is not located on a road, the access driveways to the site shall be posted where they adjoin public or private roads.

Table 8-801
Notice Distances

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

B. Changes or Additions to Applications. Once hearing notices have been mailed and/or published, the Applicant may not modify the content of the application, or submit additional items, until the hearing. The Applicant may, however, withdraw the application and resubmit it after the

new or modified items are submitted. If withdrawn, the application shall not be rescheduled for a public hearing until the additional items have been received.

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

SECTION 28. That the following new definition be, and the same is hereby added to Section 8.9.501, Kootenai County Code, as follows:

TRANSITIONAL GROUP HOUSING FACILITY: A facility for the transitional housing or sheltering of nine (9) or more disabled, indigent, or abused persons. Resident staff, if employed, need not be related to each other or to any of the other persons residing in the facility. For purposes of this definition:

1. “Disabled” shall have the same meaning as the term “qualified individual with a disability,” as set forth in the Americans with Disabilities Act of 1990 and associated regulations, and shall also include those persons determined to be disabled by the Social Security Administration or the Department of Veterans Affairs, or pursuant to the workers’ compensation laws of any state.
2. “Indigent” shall mean any person who does not have sufficient income or assets to provide for his or her basic needs, including food, clothing, shelter, and transportation, and, if applicable, the basic needs of his or her family.
3. “Abused” shall mean any person who is the victim of domestic battery, injury to a child, or any crime of a sexual nature, as defined in Title 18, Idaho Code, similar federal law, or similar law of any other state, whether or not the alleged perpetrator was charged with such crime.

SECTION 29. That the following definition in Section 8.9.502, Kootenai County Code, be, and the same is hereby amended as follows:

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 wireless communication facilities.

SECTION 30. 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 31. 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 32. 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 25th day of January, 2018.

**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**



Marc Eberlein, Chairman

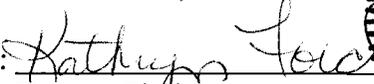


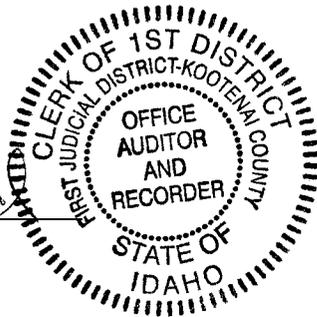
Chris Fillios, Commissioner



Bob Bingham, Commissioner

ATTEST:
JIM BRANNON, CLERK

By: 
Deputy Clerk



Publication Date: January 30, 2018

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