

TITLE 8
ZONING REGULATIONS

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CHAPTER 1

GENERAL ZONING PROVISIONS

SECTION:

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8-1-1: **TITLE:** This title shall be known as the *ZONING ORDINANCE OF THE CITY OF LEWISVILLE, IDAHO*. (Ord. 9-10-B, 9-8-2010)

8-1-2: **PURPOSE:** This title is enacted, providing for the establishment of zoning within the city of Lewisville, Idaho ("city"), consistent with the constitution and laws of the state of Idaho and noting that the policies of the comprehensive plan provide the context for decisions under this title. (Ord. 9-10-B, 9-8-2010)

8-1-3: **AUTHORITY:** The zoning regulations and districts contained in this title have been prepared, adopted, and enacted pursuant to the authority granted the city by Idaho Code title 67, chapter 65 and article XII, section 2 of the Idaho constitution, as amended or subsequently amended. (Ord. 9-10-B, 9-8-2010)

8-1-4: **FINDINGS:** The mayor and city council find that in order to effectuate the goals and policies, it is necessary to adopt this title establishing city zoning districts and regulations for uses within each district. (Ord. 9-10-B, 9-8-2010)

8-1-5: **MINIMUM REQUIREMENTS:** In interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare of the citizens of the city. Whenever the requirements of this title conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive or that imposing the higher standards shall govern. (Ord. 9-10-B, 9-8-2010)

8-1-6: **COMPLIANCE WITH LAWS AND REGULATIONS:** No land or structure shall hereafter be moved, constructed, located, extended, converted, altered or rebuilt without full compliance with the terms of this title and other applicable ordinances and all laws and regulations of the United States Of America and the state of Idaho. (Ord. 9-10-B, 9-8-2010)

8-1-7: **BUILDINGS PREVIOUSLY PERMITTED OR UNDER CONSTRUCTION:** Any building or structure for which a building permit has been lawfully issued, or for which a completed application has been accepted prior to the effective date hereof, may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted. (Ord. 9-10-B, 9-8-2010)

8-1-8: **CERTIFICATE OF OCCUPANCY OR ZONING COMPLIANCE REQUIRED:** It is unlawful to occupy or use any building or premises, or part of a building or premises, created, erected, changed, converted, wholly or partly altered, or enlarged in its use or structure until a certificate of occupancy and certificate of zoning compliance has been issued. (Ord. 9-10-B, 9-8-2010)

8-1-9: **INFORMATION REQUIRED FOR BUILDING PERMIT:** An application for a permit governed by this title shall address the information necessary to determine compliance with this title. The administrator is authorized to establish administrative procedures and

develop application forms necessary to demonstrate compliance with this title. (Ord. 9-10-B, 9-8-2010)

8-1-10: **SEVERABILITY CLAUSE:** Should any section or provision of this title be determined by the courts to be invalid or unconstitutional, such determination shall not affect the validity of this title as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional. (Ord. 9-10-B, 9-8-2010)

8-1-11: **ABROGATION AND GREATER RESTRICTIONS:** This title is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this title and any other ordinance, easement, covenant, or deed restriction conflict or overlay, the restriction that imposes the more stringent restrictions shall prevail. (Ord. 9-10-B, 9-8-2010)

CHAPTER 2
DEFINITIONS

SECTION:

- 8-2-1: Purpose
8-2-2: Rules Of Construction
8-2-3: Words And Terms Defined

8-2-1: **PURPOSE:** To give this title its most reasonable application, the words or phrases used throughout this title shall be interpreted so as to give them the meanings they have in common usage, unless specifically defined in section 8-2-3 of this chapter. (Ord. 9-10-B, 9-8-2010)

8-2-2: **RULES OF CONSTRUCTION:** Whenever appropriate to the context, words used in the present tense include the future tense; words used in the singular include the plural and words used in the plural include the singular. The word "shall" is mandatory and the word "may" is permissive. (Ord. 9-10-B, 9-8-2010)

8-2-3: **WORDS AND TERMS DEFINED:** For use in this title, certain words and terms or phrases are defined as follows:

ABUTTING: A common border with, or being separated from, such a common border by right of way, alley, or easement.

ACCESSORY: A use, building structure, or part thereof, which is subordinate to or incidental to the main building structure or use on the same parcel of land.

ADMINISTRATIVE USE PERMIT: A permit given by the administrator for a specific use.

ADMINISTRATOR:	The planning and zoning commission of the city of Lewisville, Idaho.
AFFECTED PERSON:	One having an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing development.
AGRICULTURAL LAND:	Any parcel of land presently being used for the primary purpose of obtaining a monetary profit by raising, harvesting and selling crops or by feeding, breeding, management and sale of the products of livestock, poultry, furbearing animals or honeybees.
APPEAL:	A request from anyone for a review of the interpretation, administration or enforcement of any provision of this title by the Lewisville planning and zoning commission or the Lewisville city council, including a request for a variance.
BOARD:	Governing body overseeing that level of administration, the Lewisville planning and zoning commission or Lewisville city council.
BUILDABLE AREA:	The space remaining on a lot after the minimum open space requirements (coverage, yards, and setbacks) have been met.
BUILDING HEIGHT:	The distance, measured vertically, from the undisturbed or natural ground surface at the midpoint between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the midpoint between the eave line and the peak of a gable, hip, shed or similar pitched roof.
BUILDING OFFICIAL:	The individual designated by the Lewisville city council to administer and enforce the building ordinance of the city of Lewisville.
CAMPER OR RV PARK:	Any parcel of land which has been designated, improved or used for the parking of two (2) or

more camper vehicles and/or tent campers for human habitation.

CITY: The city of Lewisville, Jefferson County, state of Idaho.

CLEAR VISION AREA: The triangular area within the intersection of the linear extension of the lateral curb lines, or edges if no curb exists, of two (2) roadways, or a roadway and a railroad, and extending back from the point of intersection along each roadway or railroad a distance of fifty feet (50'), except that where the angle of intersection is less than thirty degrees (30°), a greater distance may be required, as required by law.

COMMERCIAL USE: An occupation or enterprise which is carried on for profit upon the premises for which the use lies.

COMMISSION: The city of Lewisville planning and zoning commission.

CONDITIONAL USE: A use which may not be appropriate throughout the zoning district but which, when subject to special requirements (conditions), may be allowed by the city of Lewisville planning and zoning commission and the Lewisville city council.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the city of Lewisville.

DWELLING: Any building or structure with facilities for cooking, sleeping and sanitation designed as shelter or enclosure for persons, conventional built, modular constructed, mobile home or portion thereof, remodeled for residential occupancy.

- FAMILY:** The immediate blood relatives, including sons, daughters, father, mother, grandparents or legally adopted children.
- FARMING:** The raising and harvesting of crops; feeding, breeding, and management of livestock; dairying; or any other agricultural or horticultural use including nurseries for wholesale, or any combination thereof. It also includes fisheries, including fishponds for breeding fish and fish hatcheries. It includes the construction and use of dwellings and other structures customarily provided in conjunction with farming, and further includes the disposal, by marketing or otherwise, of products produced on the premises.
- GRADE:** At ground level; the average of the landscaped ground level at the center of all walls of the building.
- HEALTH OFFICER:** An individual employed or designated by the Idaho department of health and welfare or the department of environmental quality to enforce health and safety laws or regulations.
- HOME BASED BUSINESS:** Any use for gain or support carried on at a residence which does not constitute a home occupation.
- HOME OCCUPATION:** Any use for gain or support carried on as an accessory use within a dwelling or permitted accessory building which does not require any exterior building alterations, generate additional traffic, require additional off street parking or otherwise create the appearance or impact of a commercial activity within the neighborhood.
- LOT:** A parcel of land, held in separate ownership from contiguous lands or delineated as an individual parcel on record in the office of the Jefferson County clerk and recorder, including, but not limited to, a part of any subdivision plat filed of record.

LOT, CORNER:	A lot abutting on two (2) or more roads, other than an alley at their intersection.
LOT LINE:	The external boundary of a lot:
Front:	The boundary of a lot along a highway, road or street.
Rear:	The boundary of a lot on the back side of the property or the side opposite the front lot line.
Side:	The boundaries of a lot other than a front or rear lot line.
MANUFACTURED (MOBILE) HOME:	A residential structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.
MINISTORAGE FACILITY:	A building or group of buildings intended for various sizes of individual self-contained units that are leased or owned for the storage of customers' goods or wares.
NEW CONSTRUCTION:	Any structure for which the "start of construction" commenced on or after the effective date hereof.
NONCONFORMING STRUCTURE OR USE:	A lawful existing structure or use which existed prior to the effective date hereof or of previous ordinances governing their conformity, and is not conforming to the requirements of the zone in which it is located.
OFF STREET PARKING:	An area developed and maintained on a parcel of land in an accessible and unobstructed condition for parking of automobiles by residents, visitors, employees, and customers of uses permitted on the same or adjacent premises.
PASTURE:	An area suitable for the keeping of livestock or poultry, excluding the area of the residential

	use, and any required yard areas, as required by the zone classification.
PERMIT:	An instrument in writing, issued by the planning administrator, permitting a specific use of land, building or structure in conformance to this title, and setting forth any conditions to which such use is subject.
PERSON:	Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.
PLANNING ADMINISTRATOR:	The individual(s) appointed by the Lewisville city council to assist them and the city of Lewisville planning and zoning commission with the administration of this title and related federal, state, and county laws and regulations.
PLANNING COMMISSION:	The Lewisville planning and zoning commission.
SCHOOL:	A public or private preschool, elementary, secondary school, college, or university.
SEPTIC TANK:	A watertight, accessible covered receptacle, designed and constructed to receive sewage from a building sewer, to settle solids from the liquid, to anaerobically digest organic matter and store digested solids through a period of retention and allow the clarified liquids to discharge to other treatment units for final disposal.
SETBACK:	The minimum distance between two (2) given points, objects, structures or buildings.
SEWAGE TREATMENT WORKS:	A system or facility for treating, neutralizing, stabilizing or disposing of sewage, which system or facility has a designated capacity to receive more than two thousand (2,000) gallons of sewage per day. The term "sewage treatment

works" includes appurtenances such as interceptors, collection lines, outfall and outlet sewers, pumping stations and related equipment.

SEXUALLY ORIENTED BUSINESS:

An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency, nude model studio, or other business intended to gratify or sexually arouse its customers.

START OF CONSTRUCTION:

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling.

STRUCTURE:

A walled and roofed building, including a gas or liquid storage tank, that is principally above-ground.

SUBDIVIDED LAND:

Land located either within a subdivision, a plat of which has been filed in the office of the clerk or recorder of Jefferson County, or land which has been specifically exempted from subdivision review by the city of Lewisville planning and zoning commission and the Lewisville city council.

SUBSTANTIAL IMPROVEMENT:

A. Repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

1. Before the improvement or repair is started;
or

2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimension of the structure.

B. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications, which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the national register of historic places or a state inventory of historic places.

TEMPORARY:

A period of time of six (6) months or less.

TOWER:

A structure whose principal function is to support an antenna for transmitting or receiving communications. This excludes antennas or satellite dishes for private use in a residence.

USE:

Use, Accessory:

A use, incidental and subordinate to the principal use of the lot, structure or building on the same lot.

Use, By Right:

Use allowed in a particular zone district when listed thereunder with no further conditions or approval required other than the general terms and stipulations of this title.

Use, Principal:

The purpose or function for which a lot, structure or building is intended, designed or constructed, or the activity which is carried on

within said lot, structure or building; a lot is restricted to one principal use.

Use, Special Or
Conditional:

Uses allowed only after a public hearing by the planning commission, which permit may be approved or denied. If approved, certain conditions and performance standards may be imposed and must be complied with by the permittee.

UTILITY:

A structure or facility owned by a government entity, nonprofit organization, corporation, or other entity defined as a utility, and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil, telecommunications or electronic signals.

VARIANCE:

A grant of relief from the development standards, but not the use requirements of this title, which then permits construction in a manner that would otherwise be prohibited by this title.

YARD:

The open space on a lot (other than an interior court), unobstructed from the ground upward, except as otherwise provided in this title:

Yard, Front:

A yard extending the full width of the lot, the depth of which shall be measured in the shortest horizontal distance between the front lot line and the nearest wall of the principal building; such distance to be known as the front yard setback.

Yard, Rear:

A yard extending the full width of the lot, the depth of which shall be measured in the shortest horizontal distance between the rear lot line and the nearest wall of the principal building; such distance to be known as the rear yard setback.

Yard, Side:

A yard extending from the front yard to the rear yard, the width of which shall be measured in

the shortest horizontal distance between the side lot line and nearest wall of the principal building; such distance to be known as the side yard setback.

ZONING OFFICIAL:

The administrator or designee. (Ord. 9-10-B, 9-8-2010)

CHAPTER 3

ZONING DISTRICTS; MAP

SECTION:

- 8-3-1: Zoning Districts Established
8-3-2: Zoning Designations And Limitations

8-3-1: **ZONING DISTRICTS ESTABLISHED:** In order to classify, regulate, restrict, and segregate the uses of lands and buildings from incompatible uses, to regulate and restrict the height, bulk and construction of buildings, to regulate the dimensions and area of yards and other open spaces around buildings and uses, to implement the policies of the comprehensive plan, and to regulate the intensity of land use and density of residences, the zoning districts set forth herein are established and shall be applied as provided in section 8-3-2 of this chapter and as depicted upon the adopted official zoning map of the city. (Ord. 9-10-B, 9-8-2010)

8-3-2: **ZONING DESIGNATIONS AND LIMITATIONS:**

- A. R-1 single-family residential: One single-family residence (including manufactured home) per lot on a permanent foundation.
- B. R-1 nonconforming single-family residential dwelling (any existing property not meeting all the requirements of this title): Permitted use same as conforming, but with limited expansion that would encourage additional persons to occupy the dwelling. Limited to existing.
- C. R-1 (conditional use) schools, public buildings, and churches: All lots in this zone already have structures in place. Any changes, additions, demolition, or change of use will be handled on an individual case basis.
- D. R-1 nonconforming two-family residential: Limited to existing.

- E. R-1 nonconforming trailers and mobile homes: Limited to existing.
- F. C-1 commercial/industrial: All lots in this zone already have existing structures in place. Any changes, additions, demolition, or change of use will be handled on an individual case basis.
- G. RR/C public parks: One city park exists and a zone change and permitted use would need to be approved for any new park.
- H. Public lands: City easements that adjoin city streets. The city easement measures 49.5 feet from the center of the street in both directions. No structure, building, fence, tree, shrub, garden, or ornamental objects may be built, placed, planted, or allowed to grow upon these lands. (Ord. 9-10-B, 9-8-2010)

CHAPTER 4

ZONING DISTRICT REGULATIONS

ARTICLE A. R-1 RESIDENTIAL ONE ZONE

SECTION:

- 8-4A-1: General Purpose
- 8-4A-2: Lot Size
- 8-4A-3: Conditional Uses
- 8-4A-4: Height Regulations
- 8-4A-5: Building Setback Requirements For Residential Dwellings
- 8-4A-6: Accessory Uses
- 8-4A-7: Off Street Parking
- 8-4A-8: Access To City, County Or State Roads
- 8-4A-9: Manufactured Housing Placement Standards

8-4A-1: **GENERAL PURPOSE:** The purpose of this residential zone is to provide for and protect residential lands of a single-family residential environment. To provide for gardening and family recreation opportunities, the keeping of a limited number of livestock and poultry, as set forth in section 8-5-8 of this title, and similar rural activities on a limited scale. (Ord. 9-10-B, 9-8-2010)

8-4A-2: **LOT SIZE:** The minimum lot size for a residential dwelling is one acre with forty three thousand five hundred sixty (43,560) square feet and must have a minimum width front yard of one hundred feet (100') fronting a dedicated street or road. (Ord. 9-10-B, 9-8-2010)

8-4A-3: **CONDITIONAL USES:**

- A. The city council may, after notice and public hearing, permit uses as are deemed essential or desirable to the public convenience or welfare. The city council shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best

interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.

- B. Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use application after review by the administrator and approval by the city council. (Ord. 9-10-B, 9-8-2010)

8-4A-4: **HEIGHT REGULATIONS:** Any building or structure, or portion thereof, hereafter erected shall not exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height. (Ord. 9-10-B, 9-8-2010)

8-4A-5: **BUILDING SETBACK REQUIREMENTS FOR RESIDENTIAL DWELLINGS:**

- A. Single frontage lots: Both side yards must be fifteen feet (15') from the property line.
- B. Corner lot: Street side yard ninety feet (90') from center of street.
- C. Rear yard: Fifty feet (50') from property line.
- D. Front yard: Ninety feet (90') from center of street.
- E. No portion of the structure may penetrate into any required yard space. (Ord. 9-10-B, 9-8-2010)

8-4A-6: **ACCESSORY USES:** Accessory uses are permitted. Such uses shall be limited to thirty five feet (35') in height and shall not encroach upon the front yard setback requirement. Accessory buildings can be located ten feet (10') from the side and rear property lines, except on corner lots where they must meet setback requirements for residential dwellings. (Ord. 9-10-B, 9-8-2010)

8-4A-7: **OFF STREET PARKING:** For each single-family residence, two (2) stalls sufficient in size for a garage or carport shall be provided. (Ord. 9-10-B, 9-8-2010)

8-4A-8: **ACCESS TO CITY, COUNTY OR STATE ROADS:** All access to city, county or state roads shall follow all access policies and ordinances as set by the city and Jefferson County. (Ord. 9-10-B, 9-8-2010)

8-4A-9: **MANUFACTURED HOUSING PLACEMENT STANDARDS:**

- A. Existing Manufactured Homes: Manufactured homes existing as of the effective date hereof shall be permitted to continue as an established dwelling.
- B. New Units; Conditions: New manufactured housing units are permitted in R-1 zoning when placed on individual lots under the following specific conditions:

1. Manufactured/modular homes meeting the standards set forth in this section may be placed at any location within the city where a detached single-family dwelling can be located in accordance with this title. A manufactured home must comply with all of the standards concerning construction and placement set forth in this section.

2. A manufactured/modular home shall include any structure produced at a factory, built on a permanent metal frame, which is designed and constructed for transportation to a site for installation and used as a dwelling when connected to required utilities; properly connected to sewer, water, gas and electrical service; designed for residential use by a family, contains a kitchen, bath, living and sleeping facilities, is multi sectional and at least twenty feet (20') wide with a minimum total square footage equal to nine hundred (900) square feet, manufactured on or after June 15, 1976, and certified as meeting the manufactured housing construction safety standards of the United States department of housing and urban development and the requirements of the city building ordinance.

3. The manufactured home must be affixed to a permanent foundation that complies with the setup requirements of Idaho Code title 44, chapter 22, when placed in any permitted location.

4. The home must have metallic, wood shake, shingle, asphalt shingle, or similar shingle type roof with a minimum pitch of three to twelve (3:12) (pitch to run) and a six inch (6") minimum overhang.

5. Where garages are required for site built homes, they are required for manufactured homes.

6. Any neighborhood design standards shall also apply to any manufactured home.
- C. Exceptions: Exceptions to this section may be allowed if the following conditions are met, with the application of a conditional use permit and a building permit:
1. The dwelling is a temporary unit with conditional use permit.
 2. The dwelling is to provide for a relative no more than one degree of consanguinity to the owner (i.e., children, siblings, or parents). (Ord. 9-10-B, 9-8-2010)

CHAPTER 4

ZONING DISTRICT REGULATIONS

ARTICLE B. C-1 COMMERCIAL ONE ZONE

SECTION:

- 8-4B- 1: Purpose
- 8-4B- 2: Permitted Uses
- 8-4B- 3: Conditional Uses
- 8-4B- 4: Height Regulations
- 8-4B- 5: Setback And Lot Line Requirements
- 8-4B- 6: Area Requirements
- 8-4B- 7: Accessory Uses
- 8-4B- 8: Parking
- 8-4B- 9: Access To City, County Or State Roads
- 8-4B-10: Outdoor Storage Of Commercial Materials

8-4B-1: **PURPOSE:** The intent and purposes of the commercial zoning districts are to establish areas within the city that are primarily commercial in character and to set forth certain minimum standards for development within those areas. The purpose in having more than one commercial district is to provide opportunities for a variety of employment and community service opportunities within the community, while providing a basic level of predictability. There is a rebuttable presumption that the uses set forth for each district will be compatible with each other both within the individual districts and to adjoining zoning districts when the standards of this title are met and any applicable conditions of approval have been satisfied. (Ord. 9-10-B, 9-8-2010)

8-4B-2: **PERMITTED USES:** Permitted uses will be considered on a case by case basis and in accordance with the comprehensive plan. (Ord. 9-10-B, 9-8-2010)

8-4B-3: CONDITIONAL USES:

- A. Conditional uses may be permitted. The city council may, after notice and public hearing, permit the uses as deemed essential or desirable to the public convenience or welfare. The council shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.
- B. Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use application after review and approval of the administrator and city council. (Ord. 9-10-B, 9-8-2010)

8-4B-4: HEIGHT REGULATIONS: Any building or structure, or portion thereof, hereafter erected shall not exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height unless a greater height is approved by conditional use permit. (Ord. 9-10-B, 9-8-2010)

8-4B-5: SETBACK AND LOT LINE REQUIREMENTS: Same as R-1. (Ord. 9-10-B, 9-8-2010)

8-4B-6: AREA REQUIREMENTS: Same as R-1. (Ord. 9-10-B, 9-8-2010)

8-4B-7: ACCESSORY USES: Same as R-1. (Ord. 9-10-B, 9-8-2010)

8-4B-8: PARKING: Parking shall be located to the rear or side of the building or screened so that it does not dominate the streetscape. Fences, hedges, berms and landscaping shall be used to screen parking areas. (Ord. 9-10-B, 9-8-2010)

8-4B-9: ACCESS TO CITY, COUNTY OR STATE ROADS: All access to city, county or state roads shall follow all access policies and ordinances as set by the city, state or county. (Ord. 9-10-B, 9-8-2010)

8-4B-10: **OUTDOOR STORAGE OF COMMERCIAL MATERIALS:**

- A. Will be screened from the view from any existing adjoining residence or residentially zoned area, whether or not such property is separated by an alleyway or street.
- B. Will not be located in any front yard setback area. (Ord. 9-10-B, 9-8-2010)

CHAPTER 4

ZONING DISTRICT REGULATIONS

**ARTICLE C. RR/C RECREATIONAL RESIDENTIAL/
COMMERCIAL ZONE**

SECTION:

- 8-4C- 1: Purpose
- 8-4C- 2: Permitted Uses
- 8-4C- 3: Conditional Uses
- 8-4C- 4: Height Regulations
- 8-4C- 5: Setback And Lot Line Requirements
- 8-4C- 6: Area Requirements
- 8-4C- 7: Accessory Uses
- 8-4C- 8: Parking
- 8-4C- 9: Access To City, County Or State Roads
- 8-4C-10: Outdoor Storage Of Commercial Materials

8-4C-1: **PURPOSE:** It is the purpose of this district to promote general recreational hobbies and to allow the public enjoyment of certain areas of land. The RR/C zone is to allow for recreational residential development, as well as recreational related commercial uses. (Ord. 9-10-B, 9-8-2010)

8-4C-2: **PERMITTED USES:** Permitted uses will be considered on a case by case basis and in accordance with the comprehensive plan. (Ord. 9-10-B, 9-8-2010)

8-4C-3: **CONDITIONAL USES:**

- A. Conditional uses may be permitted. The city council may, after notice and public hearing, permit the uses as deemed essential or desirable to the public convenience or welfare. The city council shall have the authority to impose such conditions and safeguards as it deems

necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.

- B. Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use application after review and approval of the administrator and city council. (Ord. 9-10-B, 9-8-2010)

8-4C-4: **HEIGHT REGULATIONS:** Any building or structure, or portion thereof, hereafter erected shall not exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height. (Ord. 9-10-B, 9-8-2010)

8-4C-5: **SETBACK AND LOT LINE REQUIREMENTS:** Same as R-1. (Ord. 9-10-B, 9-8-2010)

8-4C-6: **AREA REQUIREMENTS:** Same as R-1. (Ord. 9-10-B, 9-8-2010)

8-4C-7: **ACCESSORY USES:** Same as R-1. (Ord. 9-10-B, 9-8-2010)

8-4C-8: **PARKING:** Parking shall be located so that it does not dominate the streetscape. Fences, hedges, berms and landscaping shall be used to screen parking areas. (Ord. 9-10-B, 9-8-2010)

8-4C-9: **ACCESS TO CITY, COUNTY OR STATE ROADS:** All access to city, county or state roads shall follow all access policies and ordinances as set by the city, county or state. (Ord. 9-10-B, 9-8-2010)

8-4C-10: **OUTDOOR STORAGE OF COMMERCIAL MATERIALS:**

- A. Will be screened from the view from any existing adjoining residence or residentially zoned area, whether or not such property is separated by an alleyway or street.
- B. Will not be located in any front yard setback area. (Ord. 9-10-B, 9-8-2010)

CHAPTER 5

SUPPLEMENTARY REGULATIONS

SECTION:

- 8-5- 1: Lot Size
- 8-5- 2: General Exceptions To Building Height Limitations
- 8-5- 3: Subdividing Of Properties
- 8-5- 4: Legal Nonconforming Structures And Uses
- 8-5- 5: Clear Vision Area Requirements
- 8-5- 6: Home Occupations; Home Businesses; Cottage Industries
- 8-5- 7: Off Road Parking And Loading
- 8-5- 8: Animals In Residential And Commercial Zones
- 8-5- 9: Temporary Siting Of RVs In Nonapproved Trailer/RV Park
- 8-5-10: Canal Setbacks
- 8-5-11: Sexually Oriented Businesses

8-5-1: **LOT SIZE:** Minimum lot size shall be subject to district seven health department standards for the installation of approved domestic water supply and sewage systems; provided, that any lot created shall be at least one acre in size. Lot size shall not be reduced to less than one acre. If a parcel is separated from an existing one acre lot, no structure or building may be placed on that parcel and that parcel may not be considered when creating a new parcel for building purposes. (Ord. 9-10-B, 9-8-2010)

8-5-2: **GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS:** The following types of structures or structural parts are not subject to the building height limitations of this title: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, and other similar projections. (Ord. 9-10-B, 9-8-2010)

8-5-3: **SUBDIVIDING OF PROPERTIES:** When subdividing a parcel of land, all parcels resulting from the division of said land must contain no less than one acre. If a parcel of land of less than one acre is created, no structure or building may be placed or built upon that parcel. (Ord. 9-10-B, 9-8-2010)

8-5-4: **LEGAL NONCONFORMING STRUCTURES AND USES¹:**

A. Structures:

1. A legal nonconforming structure is one that was in compliance with all land use and building code requirements at the time it was constructed, or that was constructed or established before land use regulations were enacted, but does not conform to the structure requirements of the current land use codes of the city. It is the policy of the city to encourage maintenance and continued vitality of existing legal nonconforming structures until a change of land use is undertaken by the owner in conformance with requirements of this title.

2. Any legal nonconforming permanent structure may continue to be used and maintained as otherwise allowed by this title. A nonconforming structure shall not be enlarged in area in any way that increases its nonconformity. A structure used to house a nonconforming nonresidential use may be enlarged by up to ten percent (10%) of its square footage so long as any such enlargement does not increase the nonconformity of any setbacks or building bulk regulations.

3. Any structure legally built prior to the adoption of land use regulations within a currently required yard setback area shall be deemed a legal nonconforming structure and the nonconforming dimension shall not be expanded by additional construction, unless otherwise qualifying for a variance.

B. Uses: All existing uses of land that are not permitted uses in the zoning district in which such use is being conducted, and all uses which, if presently initiated, would require a conditional use permit, and which do not have a conditional use permit, are deemed legal nonconforming uses. Legal nonconforming uses shall not be expanded or extended in any way, except as otherwise expressly

1. See also section 8-8-1 of this title.

allowed by this title. A legal nonconforming use shall not be changed except to a use that complies with the regulations of the zoning district in which the subject property lies or to diminish its nonconformity. (Ord. 9-10-B, 9-8-2010)

8-5-5: **CLEAR VISION AREA REQUIREMENTS:** A "clear vision area", as defined in section 8-2-3, "Words And Terms Defined", of this title shall be maintained on the corners of all public and private property within the intersection of a roadway and railroad. The clear vision area shall contain no trees, shrubs or other plantings, fences, walls, signs or other temporary or permanent sight obstructions of any nature. Off road parking of private or commercial vehicles is prohibited in the clear vision area. (Ord. 9-10-B, 9-8-2010)

8-5-6: **HOME OCCUPATIONS; HOME BUSINESSES; COTTAGE INDUSTRIES:**

A. Home Occupations: Home occupations shall meet the following standards:

1. Incidental To Residence: A home occupation shall be operated by a person or persons residing within the dwelling unit, shall be clearly secondary and incidental to use of the dwelling unit as a residence, and shall be conducted entirely within the dwelling unit, without altering the exterior of the dwelling unit.

2. Impact: A home occupation shall not affect the rural or residential character of the neighborhood. Consideration should be specifically given to impact on sight, sound, smell and traffic.

3. Permitted Uses: Uses permitted may include, but are not limited to: professional services such as an accountant, physician, real estate agent; art studio, handcraft studio, music studio, or similar studio uses; a tailor; tutoring or classes for no more than two (2) students at one time; and counseling primarily for individual persons; or similar activities.

4. Employment: No one residing off premises may be employed on the premises of a home occupation.

5. Parking: All parking shall be provided on site, and shall be located to the rear or side of the structure or in another location so as to be visually unobtrusive.

6. Display And Signage: See chapter 6, "Signs", of this title.

B. Home Businesses: Home businesses shall meet the following standards:

1. Incidental To Residence: A home business shall be operated by a person or persons residing within the dwelling unit, and shall be clearly an incidental and secondary use of a residential dwelling unit and/or an accessory building. (Ord. 9-10-B, 9-8-2010)

2. Impact: A home business shall not affect the rural or residential character of the neighborhood. Consideration should be specifically given to impact on sight, sound, smell and traffic. (Ord. 9-10-B, 9-8-2010; amd. 2012 Code)

3. Permitted Uses: Home businesses may include, but are not limited to: those occupations allowed in home occupations; construction and/or contracting businesses; service businesses; repair of furniture and small appliances; offices; music, art or other schools; art studios and galleries; or, similar activities.

4. Parking: All parking for customers or clients shall be provided on site, and shall be located to the rear or side of the structure or in another location that is visually unobtrusive.

5. Display And Signage: See chapter 6, "Signs", of this title.

C. Cottage Industries: Cottage industries shall comply with the following standards:

1. Secondary To Residence: A cottage industry shall be operated by a person or persons residing within the dwelling unit, and shall be a secondary use of a residential dwelling unit and/or accessory building.

2. Impact: A cottage industry shall have limited impact on the rural or residential character of the neighborhood. Consideration should be specifically given to impact on sight, sound, smell and traffic.

3. Permitted Uses: Uses permitted may include, but are not limited to: those occupations allowed in home businesses; businesses related to agriculture, landscaping, snowplowing, trucking, small automotive repair, septic system service, well service, carpentry, construction work, upholstery, and woodworking, or similar activities.

4. Parking: All parking shall be provided on site, and shall be located to the rear of the structure or in another location that is visually unobtrusive.

5. Display And Signage: See chapter 6, "Signs", of this title.

D. Commercial Uses On Residential Lot In Accessory Building:

1. Accessory Use To Residence: The use must be an accessory use to the residence; the residence must already be established, or a building permit shall be issued and construction begun (if after 2 years the building has not been issued a certificate of occupancy, the permit shall not be renewed).

2. Lot Area: The lot area used for the entire business, including buildings, storage area, drives, and parking areas, shall not exceed twenty five percent (25%) of the lot size, or one acre, whichever is smaller, excluding parking for employees but including parking for customers, whichever is smaller.

3. Business Enclosed; Storage Of Supplies: The business shall be enclosed completely in a building. Supplies may be kept outside if kept in an organized manner. If the business involves vehicle repair, no more than two (2) vehicles may be kept outside the building at any one time, excluding vehicles used by employees to transport to the job site.

4. Employees: No more than five (5) persons, not residing on the property, per shift shall be employed in the business.

5. Use Of Site; Compliance With Codes: If either employees or the public will use the site, structures shall meet all requirements of the uniform building code and uniform fire code for type of usage.

6. Location; Screening: No part of the business, except structures, but including storage, shall be located any closer than twenty feet (20') from the property lines of adjoining landowners. Structures shall be a minimum of ten feet (10') from property lines of adjoining landowners. If storage is located near a residential building other than that of the owner, it shall be screened to prevent sight pollution.

7. Transport Vehicles: Vehicles for transporting products or materials shall be allowed on site only from seven o'clock (7:00) A.M. to eight o'clock (8:00) P.M.

8. **Conduct Of Business:** The business shall be conducted in such a manner that it does not interfere with surrounding property owners so as not to pollute from air, noise, sight, or water. All effluent shall be contained on site.

9. **Nuisance Conditions:** The use shall not create a nuisance because of dust, odor, noise, smoke, or gas. Any commercial or manufacturing use, which does not meet these requirements, may only be permitted by conditional use permit. (Ord. 9-10-B, 9-8-2010)

8-5-7: **OFF ROAD PARKING AND LOADING:** The general provisions for off road parking and loading shall be as follows:

- A. The provision and maintenance of off road parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented which show property that is, and will remain, available for exclusive use as off road parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off road parking or loading requirements, it shall be a violation of this title to begin or maintain such altered use until such time as the increased off road parking or loading requirements are in compliance.
- B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the administrator and city council based upon the requirements for comparable uses. (Ord. 9-10-B, 9-8-2010)

8-5-8: **ANIMALS IN RESIDENTIAL AND COMMERCIAL ZONES:**
The following standards shall apply:

- A. Horses, donkeys, mules, llamas and cattle: One head for the first one-half ($\frac{1}{2}$) acre of pasture and one head for each additional acre (not including sucklings).
- B. Sheep and goats: Five (5) head of feeder sheep, or three (3) head of breeding sheep per one acre of land (not including sucklings). Five (5) head of female or castrated male goats, or any combination thereof, per one acre of land (not including sucklings).

- C. Poultry: Ten (10) laying hens or growing chickens per acre of land (not including chicks).
- D. Swine: One per acre of pasture (not including sucklings).
- E. Animals shall be kept in such a manner as not to constitute a nuisance or health hazard with respect to neighboring property.
- F. Pasture does not include that portion of land where the residence and accessory buildings are located. It does include any buildings used for animals.
- G. Animals that are kept for 4-H, FFA, or other educational projects shall not be included in the number of animal units described in this section, but shall be removed from the premises within sixty (60) days of the selling date of the animal. (Ord. 9-10-B, 9-8-2010)

8-5-9: TEMPORARY SITING OF RVs IN NONAPPROVED TRAILER/RV PARK:

- A. Temporary Use: Temporary use of any recreational vehicle (any structure designed to be towed, driven, or loaded on another vehicle and transported on a public road or highway) that is being used for sleeping, cooking or living and is parked within the city on either private or city property will be permitted to be used while parked for a period not to exceed seven (7) days without obtaining a permit. For periods in excess of the seven (7) day grace period, a permit must be obtained from the city clerk-treasurer before the expiration of the initial seven (7) day occupancy. Permitted use may not exceed thirty (30) days per calendar year. All units must be entirely self-contained without any leakage from sewage or gray water and all waste must be disposed of in commercially designated places.
- B. Penalties: Penalties for violations of this section are set forth in subsection 8-8-8B of this title. (Ord. 9-10-B, 9-8-2010)

8-5-10: CANAL SETBACKS: In an effort to protect structures and persons from water incursion, there shall be a setback of sixty feet (60') measured horizontally from a point perpendicular to the high water mark on each side of any incorporated canal in which no habitable structures of any kind shall be permitted; provided, that a nonhabitable structure or structures may be allowed within the sixty feet (60') with the

discretion of reasonable setback for cleaning and maintenance of the canal.
(Ord. 9-10-B, 9-8-2010)

8-5-11: SEXUALLY ORIENTED BUSINESSES:

- A. Purpose: The purpose of this section is to establish provisions for a sexually oriented business. These provisions will reasonably govern the location of a sexually oriented business in order to avoid adverse secondary effects which may result from the operation of such business. This section shall be construed to protect the governmental interests with protections provided by the United States constitution and the constitution of the state of Idaho.
- B. Definitions: Terms involving sexually oriented businesses shall have the meanings set forth in section 8-2-3 of this title.
- C. Zoning Requirements: Any sexually oriented business classified as an adult business or a seminude entertainment business shall be permitted only with a conditional use permit in the C-1 zone as shown on the zoning map of the city.
1. No sexually oriented business shall operate within one thousand feet (1,000') of any of the following:
 - a. Residential zone boundary line as shown on the city map;
 - b. The property boundary of any church, public park, public library, or school; or
 - c. The boundary of any property for which a sexually oriented business license earlier has been issued and has not expired.
 2. No church, public park, public library, or school shall be established closer than one thousand feet (1,000') from any sexually oriented business.
 3. For the purpose of this section, the distance from any church, public park, public library, or school shall be measured in a straight line from the nearest point of the line of any property on which a sexually oriented business is operating, or is proposed to operate, to the nearest residential zone boundary line or property boundary line of any church, public park, public library, or school, as the case may be.

- D. Development Standards: Each sexually oriented business shall be subject to all development standards of the commercial zone in which it is located, including, but not limited to, setbacks, building height, projections, etc. (Ord. 9-10-B, 9-8-2010)

CHAPTER 6

SIGNS

SECTION:

- 8-6-1: Signs Permitted Without Permit
- 8-6-2: Signs Requiring Permit
- 8-6-3: Location
- 8-6-4: Removal Of Obsolete, Unmaintained Or Abandoned Signs

8-6-1: **SIGNS PERMITTED WITHOUT PERMIT:**

- A. A sign located in a display window or on a door of a business establishment which announces only the name of the proprietor or business establishment and the nature of the business.
- B. A sign not to exceed thirty two (32) square feet on the front or side of a building displaying the name and nature of the occupancy.
- C. Street signs erected by the city.
- D. Construction signs which identify the architects, engineers, contractors and other individuals or firms with the construction, but not including any advertisement of any product. Two (2) such signs not to exceed thirty two (32) square feet each shall be confined to the premises upon which construction occurs during the construction period. Such signs shall be removed within sixty (60) days after the beginning of occupancy.
- E. Street barriers advertising a public event may be erected as approved by the administrator and the city council. The banners shall be removed within five (5) days after the termination of the event.
- F. Parking area signs designating parking area entrances and exits are limited to one sign for each such exit or entrance and to a maximum size of six (6) square feet each.

G. Off premises and on premises signs that are intended to direct traffic or advertise a special event or sale (i.e., election signs or "for sale" signs). However, such signs are to be limited to the following conditions:

1. A maximum of thirty (30) days per year.
2. The consent of the property owner must be obtained.
3. Signs must comply with or be located outside the visibility triangle.
4. Signs shall be a maximum of twelve (12) square feet in size. (Ord. 9-10-B, 9-8-2010)

8-6-2: **SIGNS REQUIRING PERMIT:** Signs not specifically set forth in section 8-6-1 of this chapter shall require a permit. Permits can be obtained through the administrator at a regularly scheduled meeting. (Ord. 9-10-B, 9-8-2010)

8-6-3: **LOCATION:** All signs, except special events signs, shall be located within the property lines of property owned by or licensed or leased to the applicant. Special events signs placed within the visibility triangle shall not exceed thirty inches (30") in height. (Ord. 9-10-B, 9-8-2010)

8-6-4: **REMOVAL OF OBSOLETE, UNMAINTAINED OR ABANDONED SIGNS:** All signs, including those painted on a building, which no longer serve the purpose for which they were intended, or are not maintained, or which have been abandoned, shall be removed or restored by the business or property owner within thirty (30) days after the receipt of a removal or restoration request. If such signs are not removed or repaired, the city will have the sign removed at the expense of the property owner. (Ord. 9-10-B, 9-8-2010)

CHAPTER 7
CONDITIONAL USES

SECTION:

- 8-7-1: Authorization To Grant Or Deny Conditional Uses
- 8-7-2: Application For Conditional Use Permit
- 8-7-3: Public Hearing On Conditional Use
- 8-7-4: Standards Governing Conditional Uses

8-7-1: **AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES:**

- A. Conditions For Authorization: Uses designated in this title as conditional uses may be permitted upon authorization by the city council in accordance with the standards and procedures established in this chapter. The city council may impose, in addition to those standards and requirements expressly specified by this title, any additional conditions which it considers necessary to protect the best interests of the surrounding property or the city as a whole. Those conditions may include, but are not limited to:

1. More restrictive standards than generally required, such as increased lot or yard size, with limitations, or increased parking space requirements.
2. Minimizing adverse impacts, such as limiting the number, size, and location of signs, and requiring screening, diking, fencing, or landscaping.
3. Controlling the timing, sequence, and duration of development.
4. Designating the exact location and nature of development, and assuring that it is maintained properly.
5. Requiring the provision of on site or off site public facilities.

- B. Conditional Use Granted; Use Considered As Conforming: Any use, which is granted and permitted as a conditional use under the terms of this title, shall be deemed to be a conforming use in said zone. A use existing prior to the effective date hereof shall be considered a nonconforming use, except that any use which existed prior to the effective date hereof, and which could be allowed by a conditional use upon the existing lot, shall be deemed as a conforming use if complying with current standards of this title. (Ord. 9-10-B, 9-8-2010)

8-7-2: **APPLICATION FOR CONDITIONAL USE PERMIT:**

- A. Requirements: A property owner, or his agent, may initiate a request for a conditional use, or for the modification of an existing conditional use, by filing an application with the zoning official on forms prescribed by the administrator. The application shall be submitted at least twenty eight (28) days prior to the meeting at which it will be considered. The application shall include ten (10) copies of the application and all other documents submitted. The application for a conditional use shall be accompanied by a site plan drawn neatly and accurately and to an appropriate scale showing at least the following items: (Ord. 9-10-B, 9-8-2010; amd. 2012 Code)
1. Setbacks.
 2. All building locations and overhangs.
 3. Driveways and parking spaces.
 4. Landscaping, if required.
 5. Location of sewage disposal systems and wells located on the property and adjoining properties.
- B. Plan Required: The plan, as approved or modified by the administrator, shall be made a part of the applicant's file, and all construction and development shall comply with said plan. (Ord. 9-10-B, 9-8-2010)

- 8-7-3: **PUBLIC HEARING ON CONDITIONAL USE:** Before the administrator shall act upon a request for a conditional use, it shall hold a public hearing pursuant to subsection 8-8-6A of this title. (Ord. 9-10-B, 9-8-2010)

8-7-4: STANDARDS GOVERNING CONDITIONAL USES:

A. Compliance: A conditional use shall comply with the standards of the zone in which it is located, except as the administrator may modify these standards in authorizing the conditional use, or as otherwise provided, as follows:

1. Yards: In a residential zone, a required yard shall be at least two-thirds ($\frac{2}{3}$) the height of the principal structure. In any zone, additional yard requirements may be imposed.

2. Churches, Synagogues, Temples And Other Religious Facilities: The administrator may authorize a church, etc., as a conditional use, if in its judgment, the size of the site is adequate for the intended use, access to the site is adequate, and the surrounding property will not otherwise be adversely affected. A church may exceed the height limitations of the zone in which it is located to a maximum of fifty feet (50'), if the total floor area of the building does not exceed one and one-half ($1\frac{1}{2}$) times the area of the site, and if the yard dimensions in each case are equal to at least two-thirds ($\frac{2}{3}$) of the height of the principal structure. In addition to the signs permitted in the zone in which it is located, a church may have a bulletin board not exceeding twenty (20) square feet in area and set back fifty five feet (55') from the center of the road.

3. Public Utility: In considering an application for a public utility use, the administrator shall determine that the site, easement, or right of way is located so as to best serve the immediate area, and in the case of a right of way, easement will not result in the uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designated, and installed as to minimize their effect on scenic values and interference in radio and television receivers in the vicinity.

4. Wrecking Yard: Wrecking yards are not permitted within the city limits.

5. Ministorage Complexes: The following standards shall govern all conditional use permits for ministorage complexes:

a. Each ministorage complex shall be screened by a sight obscuring fence of a minimum height of six feet (6') from the grade or landscaping along any lot line abutting a residential zone.

b. A dustless surface shall be required on all areas designated for vehicular movement, loading, or parking.

c. A minimum of five percent (5%) of the gross vehicular area, including a minimum three foot (3') buffer strip abutting a public right of way, except for required clear vision area, shall be landscaped with approved living plant materials which shall include, but not be limited to, trees and shrubs. Trees shall be at least six feet (6') high at the time of planting. Living plant materials shall be spaced on three foot (3') to five foot (5') centers, depending on maximum growth at maturity. Shrubs shall be a minimum of thirty inches (30") in height at maturity.

d. Adequate on site area for on and off loading of vehicles shall be provided so that such operations do not take place on, or interfere with, public right of way.

e. If exterior security lighting is provided, it shall be screened to prevent spillover into any adjacent residential areas.

- B. Time Limit On Permit For Conditional Use: Authorization of a conditional use shall be void after one year unless the use has been established or a building permit has been issued for the use. The administrator may extend this period upon the written request of the applicant if received prior to the expiration date. (Ord. 9-10-B, 9-8-2010)

CHAPTER 8

ADMINISTRATION AND ENFORCEMENT

SECTION:

- 8-8-1: Nonconforming Uses
- 8-8-2: Temporary Use Permits
- 8-8-3: Variances
- 8-8-4: Appeals
- 8-8-5: Amendments
- 8-8-6: Administrative Procedure
- 8-8-7: Fees
- 8-8-8: Enforcement And Penalties

8-8-1: **NONCONFORMING USES¹:**

- A. Continuanace Of Nonconforming Use Or Structure: Subject to the provisions of this chapter, a nonconforming use may be continued and maintained in reasonable repair but shall not be altered or extended, except that the extension of a nonconforming use to a portion of a structure that was provided for the nonconforming use on the effective date hereof shall be permitted, and except that a structure with respect to use but nonconforming with respect to height, setback, or coverage may be altered or extended if the alteration or extension does not further deviate from the standards of this title.
- B. Discontinuance Of Nonconforming Use:
 - 1. If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall conform to this title.

1. See also section 8-5-4 of this title.

2. If a nonconforming use not involving a structure is discontinued for a period of six (6) months, further use of the property shall conform to this title.

C. **Change Of Nonconforming Use:** If a nonconforming use is located in a conforming structure, any change in use shall conform to this chapter.

1. A nonconforming use located in a nonconforming structure may, upon review by the administrator, be changed to another nonconforming use, provided the administrator shall find that the proposed use is equally appropriate, or more appropriate, to the zone than the existing nonconforming use. In permitting such a change of use, the administrator shall consider whether the proposed use will:

a. Generate less traffic.

b. Decrease hours of operation. (Ord. 9-10-B, 9-8-2010)

c. Generally be less impactful on surrounding conforming structures and uses. (Ord. 9-10-B, 9-8-2010; amd. 2012 Code)

2. In permitting any such change of use, the administrator may require additional appropriate conditions and safeguards in accord with other provisions of this section. Structural alteration may be allowed to any portion of the nonconforming structure, provided it does not increase the existing floor area, and provided the alteration is aesthetically acceptable for the neighborhood in which the structure is located, as determined by the administrator.

D. **Destruction Of Nonconforming Use:** If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty percent (80%) of fair market value as indicated by the records of the county assessor, a future structure or use on the site shall conform to this title.

E. **Completion Of Structure:** Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this title, except that if the building is nonconforming or is intended for a nonconforming use, it shall be completed and in use within one year from the time the permit was issued. (Ord. 9-10-B, 9-8-2010)

8-8-2: TEMPORARY USE PERMITS:

- A. **Requirements For Allowance:** Temporary uses may be allowed in appropriately zoned areas without full site development as otherwise required by this title. Such uses may include, but are not limited to: erection of temporary structures such as tents, fences, booths or parking of trailers for activities such as carnivals, circuses, fairs, religious meetings, temporary outdoor displays and/or sale of Christmas trees, art objects or other items and other similar activities conducted either outdoors or within temporary structures. A "temporary use" is a land use established for a period of time not to exceed ninety (90) days in a calendar year and does not require permanent site improvements. The actual use embodied by a temporary use permit must be a permitted use in the zoning district in which it is proposed to be located. The temporary use permit may be allowed subject to conditions required by the administrator so long as the administrator determines that granting the temporary use permit will not harm the public interest if the required conditions are in compliance.
- B. **Application For Temporary Use:** An application for a temporary use shall include a written description of the use, proposed starting date of the use, and a site plan that shows the location of the use, access, setbacks from property lines, parking, restroom facilities (if applicable), and any other pertinent information that the administrator may require to evaluate the use. An application for a temporary use with a duration in excess of thirty (30) days shall include the names and addresses of abutting landowners. The administrator will prepare a notice of the administrative permit request and mail it to abutting property owners who will have seven (7) days from the date of mailing within which to respond with written comments supporting or opposing the request. Notice of the proposal may also be sent to the city council for comment.
- C. **Considerations For Issuance:** A temporary use may be approved, approved with conditions or denied by the administrator and city council. A temporary use permit is valid on the date of approval or on the date requested by the applicant and will be valid for the time period requested or no more than ninety (90) days during a calendar year, such days to be designated at the time of issuance. The administrator and city council, when deciding a temporary use permit request, should consider the following:
1. Whether the proposed temporary use would be consistent with the general policies of the zoning ordinance and comprehensive plan.

2. Whether the use would otherwise be permitted within the zoning district wherein located.
3. Whether granting the temporary use permit would be detrimental to the nearby neighborhood or to the community in general.
4. Whether the proposed temporary use would create a traffic hazard.
5. Whether the proposed temporary use would impair the functioning of community facilities or delivery of public services. (Ord. 9-10-B, 9-8-2010)

8-8-3: **VARIANCES:**

- A. **Authorization To Grant Or Deny Variance:** The city council may authorize variances where it can be shown that the literal interpretation of this title would cause hardship. A variance shall not be considered a right or special privilege, but may be granted only upon the showing of undue hardship because of characteristics of the site, and that the variance is not in conflict with the public interest. In granting a variance, the city council may attach conditions which it finds necessary to protect the interests of the surrounding property or neighborhood, and otherwise to achieve the purpose of this title. No variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located.
- B. **Circumstances For Granting Variance:** No variance shall be granted unless it can be shown that all of the following circumstances exist:
 1. Conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography, or other circumstances over which the applicant has no control.
 2. The variance is necessary for the preservation of a property right of the applicant, substantially the same as is possessed by owners of other property in the same zone or vicinity.
 3. The authorization of the variance will not be materially detrimental to the purposes of this title, be injurious to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county development plans or policies.

4. The variance requested is the minimum variance, which will alleviate the hardship.

C. Application For Variance:

1. A property owner may initiate a request for a variance by appearing before the administrator at a regularly scheduled meeting and presenting a written statement indicating why a variance should be issued. The statement shall be accompanied by a site plan, drawn to scale, showing the condition to be varied, and the dimensions and arrangement of proposed development.

2. If the administrator deems the variance justifiable, it will make a recommendation to the city council. The applicant will then be required to obtain an eighty percent (80%) approval of the twelve (12) closest property owners and present the application and all documentation to the city council for consideration at a regularly scheduled meeting. (Ord. 9-10-B, 9-8-2010)

8-8-4: **APPEALS:**

A. Appeal Process: An appeal of the city council rulings can be made to a three (3) member appeals board, one member chosen by the mayor, one member chosen by the permit applicant, and one member chosen by the first two (2) appointed members. All three (3) members must have resided in and own real property within the city or the impact area for at least three (3) years, and be over eighteen (18) years of age. No appeals board member may be a current member of the city council, the administrator, or the mayor. At least one excluded city official will appear before the three (3) member appeals board to argue the city's viewpoint.

B. Time Limit For Filing And Decision: Appeal notice shall be filed within ten (10) days after the decision or order of the city council. The city council shall hear such appeal within thirty (30) days after filing of all required matters by the appellant which shall be filed no later than twenty (20) days from the appeal notice. An appeal from a decision of the city council must be filed pursuant to the same time limit.

C. City Council, Appeal Limitations: In determining an appeal, the city council shall:

1. Allow only the minimum appeal necessary to meet the hardship or practical difficulties.
 2. Find that the granting of the appeal will not be materially detrimental to the purposes of this title, or be otherwise detrimental to the objectives of the city development plans or policies.
 3. Attach such conditions to granting all or a portion of any appeal as necessary to achieve the purposes of this title. (Ord. 9-10-B, 9-8-2010)
- D. Stay During Appeal Exception: Unless the administrator or designee finds an immediate and serious danger to persons or property, the filing of notice of appeal shall stay further action pending appeal. (Ord. 9-10-B, 9-8-2010; amd. 2012 Code)

8-8-5: **AMENDMENTS:**

- A. Authorization To Initiate Amendments: An amendment to the text of this title, or to the official zoning map, may be initiated by the city council, by the administrator, or by a property owner. A property owner may initiate a request for an amendment by filing an application with the zoning official using forms prescribed by the administrator. The application shall be submitted at least twenty eight (28) days prior to the meeting of the administrator at which it will be considered.
- B. Public Hearing And Records Of Amendments: The administrator shall hold a public hearing on every requested amendment or zoning change in accordance with subsection 8-8-6A of this chapter. Its recommendations shall be transmitted to the city council. No ordinance amendment or zone change shall be accomplished other than by ordinance duly passed by the city council. The city clerk-treasurer shall maintain records of amendments to this title and zone changes in a form convenient for use by the public.
- C. Accordance With Adopted Comprehensive Plan: The administrator shall evaluate a requested amendment to a zoning district to determine the nature and extent of the requested change. If it is in accord with the adopted city comprehensive plan, the administrator may recommend, and the city council may adopt or reject the requested change. If the requested change is not in accord with the adopted comprehensive plan, the administrator may either recommend denial of the request or recommend to the city council an appropriate

amendment to the plan. The city council may adopt or reject the amendment under the procedures provided in Idaho Code section 67-6509. After the plan is amended, the zoning map may be amended in conformity therewith. The administrator may require, or permit as a condition of rezoning, that a written commitment concerning the use or development of the subject parcel is submitted.

D. Amendment To Text:

1. The city council, after receiving a recommendation from the administrator, may amend, by ordinance, the text of this title in accordance with applicable provisions of Idaho Code and the city comprehensive plan.

2. Any application for a zoning ordinance text amendment shall address the questions posed by the application forms supplied by the administrator, the information required by state law and information otherwise required by this title or by the city council. In addition to information required by the application form, an application to change the text of the zoning ordinance shall provide a description of the amendment requested along with a statement that describes the rationale for the request, the proposed text of the amendment, how it would better implement the comprehensive plan, and the public purpose that would be achieved by amendment of this title. All applications for zoning ordinance text amendments shall be submitted to the administrator which shall recommend action to the city council, which may adopt, modify, or reject the proposed amendment. An amendment, if approved, shall be implemented by the passage of an ordinance.

3. Amendment of the text of this title is a legislative act committed to the sound discretion of the city council. (Ord. 9-10-B, 9-8-2010)

8-8-6: **ADMINISTRATIVE PROCEDURE:**

A. Rules For Conduct Of Public Hearing:

1. Public Hearing Required: Upon the receipt of an application for a conditional use, an application for a zone change, comprehensive plan amendment, or an amendment to the text of this title, a public hearing shall be scheduled.

2. Notifications:

a. Each notice of public hearing on an amendment to the text of this title shall contain the date, time, and place of the hearing, a summary of the proposed amendment, and any other information considered pertinent; and shall be published by mailing or published at least once in a newspaper of general circulation in the county at least fifteen (15) days prior to the hearing.

b. Each notice of public hearing on a conditional use, an amendment to change the zoning map or comprehensive plan map, shall include, as a minimum, the date, time, and place of the hearing and a summary of the proposal. The notice shall be published by mailing or publication in a newspaper of general circulation in the county at least fifteen (15) days prior to the hearing, and shall, in addition, be mailed to the owners of all properties within one thousand feet (1,000') of the exterior boundary of the property for which the application is made at least eight (8) calendar days prior to the hearing. In variance cases, notices shall be mailed only to owners of adjoining properties, including properties across roads and rights of way. For notice purposes, the names and addresses of owners as shown on the records of the county assessor may be used.

c. When notice is required to two hundred (200) or more property owners or residents, mailed notice may be omitted. In lieu thereof, public announcements of the hearing shall be made on local radio and television stations at least five (5), but not more than fifteen (15), days before the hearing.

d. Failure of any person to receive the notice prescribed in this section shall not impair the validity of the hearing.

e. The board administrator may recess a hearing to serve further notice upon property owners or persons it determines may be interested in the proposal that is being considered.

3. Conduct Of Hearings: A public hearing shall be held to determine whether the application is consistent with the policies and goals enumerated in this title.

a. No person shall be permitted to testify at such a hearing until the person has been recognized and called upon by the board administrator or one of the board members. All proceedings shall be recorded electronically or stenographically, and all persons speaking

at such hearings shall speak before a microphone in such a manner as to ensure the accuracy of the recorded testimony and remarks. A person desiring to testify may also submit written testimony at any time prior to the conclusion of the public hearing.

b. At the commencement of the public hearing, the board administrator may establish a time limit to be observed by all speakers.

c. Each board member shall be allowed to question the speaker, and the speaker shall be limited to answers to the questions asked. The question and answer period shall not be included in the speaker's time limit that might be established by the chairman. The speaker shall not be interrupted until the designated time has been expended or until the speaker's statement is finished.

d. Any person not conforming to the above rules may be prohibited from speaking during the public hearing. Should such person refuse to comply with such prohibition, the person may be removed from the room by order of the board administrator.

e. The decision of the board shall be announced by findings of fact, conclusions of law and decision, of the hearing body.

f. The public hearing may be continued or recessed to a date, certain or indefinitely, upon motion by the commission/board.

g. Cross examination of persons testifying at the public hearing shall not be permitted. An applicant shall have an opportunity to rebut any testimony submitted.

h. Any exhibit introduced by any person shall be retained by the commission/board and made a part of the record therein.

4. Content Of Decisions: All decisions of the commission/board, made pursuant to the authority given by this title, shall include and specify the following:

a. The ordinance provisions and standards used in evaluating the application.

b. The reasons for approval or denial.

c. The further actions, if any, that the applicant could take to obtain a permit.

5. Decision And Appeal: Within five (5) working days after the administrator has adopted findings of fact, conclusions of law and decision of the application, the zoning official shall notify the applicant of the decision. The decision is final unless appealed by the applicant or any interested person within fifteen (15) days of the administrator's adoption of the findings of fact, conclusions of law and decision.
- B. Notice Of Decision: The administrator shall prepare and distribute a notice of decision as follows:
1. Mailing notice to the applicant or applicant's representative, and the owner of the property.
 2. Mailing notice to property owners within one thousand feet (1,000') of the property of intent to grant approval. Notification shall be made by delivery by first class mail by the U.S. postal services.
 3. Publication of the notice in the official county newspaper of general circulation.
 4. Distribution of the notice to the county assessor's office.
 5. Final approval will be granted unless a request for a public hearing is filed with the administrator within fifteen (15) days of the date of the notice. If a public hearing is requested, the procedures shall be pursuant to subsection A of this section.
 6. A statement describing the procedure for an appeal.
- C. Issuance Of Permit: If there is no appeal filed within the time specified in subsection 8-8-4B of this chapter, the permit shall be issued. (Ord. 9-10-B, 9-8-2010)

8-8-7: **FEES:** The city council will establish by resolution a schedule of fees, charges and expenses and for matters pertaining to the administration and enforcement of this title requiring investigations, advisory reports, inspections, legal advertising, postage and other expenses. The schedule of fees will be available in the public library of the city, and may be altered or amended only by the city council. Until all applicable fees, charges and expenses have been paid in full, no application shall be deemed complete for processing pursuant to this title. (Ord. 9-10-B, 9-8-2010)

8-8-8: ENFORCEMENT AND PENALTIES:

- A. **Enforcement:** The mayor or designee is authorized to enforce the provisions of this title. It shall be deemed a violation of this title to construct any building, structure or improvement for the purpose of establishing any land use contrary to the requirements of this title, to violate any express prohibition or exceed any express limitation contained in the text or exhibits of this title or to use any land, building, or premises contrary to the provisions of this title, contrary to the terms or conditions of a permit, variance or in a manner contrary to the terms and conditions established by the administrator or city council. Violations of this title are hereby declared to be unlawful and subject to the penalties established by this section and by other provisions of law. (Ord. 9-10-B, 9-8-2010)
- B. **Penalties:**
1. A wilful violation of any provision of this title shall be a misdemeanor. Each day that a violation occurs shall constitute a separate offense. Each misdemeanor shall be punishable as provided in section 1-4-1 of this code. (Ord. 9-10-B, 9-8-2010; amd. 2012 Code)
 2. Any landowner, tenant, subdivider, or builder who commits, participates in, assists in or maintains such violation shall be guilty of a violation. Nothing contained in this title shall prevent any other public official or affected person from taking such lawful action as is necessary to restrain or prevent any violation of this title.
 3. Any recurring offense for which a warning has previously been given shall not require an additional warning period.
- C. **Abatement Proceedings:** Legal counsel for the city, or designee, may commence action or proceedings for the abatement of any violation of this title as a nuisance in the manner provided by law, and may apply to such court or courts as may have jurisdiction to grant relief as to abate, terminate and remove unlawful uses, buildings or structures, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining, or using any building, structure, vehicle, or property contrary to the provisions of this title or to any permits or authorizations issued pursuant to this title. (Ord. 9-10-B, 9-8-2010)