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**CHAPTER 1**  
**TITLE & APPLICABILITY**

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**1.1 SHORT TITLE**

This Ordinance shall be known as the Bingham County Zoning Ordinance and is hereafter referred to as the “Ordinance.”

**1.2 AUTHORITY**

This Ordinance is adopted pursuant to authority granted by Article 12, Section 2, *Idaho Constitution*; and Title 67 Chapter 65, Title 50 Chapter 13, and Title 31 Chapter 8 of the *Idaho Code*, as amended or subsequently codified.

**1.3 PURPOSE**

The purpose of this Ordinance is to promote development of the County in an orderly manner in accordance with the Bingham County Comprehensive Plan, referred to hereafter as the “Plan.” To protect property rights and the use of property, and to provide standards for orderly development in conformance with Idaho Code § 67-6511 et. seq. as amended. It is not the intent of this Ordinance to endorse or promote any politically motivated agenda or group except as required by specific State or Federal laws.

**1.4 APPLICABILITY**

This Zoning Ordinance applies to the development and use of all lands within the unincorporated area of Bingham County, Idaho, except those portions of tribal land within the exterior boundaries of the Fort Hall Indian Reservation which Bingham County does not have jurisdiction to regulate due to Federal Law. All persons, entities and government units, including their political subdivision, shall comply with this ordinance unless specifically exempted by State or Federal Law. In the interpretation and application of this Ordinance, the provisions contained herein are declared to be minimum requirements. Nothing in this Ordinance shall eliminate the need to conform to appropriate State or Federal regulations or the need to obtain any other required permits.

**1.5 SEPARABILITY**

Should any chapter, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance, as a whole or any part thereof, other than the part so declared unconstitutional or invalid.

**1.6 REPEAL OF CONFLICTING ORDINANCES**

Upon enactment of this ordinance; Bingham County Planning and Zoning Ordinance 84-4 as amended and all other ordinances or parts of ordinances in conflict herewith, are hereby repealed. All sections of the aforementioned Ordinances repealed by this Ordinance shall remain in force as to the authorization and enforcement of said Ordinances prior to the effective date of this Ordinance.

**1.7 PENDING APPLICATIONS**

Applications pending as of the effective date of this Ordinance shall be processed according to the regulations and requirements in effect as of the date the complete application was submitted.

**1.8 PREVIOUS VIOLATIONS**

The prosecution of violations that occurred under previous land use regulations and that remain a violation under this Ordinance shall continue until resolved.

**1.9 FEES**

By separate Ordinance, the Board of County Commissioners (Board) may establish fees to defray the costs of processing all application, renewals and requests for action filed pursuant to this ordinance. All fees shall be established in accordance with Idaho Code § 31-870(1) and Idaho Code § 63-1311A. All such fees shall be payable at the time the application, renewal or request is filed, and funds from the fees shall be deposited in the county's general fund. Notwithstanding any required fee, only the Board shall have the authority to waive, in whole or in part, any fee established by the Board for an application, renewal or request filed by any governmental agency or persons upon showing just cause.

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**CHAPTER 2**  
**DEFINITIONS & INTERPRETATION**

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This Chapter identifies and provides the interpretation and meaning of terms and words used in this Ordinance.

**2.1 INTERPRETATION OF TERMS**

- 2.1.1 Person includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual;
- 2.1.2 Shall is mandatory, may is permissive, and should is preferred;
- 2.1.3 Used and occupied include the words intended, designed, or arranged to be used or occupied;
- 2.1.4 Erected includes the words constructed, altered, moved or repaired;
- 2.1.5 Administrator is synonymous with the term Planning and Zoning Administrator;
- 2.1.6 Commission is synonymous with the term Planning and Zoning Commission;
- 2.1.7 Board is synonymous with the term The Board of Bingham County Commissioners;
- 2.1.8 The present tense includes the future tense, the plural number includes the singular and the singular includes the plural unless the nature of the construction of the sentence indicates otherwise;
- 2.1.9 Whenever a number of days is specified in this ordinance, or in any permit, condition of approval, or notice issued or given as provided in this ordinance, the number of days shall be construed as calendar days, except that such time limits shall extend to the following working day when the last of the specified number of days falls on a weekend or a Bingham County holiday;
- 2.1.10 Linear distance shall be measured in a horizontal line; it shall not be measured along an inclined surface or line. For uses that have a separation standard, the distance shall be measured from the nearest customer entrance of the proposed use to the nearest property line of the specified use. The measurement is to be conducted in a radial fashion by the specified number; (e.g., 300 feet, 1,000 feet)
- 2.1.11 Masculine terms include feminine, and vice-versa.

## 2.2 MEANING OF TERMS

**Abandoned:** To cease or discontinue use or activity for twelve (12) months.

**Abut or Abutting:** Having a contiguous border with the subject property.

**Accessory Building:** A secondary building located on the same lot, the use of which is incidental to the main building.

**Administrator:** An official, having knowledge in the principles and practices of zoning, who administers this Ordinance. The Bingham County Zoning Administrator.

**Adverse Impact(s):** Measurable increase in noise, light, odor, visual, or other measurable impacts that are detrimental to public health, safety, and/or welfare.

**Affected Person:** One having an interest in real property that may be adversely affected by the issuance or denial of a permit.

**Agriculture:** A tract of land that shall be used primarily for farming, pasturage, cultivation, animal or poultry husbandry, forestry, raising crops, fisheries, horticulture, and truck gardening. The operation of any accessory use shall be secondary and supportive to that of normal agricultural activity; and any incidental retailing of goods and products raised on the premises shall also be considered as being within the definition of agriculture.

**Agriculture Building:** A structure designed and constructed to house farm implements, hay, grain, potatoes, poultry, livestock or other horticulture products. This structure shall not be used as a place for human habitation, nor a place of employment where agriculture products are processed or packaged or a place used by the public. (Includes Ag-exempt structures)

**Airport:** Any area of land or water either public or private which is used or intended for use by aircraft and including the necessary accessory structures or facilities located thereon.

**Allowed Use:** Any use listed in Chapter 5 as a principal permitted or accessory use.

**Amusement Facility, Indoor:** An enclosed facility used for public entertainment including, but not limited to, riding arena, bowling alleys, dance halls, theaters and skating rinks.

**Amusement Facility, Outdoor:** A site, which may contain accessory buildings, used for public entertainment including, but not limited to, golf courses, drive-in theaters, raceways, riding arenas and marinas.

**Animal, Dangerous:** Any animal or species of animal determined by the State of Idaho to be a deleterious exotic animal as per *Idaho Code* § 25-3904, or likely to cause injury to a person or another animal as determined by law. (See also Zoo)

**Animal Unit:** A measurement used to determine equivalent numbers of different animal species.

**Animal Waste Management System:** A structure or system that provides for the collection, treatment or storage of animal excrement, feed wastes, process water, or any other waste associated with the confinement of animals.

**Apartment:** A room or suite of rooms in a multiple-unit dwelling which is arranged, designed or used as a single independent unit with a private kitchen and sanitary facility permanently installed.

**Apartment House or Multiple-Family Use:** Any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied or which is occupied as a home or residence of three or more families living independently of each other and doing their own cooking in said building. Flats and Apartments are included in this definition.

**Appeal:** A request for review of a decision to a superior authority.

**Approach:** A connection between the outside edge of the shoulder or curb line and the abutting property at the highway right-of-way line, intended to provide access to and from said highway and the abutting property. An approach may include a driveway, alley, street, road or highway.

**Area of City Impact:** Those unincorporated areas surrounding incorporated cities within Bingham County as identified on the Official Impact Area Map. (*Idaho Code* §67-6526)

**Automobile Repair Garage:** Building used primarily for the repair, rebuilding or reconditioning of motor vehicles or parts thereof including body repair and painting.

**Automobiles, Boats, Manufactured Homes Sales Lot:** Premises on which new and used passenger automobiles, trailers, boats, manufactured homes, and passenger cars, trucks and recreational vehicles in operating condition are displayed in the open for sale or trade.

**Automobile Service Station:** Buildings and premises where gasoline, oil, grease, batteries, tires and motor accessories may be supplied and dispensed at retail and where minor repairs or replacements may be made along with the sale of beverages, packaged food, tobacco and similar convenience goods, as accessory and incidental to principal operations. Uses permitted at a service station do not include major mechanical and body work, painting, welding or vehicle wrecking yard.

**Automobile Wrecking Yard:** see Vehicle Wrecking Yard.

**Bed and Breakfast:** A dwelling providing overnight sleeping accommodations and food service for compensation by patrons other than the owner or owner's family.

**Block:** A parcel of land or group of lots entirely surrounded by public streets, streams, railroads, parks, a natural or artificial boundary line or combination thereof.

**Board:** The elected governing board of Bingham County, Idaho.

**Boarding House:** A building other than a motel, hotel or restaurant where meals and/or lodging are provided for compensation to three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

**Bonafide:** Legitimate, made in good faith without fraud or deceit. Not stated or used in order to circumvent provisions of this Ordinance.

**Buffer Area:** A portion of a development area in which walls or vegetation may be placed or an area of undeveloped land may be used for the protection, separation, or screening of the adjacent property from adverse effects of a land use.

**Buildable Residential Parcel:** A parcel of land described by metes and bounds meeting all requirements of this Ordinance as to division rights, size, frontage, setback and health regulations as applicable. Located within a zone approved for residences or as approved by the Commission in conformance with this Ordinance.

**Building:** Any structure with walls and roof affixed to the land and entirely separated on all sides from any other structure.

**Building Setback Line:** A line established by law or agreement parallel to a property line beyond which a building or structure may not extend.

**Building, Main or Principal:** A building other than an accessory building and used as authorized by this Ordinance.

**Building Official:** The officer or other designated authority charged with the enforcement of the adopted Building and related Codes for Bingham County.

**Building Permit:** An official document or permit issued by the Building Department authorizing the commencement of construction.

**Bulk Plant:** Any premise or land where storage tank(s) with a greater than 5,000 gallon capacity are used containing petroleum, chemical or dry cement products, if said products are then dispensed at retail or wholesale.

**Business:** The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood or the ownership or management of office buildings, offices, recreation or amusement enterprises or the maintenance or use of offices for professions and trades rendering services.

**Canal:** A large water delivery system diverting water directly from a river or other water source to lateral ditches used to irrigate land. They may be owned individually or by shareholders.

**Cannery:** A place where the business of preserving foodstuff such as meat, fruit, and vegetables in sealed containers, is carried on for business, profit, or as a community cooperative.

**Carport:** A stationary structure consisting of a roof with its supports and not more than two solid walls used for sheltering a motor vehicle.

**Cemetery:** Land used or intended to be used for the burial and/or perpetual care of human or animal remains; and includes mausoleums, crematories, and mortuaries, if operated in connection with and within the boundaries of such cemetery.

**Clinic:** A building other than a Hospital or Home Occupation as herein defined, used by licensed physicians for the purpose of receiving and treating patients. Does not include veterinary clinic.

**Club or Lodge:** A building or portion thereof or premises owned or operated by an organization or by an organized association of persons for the exclusive use of members and their guests where periodic meetings may be held to promote common interests. This does not include any organization, group, or association, whose principal activity is to render a service usually and ordinarily carried on as a business.

**Commercial:** Any use involving the purchase, sale or other transaction involving the handling or disposition of any article, substance or commodity for livelihood or profit, or the ownership or management of office buildings, offices, recreational or amusement enterprises or the maintenance and use of offices by professions and trades rendering services.

**Commercial Meat Packing Facility:** Includes meat canning, curing, smoking, salting, packaging and freezing or other similar establishments in which meat products are so processed for sale to the retail trade, and where the inspection of meat, meat-by-products and meat food products are maintained. Does not include a slaughterhouse facility.

**Commercial Slaughterhouse:** Includes slaughtering, meat canning, curing, smoking, salting, packaging, rendering, freezing or other similar establishments in which meat products are so processed for sale to the public and where inspection of meat and meat-by-products and meat food products are maintained.

**Commission:** The appointed Planning and Zoning Commission of Bingham County, Idaho.

**Community Sewage Disposal System:** A system where more than two (2) homes are connected to a common waste disposal system designed to accommodate connection to a municipal collection and treatment system when reasonably available.

**Comprehensive Plan:** A compilation of goals, policies, maps, and other data guiding the physical, social, and economic development, both public and private, of the County and its environs, as defined in the *Idaho Local Land Use Planning Act*, as amended or subsequently codified. May also be referred to as the “Plan.”

**Concession Stands:** A building, structure, vehicle or tent, having less than three hundred (300) square feet of area that is used for the sale of food, beverages, fireworks, crafts and/or souvenirs on a temporary basis.

**Conditional Approval:** An affirmative action by the Board indicating that approval will be forthcoming upon satisfaction of certain specific stipulations.

**Conditional Use:** Use of a structure or use of land permitted within a zone other than a principally permitted use that requires a Conditional Use Permit and approval of the Board and may be subject to limitations and conditions. (Same as a Special Use Permit).

**Confined Animal Feeding Operation:** See Feedlot and Section 7.9.

**Congregate Residence:** Any building or portion thereof that contains facilities for living, sleeping, and sanitation, as required by the adopted Building Code and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery dormitory, fraternity, or sorority house, but does not include jails, hospitals, nursing homes, hotels, or lodging houses.

**Contractor:** A person or firm who agrees to furnish materials or perform a service at a specific price. The term contractor shall include, but not be limited to, electrical, plumbing, landscaping, building, hauling or any other similar activities.

**Contractor Yard:** An area of land or premises surrounded by a site-obscuring fence and outside of an enclosed building that may be used by a contractor for storage of material or maintenance and incidental repair of machinery used for the business.

**Convenience Store:** A small retail establishment that carries a wide variety of merchandise for the accommodation of those who live in the immediate vicinity.

**County:** Bingham County, Idaho, or its governing body.

**County Recorder:** Clerk of Bingham County, Idaho.

**Covenant:** A recorded document of written promise running with the ownership of a lot in a recorded plat. It may have time limits. (See Protective Covenant)

**Dairy:** An operation whose principal function is production of milk including the buildings or feeding area where dairy animals are kept.

**Day Care:** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child or children's own home. Types of day care facilities are as follows:

**Day Care Center** -- A place, home, building, or location providing care with organized plan and instructions, for more than thirteen (13) children of pre-secondary school age not residing on the same premises.

**Family Day Care Center** – A home, place, or facility providing day care for six (6) or fewer children.

**Group Day Care Facility** – A home, place, facility providing for seven (7) to twelve (12) children.

**Dedication:** The setting apart of land or interests in land for use by the public by ordinance, resolution or entry in the official minutes or by the recording of a plat showing such dedication. Dedicated land becomes public land upon the acceptance by the Commission or other governmental unit.

**Developer:** The sub divider or authorized agent(s) of a sub divider.

**Development Agreement:** A contract between a developer and the Board which guarantees all development obligations relating to a subdivision and which is secured by a performance/surety bond or a lien against the real property therein.

**Development Plan:** A plan for the development of a large, unusual or complicated land area, the platting of which is expected in progressive stages that may include a Planned Unit Development.

**District:** An area or use designated on the Zoning Map in the non-incorporated territory of Bingham County with certain uniform regulations and requirements. (See Chapter 4)

**Division Right:** The ability to divide a parcel under the provisions of this ordinance.

**Domestic Livestock:** The raising of fowl, cattle, dairy animals, swine, sheep, goats, and other grazing animals being a normal farm livestock operation where the animals are pastured and fed grains or. This includes, but is not limited to the processing or storage for market the products produced on the premises and livestock that are not sufficient in number to qualify as a Commercial Livestock Confinement Operation.

**Dwelling Unit:** A building, or portion thereof, containing one or more dwelling units and which complies with the structural requirements of the adopted Building Code. The term “dwelling” does not include any motel, hotel, or boarding house as defined herein.

**Dwelling, Single Family:** A building separated from other buildings by open space and designated for use and occupancy by no more than one family.

**Dwelling, Two-Family:** A building designed for use and occupied exclusively by two (2) families living independently of each other. Also called a “duplex.”

**Dwelling, Multiple-Family:** A building or portion thereof containing three (3) or more dwelling units including condominiums. Also called a multi-family dwelling.

**Easement:** Recorded authorization by a property owner for the use of any designated part of their property by another for specified purpose.

**Engineer:** Any person licensed by the State of Idaho to practice professional engineering.

**Feedlot, Stockyard, Livestock Confinement Operation:** Any parcel of land containing twenty (20) acres or less having greater than five (5) animal units per acre, or any parcel of land containing twenty (20) or more acres having a minimum of one hundred (100) animal units in a corral for more than one hundred eighty (180) days or more in any twelve (12) month period. All livestock shall use Section 7.14 for determining the appropriate animal unit equivalents.

**Fertilizer Storage (Commercial):** A structure used to store liquid or dry fertilizer products for wholesale or retail. Does not include farm storage for use solely on farm.

**Flood Plain:** The relatively flat area or low land adjoining the channel or a river, stream or other body of water which has been or may be covered by water of a flood of one hundred (100) year frequency as shown on FIRM MAP PANELS for Bingham County. The flood plain includes channel, floodway and floodway fringe designations.

**Foundry:** An establishment used for melting, molding, and casting of metals.

**Fowl:** Chickens, ducks, geese, pheasants, partridge, guinea hens, turkeys, peacocks, or other similar domesticated birds.

**Frontage:** Property width abutting an approved road.

**Garage, Private:** An attached or a detached building or a portion thereof in which motor vehicles, used by the tenant of the main building on the premises, are stored.

**Garage, Public:** An attached or detached building or structure or a portion thereof for the use by the public where motor vehicles are stored or parked.

**Geothermal:** The use of energy derived from heat generated in the interior of the earth.

**Grain Mill, Commercial:** a building equipped with machinery for grinding grain into flour and other products. May also include storage silos if accessory to mill. This does not include farm, feedlot or dairy mills used exclusively for on the farm use.

**Gravel Pit:** See Mining

**Greenhouse:** a building, room, or area in which the temperature is maintained within a desired range, used for cultivating tender plants or growing plants out of season.

**Governing Authority:** The Board of County Commissioners, Bingham County, Idaho.

**Health Authority:** The officer or other designated authority charged with the administration and enforcement of the rules and regulations of the District Health Department of the State or the County.

**Health Department:** The Southeastern Idaho Health Department.

**High Water Mark:** The water level corresponding to the line which the water impresses on the soil by covering it for periods of time.

**Home Occupation:** Any gainful operation, profession, or craft conducted or engaged in by an occupant of a dwelling. Including but not limited to: teaching music, dance, or other instructional classes that are not in conflict with the Land Use Chart.

**Hospital:** Any building used for inpatient accommodation and medical care of sick, injured, or infirm persons and including sanitariums, but does not include rest homes.

**Hotel:** A commercial establishment offering lodging to travelers and sometimes to permanent residents, and often having restaurants, meeting rooms, stores, etc., that are available to the general public.

**Household Pet:** Animals or fowl customarily permitted in the house and kept for company or pleasure, including dogs, cats, canaries, and similar pets. Does not include exotic animals that could be dangerous to the general public.

**Hunting Preserve:** An area or facility used for hunting for which a fee may be charged. Including but not limited to; Shooting Preserve as defined by Title 36 Chapter 22 of Idaho Code and Cervidae Ranches as defined by Title 25 Chapter 37 of Idaho Code where the hunting of Domestic Cervidae is allowed.

**Impound Yard:** Any lot or parcel of land, excluding a fully enclosed building, that is used for the storage or holding of vehicles or personal property, whether taken into custody of the law or other reasons.

**Industrial:** Refers to the manufacture, processing, and testing of goods and materials, including the production of power. It does not refer to the growing of agriculture crops or the raising of livestock, or the extraction or severance of raw materials from the land being classified, but it does include activities incidental thereto.

**Industry, Heavy:** Manufacturing and other industrial uses which are generally major operations and extensive in character requiring large sites, open storage and service areas, extensive services and facilities, and ready access to transportation. It may generate some nuisances such as smoke, noise, vibration, dust, or other commonly recognized offensive or hazardous conditions.

**Industry, Light:** Manufacturing and other industrial uses which are usually controlled operations and which are relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor and dust, generally operating and storing within enclosed structures and generating little industrial traffic.

**Irrigation Facilities:** Includes canals, laterals, ditches, conduits, gates, pumps and allied equipment necessary for the supply, delivery and drainage of irrigation water.

**Junk:** Discarded, used or second-hand materials, including but not limited to, used machinery, scrap copper, brass, iron, steel or other ferrous or non-ferrous metals, tools, appliances, implements, vehicles, or parts thereof, furniture, rags, glass, plastic, rubber, cordage, or building materials.

**Junk Yard:** An establishment or parcel which being maintained, operated, or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard.

**Kennel:** Any lot or premises or portion thereof on which more than four (4) dogs more than six (6) months of age are maintained, possessed, boarded or bred.

**Lagoon:** Lined or unlined earthen structure designed to treat effluent through biodegradation by bacteria.

**Land Application, Commercial:** The spreading of wastewater, and/or liquid waste into or onto the soil mantle. Does not include animal waste application.

**Large Livestock:** Cattle, dairy animals, swine, sheep, goats, horses, mules, llamas, emus, ostrich, or similar domesticated animals. Does not include exotic animals, such as lions, bears, zebras, or reptiles.

**Loading Space, Off-Street:** An open off-street area of land the principal use of which is for standing, loading and unloading of motor vehicles and tractors and trailers in order to avoid undue interference with public streets and alleys. The off-loading space shall be considered over and above the off-street parking space requirements.

**Lot:** A parcel of land described by metes and bounds or referenced to on a recorded plat of sufficient size to meet minimum zoning requirements.

**Lot Frontage:** The front of a lot shall be construed to be that portion nearest the street. For the purpose of determining yard requirements on corner and through lots, all sides of a lot adjacent to roads shall be considered frontage and yards shall be defined herein.

**Lot Line:** A line bounding the lot described in the deed or plat of the property.

**Lot, Minimum Area:** The area of a lot that is computed inclusive of any deeded portion of the right-of-way of any public or private road. It is also inclusive of easements.

**Lot of Record:** A lot that is described by metes and bounds and which has been recorded with the Office of the County Recorder prior to the adoption of this Ordinance.

**Lot Types:** Terminology used in this Ordinance with reference to types of lots is as follows:

- Corner Lot — a lot located at the intersection of two (2) or more roads with an external angle of not more than one hundred thirty-five (135) degrees;
- Interior Lot — a lot with only one (1) frontage on a road;
- Through Lot — a lot other than a corner lot with frontage on more than one (1) road. Through lots abutting two (2) roads may be referred to as a double frontage lots; and
- Reversed Frontage Lots — a lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

**Machine Shop (Commercial):** A building where precision metal parts are manufactured or remanufactured. Does not include a Foundry.

**Manufacturing:** The making of a product, especially by machinery, including assembling, fabricating, processing and refining. (See Industry.)

**Manufactured Home:** A structure, meeting the Housing and Urban Development and Federal Housing Administration HUD/FHA manufactured home standards (42 U.S.C. 5041), transportable in one or more sections built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation. The structure does not have permanent attached wheels and axles and does not include motor homes, recreational travel trailers or truck campers, or mobile homes that do not meet HUD/FHA standards.

**Manufactured Home Park:** A parcel of land developed with individual spaces for siting more than two (2) manufactured homes to be leased or rented on a long-term occupancy. Does not include manufactured home subdivisions where lots are individually owned, dwellings for bona fide agricultural labor purposes or temporary second dwellings.

**Mineral Exploration:** Exploration only does not include extraction.

**Mining:** The extraction of sand, gravel, rocks, soil, or other material from the land and the removal thereof from the site. For the purposes of this Ordinance, mining shall not include the removal of excess materials in accordance with approved plats, utility and highway construction, normal farming practices, or sod removal.

**Mobile Home:** A trailer or structure manufactured in such a manner that an undercarriage is affixed to the structure for the purpose of enabling wheels and axle or axles to be affixed thereto whether such wheels and axle or axles are affixed or not, constructed prior to June 15, 1976 (pre-HUD).

**Monument:** Any permanent marker either of concrete, galvanized iron pipe or iron or steel rods used to identify any tract, parcel, lot or street lines, as specified in Section 50-1303, *Idaho Code*.

**Motel:** A building or group of buildings on the same premises, whether detached, semidetached, or attached, containing guest rooms for sleeping independently. Also accessible with garage space or parking space located on the premises and designed for or intended to be used primarily for the accommodation of transient automobile travelers and which are rented by the day.

**Natural Resources:** Land and/or water in a natural, unimproved state including that which may be growing on it or found in it. Natural Resources include, but are not limited to, mineral deposits, timber, wind, geothermal, rangeland, watersheds, recreation areas and wildlife habitat.

**Non-Conforming Use:** A lawful use of land or of a building that does not conform to the regulations of the zone, but existed prior to the enactment of this Ordinance.

**Nursing/Convalescent Home:** A building or facility, operated for profit or non-profit, providing skilled nursing care and related medical services for two (2) or more individuals on a twenty-four (24) hour basis, who are mentally ill, developmentally or physically disabled, or requiring care because of old age or other illness.

**Occupancy:** The character or use of a building or premises.

**Occupancy, Change of:** Any change in the character or use of a building or premises, not including change of tenants, proprietors, or occupants.

**Office/Professional Building:** Any building or portion thereof except a Home Occupation designed or used for rendering the service(s) of a professional nature by architects, engineers, surveyors, doctors, dentists, lawyers, certified public accountants, consultants, and other similar practitioners.

**Off Street Parking:** The requirement of providing parking spaces for a use other than on a street.

**Oil/Gas Development:** Exploration, extraction, processing or transportation of natural oil or gas resources is regulated by Idaho Code § 47-317.

**Open Space:** An area substantially open to the sky that may be on the same lot with a building. The area may include natural features, tennis courts, water areas, etc., or other areas that the Commission deems permissive. Does not include streets, parking areas or structures.

**Original Parcel:** A parcel of land that was legally recorded in the County Recorder's Office, excluding recorded subdivision plats, as of the effective date of the Idaho State Local Planning Act (*Idaho Code 67-65*, July 1, 1975).

**Parcel:** A legally created ownership of real property, as defined in a recorded instrument, and is totally contained within any one section of land.

**Parking Lot, Private:** An open, graded and surfaced area other than a street or public way to be used for the parking of passenger vehicles for occupants of a building or buildings for which the parking area is developed.

**Parking Lot, Public:** An open graded and surfaced area other than a street or public way not developed in conjunction with a particular business or use, to be used by the public for the parking of vehicles.

**Parking Space:** Usable space within a public or private parking area or building for the storage of a single automobile or commercial vehicle.

**Park and Ride Facility:** Parking lots or structures located along public routes designed to encourage transfer from private vehicles to mass transit or to encourage carpooling for the purposes of commuting.

**Pedestrian Way:** A public walk dedicated entirely through a block from street to street.

**Performance/Surety Bond:** A financial guarantee by a sub-divider or developer with the County guaranteeing the completion of physical improvements according to plans and specifications, and/or the operation of said development according to the provisions required by the County. May also be required to ensure the reclamation of said development site as agreed to with the County. (See Development Agreement.)

**Personal Services:** Any enterprise conducted for gain that primarily offers services to the general public such as shoe repair, barbershops, salons, and similar activities.

**Plan:** The Comprehensive Plan of Bingham County, Idaho.

**Planned Unit Development:** An area of land with a variety of residential, commercial, industrial, or recreational uses developed under single ownership or control in a pre-planned environment with more flexible standards, such as lot size and setbacks, than those restrictions that would normally apply under these regulations.

**Planning and Zoning Commission:** The Planning and Zoning Commission of Bingham County. (See Commission)

**Plat:** The drawing, map or plan of a subdivision, town site, cemetery or other tract of land or a re-platting of such, including certifications, descriptions, dedications and approvals.

**Pre-Drawing;** A drawing presented to the Board prior to the formal presentation of a preliminary plat. This drawing will contain those requirements as set forth in the Subdivision requirements of Chapter 14.

**Preliminary Plat;** The formal presentation by drawings, including descriptions, requirements and all other elements as required by this Ordinance. Upon acceptance by the Commission and Board a preliminary plat is final document and is used as a guide for the preparation of the final plat.

**Final Plat;** The final map, diagram, drawing or re-plat, containing all descriptions, provisions, certifications, and approvals concerning a subdivision in accordance with this Ordinance which has been accepted by the Board.

**Recorded Plat;** A final plat that has been accepted by the Bingham County Recorder and filed for record.

**Primary Dwelling:** The principal occupied dwelling on any lot that meets minimum health and safety provisions of this Ordinance and the building code. On a buildable residential lot all other structures on the property shall be accessory to the primary dwelling. This dwelling may be a mobile or manufactured home but not an RV.

**Professional Activities:** The use of offices and related spaces for professional services by medical practitioners, lawyers, architects, engineers, and similar professions.

**Property Line:** An exterior line bounding all parcels described by deed(s) under a single ownership to adjoining parcels or roads.

**Property Line Adjustment:** A realignment of a property line for the purpose of adjusting a boundary between properties. This adjustment may not create additional parcels nor reduce an existing parcel to less than the required size per zone. It shall not move or affect the location of any platted lot line.

**Protective Covenants:** A recorded document of written promise running with the ownership of a lot within a recorded plat, or a restriction listed on the deed of a parcel outside of a recorded plat. This Ordinance does not regulate nor rely on these covenants for the basis of a decision before the Commission or Board.

**Public Service Facility:** The erection, construction, alteration, operation or maintenance of buildings, power plants, substations, transmission and distribution, water treatment plants, pumping stations, sewage disposal, emergency service buildings for ambulance, fire, police, rescue, telephone and other government or non-government owned or operated facilities, except landfills and mining activities.

**Quasi-Public Uses:** Churches, Sunday schools, parochial or other schools, colleges, hospitals, cultural buildings, and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.

**Race Track:** Structure or land or combination of land and structures used for the racing of animals or vehicles and may include accessory uses normally associated with this activity.

**Recreation, Outdoor:** Activities related to the use of natural resources such as, but not limited to, hiking, fishing, hunting and boating which require no structures and create minimal disturbance to the land.

**Recycling Center:** A completely enclosed structure, not a junk or salvage yard, in which recoverable resource materials such as paper, glassware and metal cans are collected, sorted, crushed or bundled prior to shipment.

**Repair:** The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word “repair” or “repairs” shall not apply to any change in structure such as would be required by additions to, or remodeling of such structure.

**Reserve Strip:** A strip of land between a partial street and adjacent property that is reserved or held in public ownership for future street extension or widening. (See Right-of-Way.)

**Residential Use:** A building or portion thereof designed exclusively for residential occupancy including one, two and multi-family dwellings, but not including hotels, motels, boarding houses, camp trailers, or motor homes, except on a temporary basis.

**Restaurant:** Any building or part thereof, other than a boarding house or a bed and breakfast establishment, where meals are provided for compensation including but not limited to, a café, cafeteria, coffee shop, lunch room, tea room, and dining room.

**Right-of-Way:** A roadway surface and its approved right-of-way open to the public and subject to the jurisdiction of a public roadway agency.

**Roadside Stand:** A structure having less than three hundred (300) square feet of area designed or used for the display or sale of agricultural and related products, the majority of which have been grown on adjacent land.

**Sanitary Restrictions:** The requirement that no building or shelter which will require a water supply facility or a sewage disposal facility for people using the premises where such building or shelter is located shall be erected until written approval is first obtained from the Health Department.

**Salvage Yard:** An outdoor space where junk, waste, discarded or salvage materials are stored, handled, sold, baled, packed, disassembled, or exchanged, including automobile wrecking yards, house wrecking yards, used lumber and places or yards for storage of salvaged building and structural steel materials and equipment. Excluded are:

- Places where such uses are conducted entirely within an enclosed building;
- Yards or establishments for the sale, purchase or storage of used cars or machinery in operable condition; or used furniture, household equipment and
- Those for the processing of used, discarded or salvaged material as part of a permitted manufacturing operation on the same premises.

**School:** An institution conducting regular academic instruction or trade skills.

**Screen Planting:** Landscaping used to screen an area for privacy, to block an objectionable view, or to serve as a natural boundary or border.

**Setback Area:** The space on a lot required to be left open and unoccupied by buildings or structures by the front, side or rear yard requirements of this Ordinance or by delineation on a recorded subdivision.

**Sidewalk:** That portion of the road right-of-way outside the roadway that is improved for the use of pedestrian traffic.

**Sign:** Any device, name, emblem, identification, trademark, illustration, painted on or represented directly or indirectly, free standing or attached, designed to inform or attract the attention of persons not on the premises.

**Site Plan:** A scale drawing showing proposed uses and structure placement on a parcel of land as required by the applicable regulations. It includes lot lines, property lines, lot area, streets, parking spaces, all roadways, walkways, topographic, open space, major landscape features and location of proposed utility easements.

**Sport Shooting Range:** An area or facility used for sport shooting for which a fee may be charged; as defined by Idaho Code §55-2604.

**Stable, Private:** A detached accessory building or structure for the keeping of animals owned by the occupant of the premises and not to be used for hire or rental.

**Stable, Riding:** A detached accessory building or structure to be used for the boarding or care of horses, other than those of the occupant of the premises, for a fee and may include a riding arena.

**Stacking Lane:** An area of staking spaces and driving lane provided for vehicles waiting for drive-up service, which is physically separated from other traffic and pedestrian circulation on the site.

**Stream/Waterway Setback:** The distance from the outer edge of a natural waterway on which no structure may be placed.

**Street:** A dedicated right-of-way that provides vehicular and pedestrian access to adjacent properties and officially accepted by the Commissioners including:

- Arterial — provides traffic access from various traffic generators.
- Collector — carries traffic from local streets to other collectors and/or arteries.
- Local — provides access to abutting properties;
- Cul-de-Sac — a street connected to another street at one end only and provided with a turn-around at its terminus;
- Alley — provides secondary access at the back or side of a property otherwise abutting a street; and
- Private — a street that is not accepted for public use or maintenance that provides vehicular and pedestrian access.

**Storage Facility, Self-Service:** A structure or group of structures with a controlled access that contains individual, compartmentalized, or controlled units that are leased or sold to store various items.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Structures include, but are not limited to, buildings, manufactured homes, broadcast towers, walls, fences over 6 foot in height, and billboards. Structures for the purpose of this Ordinance do not include road structures including but not limited to bridges and overpasses.

**Sub-divider:** Any individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for a subdivision of land in accordance with the provisions of this Ordinance.

**Subdividing:** The act of dividing a lot, tract or parcel into two (2) or more lots, parcels or tracts for the purpose of sale or building development, whether immediate or future. A **Subdivision** as defined by Idaho Code § 50-1301(15) is regulated under Chapter 14.

**Surveyor:** Any person who is licensed by the State as a public land surveyor to do professional surveying.

**Tannery / Rendering Plant:** a place or building where skins and hides are tanned or that renders and processes livestock carcasses into tallow, hides, fertilizer, etc.

**Tavern/Lounge:** A building where alcoholic beverages are sold for consumption on the premises not including restaurants where the principal business is serving food.

**Transmission Line (Power):** Those lines carrying more than 115 kV of electricity from a power generation site to a substation or service area. Including towers or poles that are generally more than 40 feet in height.

**Travel Trailer/Motor Home:** A vehicle equipped with wheels for highway use that is intended for temporary human occupancy and is used for vacation, travel or recreational purposes not as a primary long-term residence. May also be referred to as a Recreational Vehicle or RV.

**Travel Trailer/Motor Home Park:** An area that accommodates the temporary parking of two (2) or more travel trailers, campers and motorized coaches for short-term occupancy.

**Use:** The specific purpose for which land or a building is designated, arranged, or intended.

**Utilities:** Installations for conducting water, sewage, gas, electricity, television, storm water and similar facilities providing service to and use by the public.

**Variance:** A variance is a modification of the bulk and placement requirements of the ordinance as to size, coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon a parcel, or the size thereof.

**Vehicle:** Every device in, upon, or by which any person or property is or may be transported or drawn upon a public street system, excepting travel trailers or any device moved by human power or used exclusively upon stationary rails or tracks as defined in Idaho Code §49-123.

**Vehicle, inoperable:** A vehicle that cannot move under its own power or does not meet the minimum legal requirements necessary for the motor vehicle to be operated in a safe and lawful manner upon roadways and highways in the State of Idaho as set forth in Idaho Code.

**Vehicle Wrecking Yard:** Premises or land, excluding fully enclosed buildings, on which five (5) or more inoperable or dismantled vehicle are within a sight obscuring fence or where two (2) or more inoperable or dismantled motor vehicles are standing without a sight obscuring fence for more than thirty (30) days; or on which used motor vehicles parts are dismantled, stored or salvaged. (See Salvage Yards)

**Veterinary Clinic:** Any building or portion thereof designed or used for the care and treatment of cats, dogs, sheep, cattle, horses, or any other animals on which veterinary services are performed. This may include clipping, bathing, boarding, and other services rendered to such animals and pets. Boarding for the treatment, observation, recuperation, and/or for boarding that is incidental to the primary activity.

**Vicinity Map:** A drawing showing the location of a tract of land in relation to a larger area.

**Walkway:** A public way, four (4) feet or more in width, limited to pedestrian use whether or not along the side of a road.

**Warehouse:** A building where wares or goods are stored before distribution or are kept in reserve.

**Watercourse:** A natural or man-made channel or conveyance system carrying water. A watercourse does not include on-site irrigation distribution system.

**Wetlands:** Those areas inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands usually include swamps, marshes, bogs, and similar areas as identified by the Army Corps of Engineers or their designated agent. Does not include canals, ditches or ponds used for seasonal irrigation purposes.

**Wildlife Preserve:** A parcel of land whose primary purpose is a habitat for wild animals, indigenous to Idaho. Wildlife preserves are confined, private areas and do not include State of Idaho wildlife management areas or unconfined lands that are wildlife habitat.

**Wind Turbine:** A mechanical devise that converts wind energy into power. See Section 7.43.

**Yard:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward. Accessories, ornaments and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

**Zoning Map:** The Official Bingham County Zoning Map as referred to in this Ordinance and adopted by the County designating the various Use Zones.

**Zoning Permit:** A certification that the proposed construction, development or use complies with applicable zoning established by the County.

**Zoo:** A site/structure where wild, dangerous, exotic and/or domestic animals are kept for public showing. Zoos shall be regulated under Idaho Code Title 25 Chapter 39.

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## CHAPTER 3 ADMINISTRATION, HEARING REGULATIONS

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This Chapter identifies the means and provisions for administration of this Ordinance.

### **3.1 GENERAL ORGANIZATION**

For the purpose of carrying out the provisions of this Ordinance a Zoning Administrator and Planning & Zoning Commission are hereby created. They shall be designated and duly appointed, respectively, by the Board of County Commissioners.

### **3.2 ZONING ADMINISTRATOR**

The Board of County Commissioners may appoint an Administrator or designee to administer the provisions of this Ordinance. The Administrator shall manage the relevant staff of the Planning & Zoning Office and for the purpose of this Ordinance shall have the following responsibilities:

- 3.2.1 Advise interested persons of the Ordinance provisions;
- 3.2.2 Notify the news media regarding matters of public interest;
- 3.2.3 Aid applicants in the preparation and expedition of required applications;
- 3.2.4 Make on-site examination, or ensure that such examination are made, of all permit application locations;
- 3.2.5 Oversee the issuance of permits, notifications, publications, and similar administrative duties;
- 3.2.6 Investigate all violations, or ensure that such investigation is made, of this Ordinance and notify, in writing, the person(s) responsible for such violation(s), ordering the action necessary to correct the same;
- 3.2.7 Assist the Board and Commission in carrying out the provisions of this Ordinance; and
- 3.2.8 In carrying out these duties, the Administrator, or designated personnel, may call upon the services of appropriate county departments or other governmental agencies for assistance in enforcing these provisions.
- 3.2.9 All administrative decisions made in writing shall contain language informing the recipient or other affected persons of their right to an Administrative Appeal under Section 10.1 where appropriate.

**3.3 PLANNING & ZONING COMMISSION MEMBERSHIP**

- 3.3.1 The Commission shall consist of nine (9) voting members, a minimum of two (2) from each County Commissioners District with no more than four (4) from any one district, all appointed by the Board Chairperson and confirmed by majority vote of the Board in compliance with state law.
- 3.3.2 An appointed Commission member must be a US citizen and have resided in the County for at least two (2) years prior to appointment; and must remain a resident of the County while serving on the Commission;
- 3.3.3 Not more than three (3) Commission members may reside within an incorporated city with a population of 1,500 or more;
- 3.3.4 The term of office shall be three (3) years and a Commission member may serve no more than two (2) consecutive terms;
- 3.3.5 Vacancies shall be filled in the same manner as the original appointment;
- 3.3.6 Commission members shall be selected without respect to political affiliation and may be removed for cause by a majority vote of the Board;
- 3.3.7 A majority of current Commission members shall constitute a quorum; and
- 3.3.8 At least one (1) regular meeting shall be held each month for not less than nine (9) months of the year and Commission members will receive mileage and a stipend to attend regular or special Commission meetings as established by the Board.

**3.4 ORGANIZATION**

The Commission shall elect a Chairperson and create other offices that may be deemed necessary. The Commission may also establish subcommittees, advisory committees or neighborhood groups to advise or assist in carrying out the Commission's responsibilities.

**3.5 RULES, RECORDS, & MEETINGS**

Written organization papers or by-laws shall be adopted. Records of meetings, hearings, resolutions, studies, findings, permits, and actions taken by the Commission shall be maintained and open to the public.

**3.6 EXPENDITURES AND STAFF**

With the approval of the Board, the Commission and/or the Administrator may receive and expend funds, goods and services in accordance with state law.

**3.7 DUTIES AND RESPONSIBILITIES**

The Commission shall have the following powers and responsibilities:

- 3.7.1 Full authority of the Board as it applies to this Ordinance, excluding the authority to adopt Ordinances, zone changes, or final approval of platted subdivisions;
- 3.7.2 Review and make recommendations to the Board on amendments to the Plan;
- 3.7.3 Periodically review and initiate proposed amendments to the Zoning Ordinance; and make recommendations to the Board;
- 3.7.4 Review and hold public hearings for all Planned Unit Development, Subdivision and Zone Change applications and make recommendations to the Board;
- 3.7.5 Review and hold public hearings for all Conditional Use and Variance applications and make appropriate decisions in accordance with this Ordinance;
- 3.7.6 Hear all appeals regarding decisions made by the Administrator;
- 3.7.7 Endeavor to promote understanding and public interest of Commission activities by holding citizen informational meetings, consulting with public officials, public utilities, educational or other organizations and by holding hearings, doing informational surveys or using other methods to obtain advice on the planning process;
- 3.7.8 With the express consent of the owner, the Commission or County employees in the performance of their duties, may enter upon any land and make examinations;
- 3.7.9 The Commission shall have the right to seek judicial process as may be necessary to enable it to fulfill applicable commission functions.

**3.8 CONFLICT OF INTEREST**

- 3.8.1 Conflicts of interest in the planning and zoning process shall be governed by applicable provisions of the Idaho Code, including but not limited to Idaho Code § 67-6506, Chapter 7 Title 59 and Chapter 13 of Title 18 of the Idaho Code.
- 3.8.2 In the event that there has been a violation of laws regarding conflicts of interest, any final recommendation or final decision involving the person committing such violation may be vacated after due consideration by disinterested members of the commission.

**3.9 PUBLIC HEARINGS**

**3.9.1 Procedures for Subdivision, Planned Unit Development, Ordinance or Plan Amendment and Rezone Public Hearings:**

Any person seeking an amendment of the Plan, Ordinance or Zoning Map shall submit to the County Zoning Administrator a written petition designating the change desired and the reasons therefore, together with a fee as determined by the Board. Before recommending an amendment to the Zoning Ordinance, Evidence must be submitted to the Commission showing that such an amendment is reasonably necessary, is in the interest of the public and is in harmony with the objectives and purposes of this Zoning Ordinance. The following procedures shall apply:

- A. The Commission shall conduct at least one (1) public hearing on each: subdivision application; ordinance or plan text and/or map revision in which interested persons shall have an opportunity to be heard.
- B. The Hearing Notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by this ordinance.
- C. At least twenty-two (22) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice shall also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.
- D. A summary of the proposed action shall be sent to all political subdivisions providing services within the planning jurisdiction, including fire districts, school districts, utility companies etc. at least twenty two (22) days prior to the hearing.
- E. Notice shall be provided by regular parcel post to all property owners within three hundred feet (300') beyond the external boundaries of the land being considered for the proposed application at a minimum of twenty-two (22) days prior to the meeting.
- F. Notice shall be posted on the premises, not less than fifteen (15) days prior to the hearing. Should the property be inaccessible to the public, additional notice shall be posted at the closest public access of the site.
- G. When notice is required for two hundred or more property owners or purchasers of record, in lieu of mailing notification, the following alternate form of notice may be followed: the notice be published three (3) times in a newspaper of general circulation in the county, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing, the notice shall give the date, time and place of hearing, the name of the applicant, identification of the

property, and closest approximate grid address and such other facts as required by this Ordinance.

- 3.9.1 H. No more than two (2) pages of written testimony will be accepted less than eight (8) calendar days before a hearing.
- I. Before recommending an amendment to the Zoning Ordinance, Evidence must be submitted to the Commission showing that such an amendment is reasonably necessary, is in the interest of the public and is in harmony with the objectives and purposes of this Zoning Ordinance
- J. If after the public hearing, the Commission makes a material change to the advertised application, a second hearing shall be held before the Commission unless a hearing will be held before the Board.
- K. The Board, prior to adopting, revising or denying a Zone Change application as recommended by the Commission shall conduct at least one (1) public hearing using the same notice and hearing procedures as the Commission.
- L. If the Board makes a significant material change from what was presented at the public hearing, further notice and hearing shall be provided before the Board adopts the amendment.
- M. Amendments shall require a majority of the members of the Board before an amendment can be effective.
- N. Ordinance or plan text changes shall have a public notice posted throughout the county in conspicuous locations. Notwithstanding the foregoing, comprehensive plan changes and changes to this ordinance, which do not relate to a specified real property, do not require mailed individual notices.
- O. A record of the hearings, findings made, and action taken shall be maintained.
- 3.9.2 Procedures for Conditional Use Permit and Variance Hearings:
- A. The Planning & Zoning Commission shall conduct at least one (1) public hearing on each Conditional Use permit or Variance application in which interested persons shall have an opportunity to be heard.
- B. The Hearing Notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by this Ordinance.
- C. At least twenty-two (22) days prior to the Conditional Use Hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation

within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.

- 3.9.2 D. Notice shall be provided by regular parcel post to all property owners within three hundred feet (300') beyond the external boundaries of the land being considered for the proposed application at a minimum of twenty-two (22) days prior to the Conditional Use Hearing and a minimum of fifteen (15) days prior to the Variance Hearing.
- E. Notice shall be posted on the premises, not less than fifteen (15) days prior to the Conditional Use hearing. Should the property be inaccessible to the public, the notice shall additionally be posted at the closest public access of the site.
- F. Alternate Notice: When notice is required for two hundred or more property owners or purchasers of record, in lieu of mailing notification, the following alternate form of notice may be followed: the notice be published three (3) times in a newspaper of general circulation in the county, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing, the notice shall give the date, time and place of hearing, the name of the applicant, identification of the property, and closest approximate grid address and such other facts as required by this ordinance.
- G. No more than two (2) pages of written testimony will be accepted less than eight (8) calendar days before a hearing.
- H. A record of the hearings, findings made, and action taken shall be maintained.

### **3.10 REMAND BY BOARD TO COMMISSION**

3.10.1 The Board may direct that any matter before the Board that was previously heard by the Commission be returned to the Commission for additional fact finding on a specific issue and reconsideration of their previous decision in light of that additional fact finding.

3.10.2 The taking of additional testimony and evidence shall be limited to those issues stated by the Board as per its written directive.

3.10.3 The Administrator shall publish notice in the official newspaper at least fifteen (15) days prior to the hearing as well as sending such notice by regular mail to the applicant and to any parties who presented testimony or evidence regarding the application.

3.10.4 The notice shall list the limitations on testimony as per the Boards directive.

3.10.5 If after hearing the new testimony or evidence the Commission decision or recommendation is changed; new findings of fact and conclusions of law shall be sent to the Board for further action.

3.10.6 If under appeal; the appeal may be withdrawn, or a different appeal may be filed by an affected party.

**3.11 FINDINGS**

Whenever the Board or Commission grant or deny an application, a written decision in compliance with Idaho Code § 67-6535 or its successor shall be approved.

**3.12 TRANSCRIPT OF PUBLIC HEARING**

Digital recordings of public hearings shall be made available to any person for a fee as determined by the Board. Any person requesting a transcript of the proceedings shall have the burden of all expenses for preparing said transcript except as provided for by Idaho Code.

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## CHAPTER 4 ZONING DISTRICTS

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### 4.1 INTENT

Use Zones have been formulated to realize the general purposes as set forth in this ordinance and to conform to the stated goals and objectives of the Plan. The following Chapter includes specific definitions, purposes, and uses for each Zone, as they may vary from one Zone to another. Use Zones are:

Agriculture/Natural Resource (A/NR)  
Agriculture (A)  
Residential/Agriculture (RA)  
Residential (R)  
Light Commercial (C1)  
Heavy Commercial (C2)  
Light Manufacturing (M1)  
Heavy Manufacturing (M2)

### 4.2 PURPOSE OF ZONES

#### 4.2.1 **Agricultural/Natural Resource (A/NR)**

The purpose of the “A/NR” Zone is to provide for the protection and orderly development of the County’s natural resources which include, in addition to known and unknown mineral deposits, timber, wind, agricultural lands, watershed, recreation, and scenic areas and wildlife habitat that have:

- A. Tracts or parcels adequate for immediate use and future growth.
- B. Sufficient location away from urban areas to minimize effects on neighboring uses.
- C. Accessibility to adequate utilities.
- D. Compatibility with adjacent uses.
- E. Adequate service by roadways.

#### 4.2.2 **Agricultural (A)**

The purpose of the “A” Zone is to preserve and protect the decreasing supply of agricultural land. This zone also is established to control the infiltration of urban development into agricultural areas which will adversely affect agricultural operations in order to:

- A. Allow productive agricultural land areas to be protected.

- 4.2.2 B. Promote the public health, safety, and welfare by encouraging the protection of viable farm land, in accordance, with the comprehensive plan to encourage urban density development inside cities and in areas of city impact; and to protect fish, wildlife, and recreation resources, consistent with the purposes of the “Local Land Use Planning Act.” Idaho Code § 67-6501 et seq. as amended.
- C. Protect agricultural and range land uses and wildlife management areas from unreasonable adverse impacts from adjacent development.

#### **4.2.3 Residential/Agricultural (R/A)**

The purpose of the “R/A” Zone is to permit the establishment of low density single family dwellings with lot sizes sufficient for individual sewer and water facilities that have:

- A. Suitability of parcel for agricultural purposes.
- B. Proximity to existing areas of similar population density.
- C. Lot size compatible with existing lot sizes in the immediate area.
- D. Compatible with the existing uses in the immediate area.
- E. Protection from incompatible uses.
- F. Accessibility to adequate utilities.
- G. Adequate service by roadways.

#### **4.2.4 Residential (R)**

The purpose of the “R” Zone is to preserve desirable residential neighborhood characteristics and to prevent overcrowding of the land while encouraging the development of areas which are best suited for residential purposes that have:

- A. Close proximity to existing town sites or which are contiguous to another “R” or “R/A” Zone.
- B. Lot size compatible with existing lot sizes in immediate vicinity.
- C. Accessibility of municipal services or the possibility of extension of services in the foreseeable future.
- D. Compatibility with existing uses in the immediate vicinity.
- E. Protection from incompatible uses.

- F. Adequate service by roadways.

#### **4.2.5 Light Commercial (C1)**

The purpose of the “C-1” Zone is to permit the location of businesses, offices and service establishments near or convenient to residential areas to encourage community shopping of a primarily retail nature with:

- A. Accessibility to an area sufficiently populated to provide for necessary purchasing power.
- B. Adequate service by major roadways.
- C. Locations which minimizes potential traffic problems.
- D. Compatibility with existing uses.

#### **4.2.6 Heavy Commercial (C2)**

The purpose of the “C-2” Zone is to provide for the development of businesses and service establishments which are incompatible in community shopping areas. This zone requires relatively large size lots and easy highway access and should be removed from residential areas with:

- A. Adequate service by major roadways.
- B. Location that minimizes potential traffic problems.
- C. Compatibility with existing uses.
- D. Protection from encroachment of residential uses.
- E. Accessibility to adequate utilities.

#### **4.2.7 Light Manufacturing (M1)**

The purpose of the “M-1” Zone is to encourage the development of manufacturing establishments which are relatively clean and free of hazardous or objectionable elements and which are generally operated within enclosed structures and generate little industrial traffic. This zone would be kept substantially free from residential and retain commercial activities that are:

- A. Serviceable by major roadways.
- B. Located to minimize potential traffic problems.

- 4.2.7 C. Compatible with existing uses.
- D. Protected from residential uses.
- E. Accessible to adequate utilities.
- F. Accessible to rail or air transportation when necessary.
- G. Protected from incompatible uses.

#### **4.2.8 Heavy Manufacturing (M2)**

The purpose of the “M-2” Zone is to provide for the development of heavy manufacturing. This zone should be located where it will have minimum impact on surrounding land uses, be removed from the residential zones and have ready access to adequate transportation arterials and are:

- A. Accessible to rail or air transportation when necessary.
- B. Sufficiently located away from urban areas to minimize environmental effects on neighboring uses.
- C. Sufficiently located to minimize encroachment on residential or commercial uses.
- D. Adequately sized for immediate use and future growth.
- E. Accessible to adequate utilities.
- F. Location that minimizes potential traffic problems.

#### **4.2.9 Airport Overlay Zone (AP) or Airport Influence Area (AIA)**

The purpose of the “AP” (Airport Overlay) zone is to provide zoning protection to the present and long term use of airports and airport facilities. Uses within the “AP” zone are generally associated with airport related activities, open space and agricultural uses which are harmonious with the use of airports. The “AP” zone is superimposed over other zones with the following additional requirements:

- A. The AP overlay zone is a rectangular area that limits the heights of any structure around the airport extended from the primary surface at a ratio of 20 feet outward for each foot upward extending to a horizontal distance of 2,000 feet along the extended runway centerline. This Zone may be delineated on the Official Zoning Map.
- B. All developments in the AP zone shall meet the requirements of the underlying Zone in addition to Title 21 Chapter 5 Idaho Code.

- 4.2.9 C. The object height limits and restrictions established by the Federal Aviation Administration pursuant to title 14 CFR part 77 shall be imposed relative to the existing primary surface as well as any extended primary surface shown on the airport master plan. Height limitations shall be calculated with the assistance of the currently adopted contour and elevation map.
- D. If any of the regulations specified in this Section differ from other regulations in this Ordinance, then the regulations of this Section shall govern.
- E. The granting of a Conditional Use permit for a use in the “AP” zone shall not constitute a representation, guarantee, or warranty of any kind or nature by Commission or the Board or by any officer or employee thereof of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.

#### **4.2.10 Nitrate Priority Overlay Zone (NPO)**

The purpose of the NPO Zone is to reduce potential Nitrate contamination into culinary wells within the area defined by the Idaho Department of Environmental Quality as a Nitrate Priority Area.

- A. All developments in the NPO zone shall meet the requirements of the underlying Zone.
- B. All lots created after the implementation of this Ordinance of less than five (5) acres shall prior to issuing any residential building permit require a letter of notice signed by the property owner acknowledging the potential nitrate hazards and possible mitigating steps that they could take to protect their drinking water.

#### **4.2.11 Radioactive Material Overlay Zone (RM)**

- A. The purpose of the Radioactive Material Overlay Zone (RM) is to provide sighting areas in the appropriate remote locations where Radioactive Materials may be stored, treated, transferred and disposed in a safe manner. This overlay zone is designed to protect the environmental quality of the zone and adjoining land. Facilities that are located within the “RM” overlay zone shall be constructed and maintained in accordance with all county, state and federal regulations.
- B. The “RM” overlay zone shall be located in areas furthest away from population areas in the County. The “RM” overlay zone shall be identified on the Official Zoning Map of Bingham County.

- 4.2.11 C. All activities relating to storage, treatment, transferring and disposal of Radioactive Materials must be done only upon strict compliance in accordance with all county, state and federal regulations. Any storage, treatment, transferring and disposal is prohibited except for (a) wastes regulated by the Toxic Substance Control Act (TSCA) and the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); (b) low-level or mixed wastes defined as such in 10 CFR 61.55 (Class A, B and C wastes).
- D. If any of the regulations specified in this section differ from regulations in this chapter, then the regulations of this section shall govern.
- E. The Board of County Commissioners shall review all applications for Radioactive Material facilities to assure that they are located within the proper zones and are to be constructed in accordance with proper Building Codes.

#### **4.3 OFFICIAL ZONING MAP**

- 4.3.1 The geospatial boundaries of zones shall be established and clearly indicated upon the Official Zoning Map(s) adopted as part of this Ordinance.
- 4.3.2 All amendments of the Official Zoning Map(s) shall follow the procedures set forth in Chapter 15 of this Ordinance. All zone changes shall be entered on the Official Zoning Map only after final Board approval.
- 4.3.3 Areas are to be classified according to the established zoning requirements and such zoning shall give due consideration as to conformity with the adopted comprehensive plan and its stated goals and objectives.

#### **4.4 INTERPRETATION OF ZONE BOUNDARIES**

The boundaries of the Use Zones are shown on the Official Bingham County Zoning Map that is adopted as part of this Ordinance. Whenever possible, Zone boundaries are as depicted on the Official Zoning Map, however where uncertainly exists, the following shall apply:

- 4.4.1 Where zone boundaries are indicated as approximately following the centerline of streets, highway right-of-ways, streams, canals, or other bodies of water, the centerline shall be construed to be such boundary.
- 4.4.2 Where zone boundaries are indicated, as approximately following lot lines or land survey lines, such lot lines and land survey lines shall be construed to be said boundaries.
- 4.4.3 Where zone boundaries are indicated as approximately parallel to the centerline or street lines of streets or the centerlines of right-of-way lines of

highways, such boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by use of the scale shown on the Official Zoning Map.

- 4.4.4 Where zone boundaries are indicated as approximately the canal, natural stream or water courses, railroad lines, or other clearly defined natural features, the center line of said canal, stream, water course, main track of a railroad line, or natural feature shall be construed to be said boundary. In the absence of any street, survey line, canal, natural watercourse, railroad line, natural feature, or measurement, as forming the boundaries of any zone, the scale of measurement shown on the Official Zoning Map shall be used to determine the boundary line.
- 4.4.5 Whenever a street is vacated, the land of the vacated street shall have the same use classification as the land adjacent or abutting the land owned on the same side of the centerline of the former street.

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## CHAPTER 5 USE ZONE REGULATIONS

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### 5.1 COMPLIANCE WITH REGULATIONS

The regulations for each Use Zone set forth by this Ordinance shall be minimum regulations and shall apply uniformly to each class of use, kind of structure or land. Specifically, no building or other structure shall be erected or altered:

- 5.1.1 To provide for greater height or bulk without proper permitting;
- 5.1.2 To accommodate or house a greater number of residential units, except in conformity with all state and local regulations, and;
- 5.1.3 No parcel existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein.

### 5.2 OFFICIAL SCHEDULE OF ZONING REGULATIONS ADOPTED

Zoning regulations shall be as set forth in the Official Schedule of Zoning Regulations (Section 5.3) also referred to as “The Land Use Chart” and in the Performance Standards. The Land Use Chart is divided into eight (8) separate use groups: Agriculture (A), Agriculture/Natural Resources (A/NR), Commercial (C1 or C2), Industrial/Manufacturing (M1 or M2), Residential (R), and Residential/Agriculture (R/A). To determine in which zone a specific use is allowed:

- 5.2.1 Find the use on the left of the chart then read across the chart until an “A”, “C”, or “N/A” appears in one of the columns. And;
  - If “A” appears, the use is allowed, but may require a building or zoning permit;
  - If “C” appears, use is allowed upon the issuance of Conditional Use permit;
  - And if “N/A” appears, the use is not allowed.
- 5.2.2 The Administrator shall interpret the appropriate impact for land uses not specifically mentioned by determining the zoning in which similar uses are permitted. When several combined land uses exist, or are proposed, the most intensive land use shall be considered as the primary activity. Such determinations may be appealed as per Section 10.1. The Commission may review and change the Administrators decision based on the preponderance of evidence standard as part of the hearing process.
- 5.2.3 References on the Land Use Chart do not eliminate compliance with performance standards and all other provisions of this Ordinance.
- 5.2.4 Permits are not required for general non-structural agricultural uses.

**5.3 LAND USE CHART**

<b>LISTED USE</b>	<b>A</b>	<b>A/NR</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>	<b>R</b>	<b>R/A</b>
Accessory Building	A	A	A	A	A	A	A	A
Adult Entertainment Establishment	N/A	N/A	N/A	C	C	N/A	N/A	N/A
Agriculture & Agriculturally-related activities, including agricultural research facilities, roadside stands, sod and u-pick farms.	A	A	A	A	A	A	A	A
Agriculture – Commercial Storage & Grain Elevator	C	C	C	A	A	A	N/A	C
Agriculture – Grain Elevator & Storage Buildings – (Farmer/Non-Commercial)	A	A	A	A	A	A	N/A	C
Agriculture Related Processing	C	C	C	A	A	A	N/A	N/A
Airport or Airstrip – Private or Commercial	C	C	N/A	C	C	C	N/A	N/A
Alcohol/Ethanol Fuel Plant	C	C	N/A	C	C	A	N/A	N/A
Amusement Facility, theme park, ballpark, horse arena or racetrack	C	C	C	C	C	N/A	N/A	C
Aquaculture	C	C	N/A	N/A	N/A	N/A	N/A	N/A
Arena, Indoor - Personal	A	A	A	A	A	N/A	N/A	A
Asphalt Plant	C	C	N/A	N/A	C	A	N/A	N/A
Assisted Care Facility	N/A	N/A	A	A	A	N/A	A	A
Auction – Auto	N/A	N/A	N/A	A	A	C	N/A	N/A
Auction – Livestock	C	C	N/A	C	A	C	N/A	N/A
Auction – Non-Livestock	N/A	N/A	C	A	A	N/A	N/A	N/A
Bank/Savings & Loan	N/A	N/A	A	A	C	N/A	N/A	N/A
Bar/Lounge/Night Club	N/A	N/A	C	A	A	N/A	N/A	N/A
Batch Plant	C	C	N/A	N/A	C	A	N/A	N/A
Bed & Breakfast > 10 Beds	C	C	N/A	N/A	N/A	N/A	N/A	C
Bed & Breakfast < 10 Beds	A	A	N/A	N/A	N/A	N/A	N/A	A
Boarding House	C	C	C	N/A	N/A	N/A	C	C

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<b>LISTED USE</b>	<b>A</b>	<b>A/NR</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>	<b>R</b>	<b>R/A</b>
Bottling Plant Distribution Center	N/A	N/A	N/A	A	A	A	N/A	N/A
Bowling Alley	N/A	N/A	A	A	A	N/A	N/A	N/A
Brewery	N/A	N/A	N/A	C	A	A	N/A	N/A
Building Supply Outlet	N/A	N/A	C	A	A	N/A	N/A	N/A
Bulk Storage Plant	C	N/A	N/A	A	A	A	N/A	N/A
Cabinet Shop, Commercial	N/A	N/A	C	A	A	A	N/A	N/A
Campground, Commercial	C	C	A	N/A	N/A	N/A	N/A	C
Cannery- Community Co-Op	N/A	C	N/A	C	A	A	N/A	N/A
Car Wash, Commercial	N/A	N/A	C	A	A	N/A	N/A	N/A
Cement / Clay Product Manufacturing	N/A	N/A	N/A	N/A	C	A	N/A	N/A
Cemetery	C	C	C	C	C	C	C	C
Chemical Distribution Center & storage	N/A	N/A	N/A	C	A	A	N/A	N/A
Church	A	A	A	A	A	N/A	A	A
Clinic/Doctor Office	N/A	N/A	A	A	A	N/A	N/A	N/A
Club/Lodge	C	C	A	A	A	N/A	N/A	C
Commercial Meat Packing Facility	N/A	N/A	N/A	C	A	A	N/A	N/A
Community Center	N/A	N/A	A	A	C	N/A	N/A	N/A
Community Sewage Disposal Plant	C	C	C	C	C	P	C	C
Composting Facility	C	C	N/A	N/A	C	C	N/A	N/A
Concession Stand	A	A	A	A	A	A	A	A
Concrete/Clay Product Manufacturing, Storage	N/A	N/A	N/A	C	A	A	N/A	N/A
Confined Animal Feeding Operation CAFO	C	C	N/A	C	C	N/A	N/A	N/A
Congregate Residence	C	C	N/A	N/A	N/A	N/A	N/A	C
Contractors Shop/Yard	C	N/A	C	A	A	A	N/A	C
Convenience Store, less than 10,000 aggregate total sq. ft.	N/A	N/A	A	A	A	N/A	N/A	N/A
Convenience Store, more than 10,000 aggregate total sq. ft.	N/A	N/A	C	A	A	N/A	N/A	N/A
Dance Hall, liquor	N/A	N/A	N/A	A	N/A	N/A	N/A	N/A

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<b>LISTED USE</b>	<b>A</b>	<b>A/NR</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>	<b>R</b>	<b>R/A</b>
Dance Hall, no liquor sales	N/A	N/A	C	A	N/A	N/A	N/A	N/A
Dangerous Animals, Raising not for public display	C	C	N/A	N/A	N/A	N/A	N/A	N/A
Day Care - Center (with more than 13 clients)	C	N/A	A	A	N/A	N/A	N/A	N/A
Day Care - Group Day Care Facilities (7 to 12 clients)	A	C	A	A	N/A	N/A	C	A
Day Care – Family (with 6 or less clients)	A	A	A	A	C	C	A	A
Distillery	C	C	N/A	N/A	A	A	N/A	N/A
Dwelling – Farm Labor	A	A	C	C	C	C	N/A	C
Dwelling – Multifamily	C	N/A	C	C	N/A	N/A	A	C
Dwelling – 2 <sup>nd</sup> Temporary	C	C	N/A	N/A	N/A	N/A	C	C
Dwelling – Single Family	A	A	C	C	C	C	A	A
Emergency/Urgent Care Center	N/A	C	A	A	A	A	N/A	N/A
Equipment Rental	N/A	N/A	C	A	A	A	N/A	N/A
Factory Outlet Mall	N/A	N/A	N/A	A	C	N/A	N/A	N/A
Feed Store	C	C	C	A	A	C	N/A	N/A
Feedlots	A	C	N/A	N/A	C	C	N/A	N/A
Fertilizer Distribution Center	C	N/A	N/A	C	C	A	N/A	N/A
Fertilizer Processing (not compost related)	C	C	N/A	N/A	C	A	N/A	N/A
Fertilizer Storage (Commercial)	C	N/A	N/A	C	A	A	N/A	N/A
Fireworks Sales and Storage	N/A	N/A	C	A	A	C	N/A	N/A
Fish Pond (private)	A	A	N/A	N/A	N/A	N/A	N/A	A
Fish Pond/Hatchery	A	A	N/A	N/A	N/A	N/A	N/A	N/A
Flea Market	N/A	N/A	C	A	A	N/A	N/A	N/A
Food Processing Facilities	C	C	N/A	C	C	A	N/A	N/A
Food Sales – Restaurant with liquor sales	N/A	N/A	C	A	A	N/A	N/A	N/A
Food Sales Café/Lunch Counter, Drive-In, restaurant w/o liquor sales	N/A	N/A	A	A	A	C	N/A	N/A
Forest – Offsite Storage & Saw Mill/Planing Mill	C	C	N/A	N/A	C	A	N/A	N/A

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<b>LISTED USE</b>	<b>A</b>	<b>A/NR</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>	<b>R</b>	<b>R/A</b>
Forest – on-site storage	A	A	N/A	N/A	C	A	N/A	N/A
Fossil Fuel Plant	C	C	N/A	C	C	C	N/A	N/A
Foundry (Commercial)	N/A	N/A	N/A	C	C	A	N/A	N/A
Garage – Public	N/A	N/A	A	A	A	A	N/A	N/A
Geothermal, Oil/Gas Development	A	A	N/A	N/A	A	A	N/A	N/A
Golf Course – Public	C	C	C	C	C	C	C	C
Golf Course – with Residential Subdivision	A	A	N/A	N/A	N/A	N/A	C	A
Grain Mill/Flour Mill, Commercial	C	C	C	A	A	A	N/A	N/A
Gravel Pit/Mining – Crushing, Excavation of Gravel, & Hot Mix Plant	C	C	N/A	N/A	C	A	N/A	N/A
Greenbelt/Walking Paths	A	A	A	A	C	C	A	A
Greenhouse, Private	A	A	A	A	A	A	A	A
Greenhouse, Public	C	C	C	A	A	A	N/A	C
Group Residence	A	A	C	N/A	N/A	N/A	A	A
Gun Range – Indoor & Outdoor	C	C	N/A	A	A	A	N/A	C
Heavy Equipment Sales / Service	C	N/A	N/A	A	A	A	N/A	N/A
Home Occupation	A	A	A	A	A	A	A	A
Hospital	N/A	N/A	C	A	A	N/A	N/A	N/A
Hotel	N/A	N/A	A	A	C	N/A	N/A	N/A
Hunting Lodge	A	A	N/A	N/A	N/A	N/A	N/A	N/A
Hunting Preserve	C	C	N/A	N/A	C	C	N/A	N/A
Impound Yard	N/A	N/A	N/A	C	A	A	N/A	N/A
Industry, Heavy	N/A	N/A	N/A	N/A	C	A	N/A	N/A
Industry, Light	N/A	N/A	N/A	C	A	A	N/A	N/A
Junk Yard	N/A	N/A	N/A	N/A	C	A	N/A	N/A
Kennel	C	C	C	C	C	C	N/A	C
Land Application	C	C	C	C	C	C	N/A	N/A

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LISTED USE	A	A/NR	C-1	C-2	M-1	M-2	R	R/A
Landfill, Sanitary– Construction/Demolition, Municipal & Waste Transfer	C	C	N/A	C	C	C	N/A	N/A
Landscaping Business	N/A	N/A	A	A	A	A	N/A	N/A
Laundromat or Dry Cleaners	N/A	N/A	C	A	A	A	N/A	N/A
Laundry/Linen Supply	N/A	N/A	C	A	A	A	N/A	N/A
Lumber Yard	N/A	N/A	C	A	A	A	N/A	N/A
Machine Shop (Commercial)	C	N/A	N/A	C	A	A	N/A	N/A
Manufactured Home/Travel Trailer Park	N/A	N/A	N/A	C	A	A	N/A	N/A
Manufactured Home/Travel Trailers Sales/Service	N/A	N/A	N/A	C	A	A	N/A	N/A
Manufacturing, Heavy	N/A	N/A	N/A	N/A	N/A	A	N/A	N/A
Manufacturing, Light	N/A	N/A	N/A	C	A	A	N/A	N/A
Meat Packing Facility	C	N/A	N/A	C	A	A	N/A	N/A
Mineral Exploration	A	A	N/A	N/A	A	A	N/A	N/A
Monument Works	N/A	N/A	N/A	C	A	A	N/A	N/A
Mortuary, with or without crematory	N/A	N/A	C	A	A	A	N/A	N/A
Motel	N/A	N/A	A	A	C	N/A	N/A	N/A
Museum	C	C	A	A	N/A	N/A	C	C
Nursing/Convalescent Home	N/A	N/A	A	A	N/A	N/A	C	C
Office/Professional Buildings	N/A	N/A	A	A	A	N/A	N/A	N/A
Painting- Auto/Equipment & Signs	C	N/A	N/A	C	A	A	N/A	N/A
Park and Ride Facility	C	C	A	A	A	A	C	C
Parking Lot – Public	C	C	A	A	A	A	N/A	N/A
Planned Unit Development	C	C	C	C	N/A	N/A	C	C
Public & Quasi-Public Uses	C	N/A	C	C	C	C	N/A	N/A
Public Service Facility/Yard	C	C	C	A	A	A	C	C
Race Track/Motocross	C	C	N/A	C	C	A	N/A	N/A
Radioactive Material	C	C	N/A	N/A	N/A	C	N/A	N/A
Radio, Television and Broadcasting Station	N/A	N/A	C	A	A	A	N/A	N/A

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<b>LISTED USE</b>	<b>A</b>	<b>A/NR</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>	<b>R</b>	<b>R/A</b>
Reception Center, Wedding	C	C	A	A	C	N/A	N/A	C
Recreation – Indoor (Commercial)	C	C	C	A	A	N/A	C	C
Recreation – Outdoor (Commercial)	A	A	A	A	A	N/A	C	A
Recreational Vehicle (RV) Park	N/A	N/A	C	C	C	N/A	C	C
Recycling	C	C	N/A	C	C	A	N/A	N/A
Retail store less than 10,000 aggregate total sq. ft.	N/A	N/A	A	A	A	N/A	N/A	N/A
Retail store more than 10,000 aggregate total sq. ft.	N/A	N/A	N/A	A	A	N/A	N/A	N/A
Roadside Stand	A	A	A	A	C	C	C	A
Salvage/Parts Resale	N/A	N/A	N/A	C	C	A	N/A	N/A
Sawmill/Planing Mill	C	C	N/A	N/A	C	A	N/A	N/A
Schools – arts, dancing, dramatics, music, business, secretarial work, etc.	C	N/A	N/A	A	C	N/A	C	C
Schools – Public School Districts, Charter, Private, College/University	A	C	A	A	C	N/A	A	A
Seasonal Activities, Commercial: Corn Mazes, Live Christmas Nativities, Haunted Houses, Holiday Celebrations, or Revivals (See Section 7.6.9)	A	C	A	A	A	C	N/A	N/A
Slaughterhouse	N/A	N/A	N/A	N/A	C	A	N/A	N/A
Sport Shooting Range	C	C	N/A	N/A	C	C	N/A	N/A
Stable, Private	A	A	N/A	N/A	N/A	N/A	N/A	A
Stable, Riding	C	C	A	A	N/A	N/A	N/A	C
Storage facility – self-service or RV storage facility	C	N/A	C	A	A	A	N/A	N/A
Swimming Pool, Public	C	C	C	C	C	N/A	C	C
Tannery/Rendering Plant	N/A	N/A	N/A	N/A	N/A	C	N/A	N/A
Terminal, Freight	N/A	N/A	N/A	C	A	A	N/A	N/A
Theater, indoor (Commercial)	N/A	N/A	A	A	A	N/A	N/A	N/A
Theater, Outdoor (Commercial)	N/A	N/A	N/A	A	A	N/A	N/A	N/A

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<b>LISTED USE</b>	<b>A</b>	<b>A/NR</b>	<b>C-1</b>	<b>C-2</b>	<b>M-1</b>	<b>M-2</b>	<b>R</b>	<b>R/A</b>
Tower – Broadcast, Cell, Telecommunication	C	C	C	C	C	A	N/A	N/A
Transmission Lines (Power)	C	C	C	C	C	C	C	C
Truck Sales/Service/Repair	N/A	N/A	N/A	A	A	A	N/A	N/A
Truck Stop	N/A	N/A	N/A	A	A	A	N/A	N/A
Truck Wash (Commercial)	N/A	N/A	N/A	A	A	A	N/A	N/A
Vehicle Repair Shop – Limited outside storage	C	N/A	C	A	A	C	N/A	C
Vehicle Sales	N/A	N/A	N/A	A	A	N/A	N/A	N/A
Vehicle– Service/Gas Station	N/A	N/A	C	A	A	C	N/A	C
Vehicle Wrecking Yard	N/A	N/A	N/A	C	C	A	N/A	N/A
Veterinary Clinic	C	N/A	N/A	C	A	A	N/A	N/A
Warehousing/Distribution Center	C	N/A	N/A	C	A	A	N/A	N/A
Wind Turbines, Commercial	C	C	N/A	N/A	C	C	N/A	N/A
Wind Turbine, Hobbyist	A	A	N/A	N/A	N/A	N/A	C	C
Wind Turbine, Personal	A	A	A	A	A	A	C	C
Wildlife Preserve	C	C	N/A	N/A	N/A	N/A	N/A	N/A
Winery	C	C	N/A	N/A	A	A	N/A	C
Zoo	C	C	C	C	N/A	N/A	N/A	N/A

**5.4 SEE CHAPTER 7 FOR SPECIFIC REQUIREMENTS ON LISTED USES - IF APPLICABLE.**

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**CHAPTER 6**  
**HEIGHT, SETBACK, FRONTAGE & AREA REGULATIONS**

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**6.1 HEIGHT REGULATIONS**

Building and structure heights shall be in accordance with the Building Code as adopted by County ordinance. Height limitations do not apply to structures not intended for human habitation (i.e., spires, cupolas, antennas, water tanks, chimneys or other equipment placed above the roof level or bridges) except when the placement of such a structure would create a hazard to the safe landing and take-off of aircraft at an established airport or otherwise specified in this Ordinance.

**6.2 VISIBILITY REGULATIONS**

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three (3) and ten (10) feet above the centerline grades of the intersection roads in the area bounded by the right-of-way. Visibility will not be impeded at any intersection. Distances for visibility will be governed by Idaho Code § 49-221 or the Bingham County Public Works Department Street Standards respectively.

**6.3 SETBACK REGULATIONS FROM ROAD RIGHT-OF-WAY OR FRONT PROPERTY LINE**

The following setback distances shall apply to all permitted uses:

	<b>From ROW</b>	<b>ROW Min. Width</b>
I-15 (Federal)	50 Ft	Varies
State Highway (Arterial)	50 Ft	100 Ft
Major Collector (> 1,000 VPD*)	30 Ft	70 Ft
Collector (< 1,000 VPD*)	30Ft	60 Ft
Local	30 Ft	50 Ft
Private Road/Easement	20 Ft	50 Ft **

\* Vehicles Per Day

\*\* See Section 6.8.4 for Exception to 50 Ft.

6.3.1 Potato storage buildings with a loading and unloading entrance facing onto a road right-of-way shall maintain a one hundred fifty (150) foot setback.

6.3.2 Temporary roadside stands shall be located at least ten (10) feet from the right-of-way or easement and shall not create a traffic hazard.

6.3.3 Road designation classifications and minimum road right-of-way are subject to change and shall be set by the Bingham County Public Works Department as approved by the Board and delineated in the Official Functional Classification Map.

6.3.4 Power transmission lines shall meet setback distances from state or county rights-of-way as determined by the appropriate transportation authority. This approval must be submitted with the Conditional Use Permit application.

**6.4 SETBACK REGULATIONS FROM SIDE AND REAR PROPERTY LINES**

The following setback distances shall apply; additional setback areas may be required by Chapter 7 based on specific use requirements.

<b>Type of Structure</b>	<b>Distance From Side Lot Line</b>	<b>Distance from Rear Lot Line</b>	<b>Exceptions</b>
Agriculture or Potato Storage*	5 Feet 20 Feet	5 Feet 20 Feet	50 Ft to existing residence on adj. lot
Confined Feeding Operation	Refer to	Section	8.6
Wells	5 Feet	5 Feet	
Commercial/Industrial	5 Feet	5 Feet	20 Ft when adj. to R or R/A or as listed in the Performance Standards
Residence	5 Feet	20 Feet	
Roadside Stand	5 Feet	5 Feet	
Accessory	5 Feet	5 Feet	20 Ft to existing residence on adj. Lot
Corrals	0 Feet	0 Feet	50 Ft to existing residence on adj. lot
High Voltage Transmission Line (≥115 KV)	0 Feet	0 Feet	50 Ft to existing residence

\* See Section 6.3.1 for additional setbacks

**6.5 SETBACK REGULATIONS FROM WATERWAYS**

Structures, other than canal structures, shall not encroach on any water right-of-way. The required setback from property lines may be included in the following requirements:

<b>Type of Waterway</b>	<b>Distance from High Water Mark</b>
Canals	50 Feet*
Rivers, Lakes, Flowing Streams	100 Feet
American Falls Reservoir	300 Feet

\* Unless approved in writing by the Canal Board for less setback.

**6.6 AREA REGULATIONS**

Area requirements vary between Zones and the following minimum size requirements shall apply:

6.6.1 In all Zones outside a platted subdivision any approved residential parcel shall be a minimum of one (1) acre using division rights. A minimum of 5.01 acres is required for a nonresidential agricultural exemption parcel.

6.6.2 Platted Subdivisions shall require the following minimum lot sizes:

- A. R and R/A Zone – one (1) acre minimum with individual well and septic.
- B. R Zone – one-half (1/2) acre with well or septic coupled with an appropriate shared community water or septic system.
- C. R Zone – one-quarter (1/4) acre with both community well and community septic system.
- D. A and A/NR Zone – five (5) acre minimum.
- E. C and I/M Zone – One (1) acre minimum unless otherwise approved by the Board.

## **6.7 FRONTAGE REGULATIONS**

6.7.1 All new lots, tracts, or parcels of land created after the adoption date of this Ordinance shall have frontage that abuts an approved County or State road way or private easement for a depth of twenty (20) feet from said roadway and have a minimum frontage of one hundred five (105) feet on said roadway or easement. Lots with legal frontage under previous Ordinances or meeting the above requirements shall be considered conforming lots.

6.7.2 All new lots, tracts, or parcels of land created after the adoption date of this Ordinance within subdivisions with lots of less than one acre or the platted town sites of; Goshen, Groveland, Moreland, Pingree, Riverside, Rockford, Springfield, Sterling, Thomas, Wapello, and Woodville shall have frontage that abuts an approved County or State road way or private easement; for a depth of twenty (20) feet from said roadway and have a minimum frontage of seventy five (75) feet on said roadway or easement.

6.7.3 New lots on a cul-de-sac radius or other dead end roads shall have frontage that abuts an approved County or state roadway or private easement and have a minimum frontage of fifty (50) feet with a minimum depth of 20 feet.

## **6.8 EASEMENT REGULATIONS**

It is the intent of this Ordinance to provide for orderly development that ensures the public has adequate access for emergency equipment and other public services. Therefore residential or commercial buildings erected or moved onto any lot, tract, or parcel of land in any Zone that does not abut a maintained road that is accepted

by Bingham County or the State of Idaho must have access to a private road or easement and the following regulations shall apply:

- 6.8.1 Outside of a platted subdivision, or within a platted subdivision with four (4) or less buildable lots, the use of a private road or recorded easement for access to a residential or commercial building may be allowed. For residential purposes use is limited to four (4) single-family dwellings.
- 6.8.2 The construction used for private roads and easements for residential or commercial access shall be adequate for safety vehicles as per the Fire Code.
- 6.8.3 The easement or private road shall have a minimum right-of-way width of fifty (50) feet and shall be recorded on the property deed and shall be located on property meeting the requirements of Section 6.7. If the easement or private road serves only two (2) dwellings or less, the width may be reduced to twenty (20) feet with written approval of all landowners served or crossed and the appropriate Fire District.
- 6.8.4 Property Owners using said easement or private road for access to their property shall acknowledge that County road maintenance or services are not provided and that the County shall not be held liable for any reason concerning said easement or private road.

## **6.9 PROPERTY LINE ADJUSTMENT**

Outside of a platted subdivision, a parcels boundary may be adjusted between two (2) or more parcels with the following regulations:

- 6.9.1 This adjustment may not create additional buildable residential parcels.
- 6.9.2 This adjustment may not reduce an existing lot or parcel to less than the minimum dimensional standards for the applicable zone.
- 6.9.3 This adjustment may not affect any required setbacks from easements, public streets, private roads or publicly dedicated areas.
- 6.9.4 This adjustment cannot be used for transferring division rights from one original parcel adjacent to another original parcel unless approved by a Conditional Use as per Chapter 8.

## **6.10 PARKING AND LOADING REGULATIONS**

The following parking and loading criteria are intended to minimize street congestion and traffic hazards, to provide safe, convenient access to business, public services and places of public assembly, and to visually improve parking area appearances.

- 6.10.1 At the time of construction of any structure, or at the time any such structure or use of land is enlarged or increased in capacity there shall be

provided off-street parking, including adequate provisions for safe ingress and egress.

- 6.10.2 Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use.
- 6.10.3 No lawfully existing building shall be deemed non-conforming solely due to the lack of required parking or loading facilities, provided that space being used for off-street parking or loading at the effective date of this Ordinance is not further reduced in area of capacity.
- 6.10.4 When the calculation of the required number of spaces called for herein results in a fractional number, fractions equal to or greater than one-half (1/2) shall be adjusted to the next highest whole number of spaces.
- 6.10.5 Parking space requirements for a specific use not listed in this Chapter shall be based on a use with similar traffic-generating characteristics.
- 6.10.6 All off-street parking areas shall have a minimum width of ten (10) feet and a minimum length of twenty (20) feet per space.
- 6.10.7 All off-street parking areas shall be provided with a substantial wheel restraint to prevent cars from encroaching upon abutting private and public property.
- 6.10.8 Parking spaces, access lanes, and handicapped areas should be marked with symbols and signs that comply with the Manual of Uniform Traffic Control Devices.
- 6.10.9 Every open off street parking area having more than four (4) required parking spaces shall be all weather surfaced, including access driveways.
- 6.10.10 Off street parking facilities for several buildings, structures or uses, or for mixed uses, may be provided collectively if the total number of spaces so located together shall not be less than the sum of the separate requirements for each of the buildings or uses.
- 6.10.11 Lights to illuminate off-street parking areas shall be shielded and directed away from residential properties and highways, and such parking areas shall be effectively screened from any adjoining side property in a residential zone by a wall, solid fence, or hedge of a minimum height of six (6) feet or with an approved buffer area.
- 6.10.12 Required parking spaces for dwellings shall be upon the same premises as the dwelling, and no parking space shall be located in any public right of way.
- 6.10.13 Handicap Accessible Parking – In addition to required parking as defined in Article 6.1.13 of this code, Hard surface handicapped parking spaces

shall be provided in all parking lots in a ratio as determined by the Chapter 1106 of the International Building Code (IBC), as amended, and shall be one and one-half (1 ½) times as wide as a regular parking area.

6.10.14 Storm Water – All parking lot facilities shall be designed and constructed to insure that all surface waters will drain into an approved storm water retention or removal system and shall minimize the discharge of any pollutants into surface water drainage by including oil, grease, or silt traps.

6.10.15 Commercial and Industrial Development shall meet the following:

- A. Access roads to parking spaces for commercial and manufacturing uses shall not be less than twelve (12) feet wide if the traffic pattern is one way and twenty-four (24) feet wide if the traffic pattern is two-way.
- B. Maneuvering space shall be adequate for entry and exit from parking spaces within the parking lot and not within the public right-of-way.
- C. Retail and service uses that conduct business while customers remain in their vehicles shall provide a circulation pattern that separates drive-through traffic from stopover customers. Separation may be paint-striped lanes or any other approved type of separation barrier from the point of access to the stacking area. Separation lanes shall be a minimum of ten (10) feet in width.
- D. Stacking area shall accommodate a minimum of four (4) cars per drive through window. A separation shall be provided between cars waiting and other on-site traffic.

6.10.16 Loading - Any structure for a commercial or industrial use having a gross floor area of five thousand (5000) or greater square feet shall be required to provide and maintain at least one off-street loading space. One additional off-street loading space shall be required for every subsequent twenty thousand (20,000) square feet of gross floor space. Each loading space shall be not less than fourteen (14) feet in width and forty (40) feet in length and shall have a minimum of fourteen (14) feet of vertical clearance.

6.10.17 Parking spaces shall be provided for the maximum number of vehicles anticipated for all applicable types of uses or occupancies on the property at any one time.

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**CHAPTER 7**  
**SPECIFIC USE PERFORMANCE STANDARDS**

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Certain land use pose special problems that may have detrimental influences on surrounding land uses. The following performance standards for such unique land uses shall be adhered to in additions to all other provisions of this Ordinance.

**7.1 ACCESSORY STRUCTURE WITH LIVING SPACE AND CARETAKER’S RESIDENCE**

7.1.1 Each lot, tract, or parcel of property, considered a buildable residential parcel by this Ordinance, shall be allowed one (1) accessory dwelling unit, once they receive an approved building permit. The following provisions shall apply:

- A. The owner of the real property shall be the applicant.
- B. The proposed location shall consist of a parcel with a minimum of two (2) acres unless otherwise approved by a Conditional Use Permit.
- C. The accessory use must meet setback requirements and all other provisions of this Ordinance.
- D. The applicant must obtain approval for water and sanitary facilities from the Health Authority.
- E. The residential portion must meet all the requirements of this ordinance and the building code as per residential uses.

7.1.2 The accessory use structure may not be sold as a separate parcel.

7.1.3 The residential portion of the accessory use structure may not exceed 50% of the gross floor area unless otherwise approved by a Conditional Use Permit.

7.1.4 In Commercial or Manufacturing Zones a caretaker’s residence shall be allowed with the same provisions as above, excluding 7.1.3, provided;

- A. The employee housing or mobile home space where housing could be connected to services may not be used as a rental unit for a non-employee caretaker.
- B. The applicant shall provide employee verification for the occupant and a signed statement that the residence shall be removed when it is no longer utilized as employee housing.

7.1.5 Temporary construction housing may be permitted for remote commercial or industrial projects using the same provisions as Section 7.1.4 but are limited to the duration of the project and use of RV or bunkhouse modular housing.

**7.2 ADDITIONAL DWELLING UNIT – FARM HELP RESIDENCE:**

- 7.2.1 All bonafide farm, ranch, or dairy operations may have up to two (2) additional permitted dwellings on one (1) parcel with a minimum of a five (5) acre parcel for full time employees. The following provisions shall apply:
- A. The owner of the real property shall be the applicant.
  - B. The residential location shall be on an operating farm, ranch or dairy.
  - C. The residence must meet setback requirements and all other provisions of this Ordinance.
  - D. The applicant must obtain approval for water and sanitary facilities from the Health Authority.
  - E. The residence must meet all the requirements of this Ordinance pertaining to residential uses.
- 7.2.2 The farm dwelling may not be sold as a separate parcel.
- 7.2.3 The employee housing or mobile home space where housing could be connected to services may not be used as a rental unit for non-farm labor.

**7.3 ADDITIONAL DWELLING UNIT – TEMPORARY**

- 7.3.1 A temporary dwelling to reside in during the construction or renovation of an existing or newly permitted primary dwelling is allowed, with an approved building permit, on any Buildable Residential Lot, but must be removed within 30 days of occupancy of the primary dwelling.
- 7.3.2. Each lot, tract, or parcel of property, considered a buildable parcel, shall be allowed one additional temporary dwelling for a medical hardship; a Conditional Use Permit shall be required. The Conditional Use Permit shall be based on the following provisions:
- A. The owner of the real property shall be the applicant.
  - B. The proposed location shall consist of a parcel with a minimum of two (2) acres unless otherwise approved by the Conditional Use Permit.
  - C. The temporary residence must meet setback requirements and all other provisions of this Ordinance.
- 7.3.3. Detached temporary dwelling units shall be located to the side or rear of a primary dwelling. No portion of the temporary dwelling unit shall be located in front of the primary dwelling unit.

- 7.3.4 At least one parking space shall be provided on site for the temporary dwelling unit in addition to the required parking for the existing residential unit.
- 7.3.5 The temporary residence must obtain approval for water and sanitary facilities from the Health Authority.
- 7.3.6 The application must include a current statement by a licensed physician attesting to the existing medical condition and need for assistance thereof.
- 7.3.7 The applicant must provide a statement that the temporary second dwelling will be removed upon termination of occupancy by either the dependent or care provider or is not in compliance with Conditional Use Permit conditions.
- 7.3.8 In the event the property is sold or leased, the Conditional Use Permit is not transferable to the new owner(s) of the property.

#### **7.4 ADULT ENTERTAINMENT ESTABLISHMENT**

- 7.4.1 A Conditional Use Permit shall be required for all Adult Entertainment facilities demonstrating compliance with the setback provisions of Idaho Code § 67-6533. The selling of sexually explicit material or obscene conduct is regulated by Chapter 41 Title 18 of Idaho Code.
- 7.4.2. The applicant shall provide evidence certified by a professional land surveyor licensed in the state of Idaho that the proposed adult entertainment establishment conforms to the separation requirements of this subsection.
- 7.4.3 All adult entertainment establishments shall comply with the sign regulations of Section 7.31. Further; signs for adult entertainment establishments shall not contain any emphasis, either by movement, picture, or otherwise, on matter relating to adult entertainment as herein defined.
- 7.4.4 Any business providing adult entertainment or adult material shall have in place at each entrance to such business a legible door "sign" (as defined herein) stating "Persons under 18 years of age not permitted". The sign shall be no less than 0.5 square feet in area.

#### **7.5 ALCOHOL SERVING ESTABLISHMENT**

- 7.5.1 The drinking establishment shall not be located within three hundred feet (300') of a property used for a church or education service. Nor shall the drinking establishment be located within one thousand feet (1,000') of an adult entertainment establishment.
- 7.5.2 For properties within one thousand feet (1,000') of a residential zone, no outside activity or event shall be allowed on the site

**7.6 AMUSEMENT FACILITY, INDOORS & OUTDOORS**

- 7.6.1 All structures or outdoor recreation areas shall maintain a minimum setback of one hundred feet (100') from any abutting residential zones. The playing areas of golf courses, including golf tees, fairways and greens are an exception to this standard.
- 7.6.2 Any outdoor event or activity center located adjacent to a Residential Zone shall be limited to outside use only between the hours of 7 a.m. and 11 p.m.
- 7.6.3 Accessory uses include, but are not limited to: retail, equipment rental, restaurant and drinking establishments may be allowed if designed to serve patrons of the use only.
- 7.6.4 All outdoor Public Address Systems shall be located a minimum five hundred feet (500') from any Residential or Residential/ Agriculture zone.
- 7.6.5 Additional Standards for swimming pool: Any outdoor swimming pool shall be completely enclosed within a 6-foot non-scalable fence that meets the requirements of the Building Code.
- 7.6.6 Additional standards for outdoor stage or musical venue: any use with a capacity of one hundred (100) seats or more and within one thousand feet (1,000') of a Residential Zone shall be subject to approval of a Conditional Use permit. This applies to one-time and seasonal events also.
- 7.6.7 Amusement Facilities shall have adequate parking as per Chapter 6.
- 7.6.8 Amusement Facilities shall have Health Department approval for sanitary and washing provisions to meet all the needs of anticipated attendees.
- 7.6.9 Seasonal or one-time events or concession stands not exceeding ten (10) calendar days per event, or forty five (45) calendar days (within one year) of intermittent use do not require a Conditional Use Permit when they comply with all above requirements.

**7.7 BULK STORAGE OF HAZARDOUS OR FLAMMABLE LIQUIDS AND GASES.**

Facilities for storage of hazardous or flammable substances for resale shall be erected subject to the following:

- 7.7.1 The facility for above ground tanks shall be enclosed by an 8-foot high security fence or wall with the entrance and exit through a gate that shall be locked during non-business hours.
- 7.7.2 When adjacent to a residential zone, all structures or outdoor activity areas shall be located a minimum of 300 feet from any property line and all tanks shall be located a minimum of 1000 feet from a property line adjacent to a residential zone.

- 7.7.3 The applicant must furnish written documentation showing a review from the appropriate fire district and/or DEQ; listing any conditions placed upon the use and how they will comply with those conditions.
- 7.7.4 Approved loading and unloading spaces and off-street parking facilities will be required as listed in this Ordinance.
- 7.7.5 Construction will meet the criteria of the current Building Code as adopted by Bingham County.
- 7.7.6 This section does not apply to retail service stations or convenience stores that also dispense propane unless they are in a Residential Zone.

## **7.8 CARE FACILITY REGULATIONS**

### **7.8.1 General Standards**

Idaho Code § 39-1109 & 39-1110 and IDAPA will be used to determine the type of care facility.

- A. In determining the type of day care facility, the total number of clients cared for during a twenty-four (24) hour period at the facility shall be used.
- B. On site vehicle pick up, parking and/or turnaround areas shall be provided to ensure safe discharge and pick up of clients.
- C. The applicant or owner shall secure and maintain a basic daycare license from the State of Idaho Department of Health and Welfare, Family and Children's Services Division and all required license(s) from the local, state, and/or federal agencies.
- D. The applicant shall not exceed the maximum number of clients as stated in the approved permit or as stated in this title, whichever is more restrictive.
- E. In residential zones, no structural alterations to a residential building are allowed which result in changing the exterior residential character of the building.

### **7.8.2 Babysitting**

The occasional care of a neighbor, relative or a friend's child or children by a person as defined by Idaho Code 39-1103 (1). Babysitting does not need licensing in Bingham County and is not regulated by this Ordinance.

### **7.8.3 Child Day Care Facility**

The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care.(IDAPA 16.06.02.05).

- A. Family Home Care: A home or place providing care for one (1) to three (3) children. (IDAPA-16.06.02). No licensing necessary and is not regulated by this Ordinance.
- B. Family Day Care Center: A home, place, or facility providing day care for four (4) to six (6) children during part of a twenty-four (24) hour day.(IDAPA 16.06.02.18-Idaho 39-1102).
- C. Group Daycare Home: A home, place, facility providing day care for seven (7) to twelve (12) children. (IDAPA 16.06.02.22).
- D. Day Care Center: A place or facility providing day care for compensation for thirteen (13) or more children. (IDAPA 16.06.02.14).

### **7.8.4 Adult Day Care**

Adult day care is a supervised, structured day program, outside the home of the participant that may offer one (1) or more of a variety of social, recreational, health activities, supervision for safety, and assistance with activities of daily living. (IDAPA 16.03.10.01).

- A. Certified Family Home: means a family-styled living environment in which two (2) or fewer adults live who are not able to reside in their own home and who requires care, help in daily living, protection and security, supervision, personal assistance and encouragement toward independence.(Idaho Code 39-3502[(8)] (7).
- B. Assisted Living Care Facility/Residential Care: A facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner.(IDAPA 16.03.22 .15).

### **7.8.5 Group Residence**

- A. A place or facility that provides care and supervision for compensation for eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons that reside and who are supervised at the group residence in connection with their handicap or age related infirmity. Idaho Code § 67-6531.
- B. Resident staff, if employed, need not be related to each other or to any of the mentally and/or physically handicapped or elderly persons residing in the group residence. Idaho State Code 67-6531.

- C. The department of health and welfare may require group residences, as defined in Section 67-6531, Idaho Code, to be licensed and set minimum standards for providing services or operation. Such licensure may be under the residential or assisted living facility rules specifically written by the State for such group residences. No Conditional Use Permit shall be required unless it is also required for single family dwellings as per Idaho State Code 67-6532.

#### **7.8.6 Hospital**

A medical institution licensed by the State that is devoted to the maintenance and operation of facilities for the medical or surgical care of patients twenty-four (24) hours a day, including air transport facilities. The term hospital does not include health care and social services, nursing and residential care facility, or establishments that forcibly confine patients.

- A. No hospital shall be located within one thousand (1000) feet of the following uses: explosive manufacturing or storage; adult entertainment establishments; flammable substance storage; foundry; freight and truck terminal; manufacture or processing of hazardous chemicals; power plant; food product storage or processing plant.
- B. If the hospital provides emergency care, the location shall have direct access on an arterial street.
- C. Accessory retail uses including, but not limited to, retail shops, food or beverage service, and personal service shops, may be allowed if designed to serve patrons of the hospital and their visitors only.

#### **7.8.7 Nursing/Convalescent Home**

- A. A facility designed to provide area, space, and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative rehabilitative care and assistance in meeting daily living needs, Medical supervision is necessary on a regular, but not daily basis (Section 30-1301, Idaho Code.) IDAPA 16.03.02.33.
- B. Additional standards for uses providing care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation: A barrier with a minimum height of six feet (6'), along the perimeter of any portion of the site that is accessible to these patients shall be provided. The fencing material shall meet the swimming pool fence requirements of the Building Code.

**7.9 CONFINED ANIMAL FEEDING OPERATION (CAFO)**

7.9.1. To establish an orderly procedure to regulate the placement, construction or expansion of a Confined Animal Feeding Operation (CAFO) within Bingham County. Bingham County does not have the resources or authority to enforce State or Federal environmental laws. However, it is the intent of the Board to require all CAFOs operating in Bingham County to obtain and be in compliance with all applicable Federal and State environmental standards, to be sited within approved zones, and to meet certain development standards. The Board also feels that it is appropriate to take advantage of all resources and assistance available from other government agencies in making CAFO Permit decisions.

7.9.2 The specific provisions of this section control when other portions of the Bingham County Zoning Ordinance are inconsistent with provisions of this section. Any action taken by Bingham County pursuant to this Section does not insure that the applicant is in compliance with any other provisions of applicable State, Federal or local laws, rules, and/or regulations.

**7.9.3 General Requirements**

CAFOs are subject to the following requirements:

- A. A Conditional Use Permit is required for all new CAFOs or the expansion of an existing CAFO that constitutes a significant change.
- B. Zones allowing CAFOs are listed on the Land Use Chart in this Ordinance
- C. A CAFO shall comply with and not be in violation of any Federal, State or other local laws, regulations, or guidelines.
- D. Odor management and pest control shall meet and utilize the most current Idaho Department of Agriculture Best Management Practices.
- E. Other applicable DEQ or EPA regulations.

**7.9.4 Required Setbacks for a New CAFO or Expansion of Existing CAFO**

SPECIFIC LOCATION	DISTANCE	FROM
Existing CAFO Facility Expansion	300 Feet	County Road Right-of-Way
	300 Feet	State Road Right-of-Way
	1000 Feet	A residence not associated with the CAFO *
	50 Feet	Water's edge of any canal, lateral, or ditch
	100 Feet	Live water (lakes, rivers, and/or streams)
	300 Feet	Well for potable water not associated with the CAFO

SPECIFIC LOCATION	DISTANCE	FROM
Liquid Waste Separator, Holding Pond, Treatment Lagoon, Storage Facilities	300 Feet	State Road Right-of-Way
	1000 Feet	A residence not associated with the CAFO *
	50 Feet	Water's edge of any canal, lateral, or ditch
	100 Feet	Live water (lakes, rivers, and/or streams)
	300 Feet	Well for potable water not associated with the CAFO
Composting	300 Feet	County Road Right-of-Way
	300 Feet	State Road Right-of-Way
	1000 Feet	A residence not associated with the CAFO *
	50 Feet	Water's edge of any canal, lateral, or ditch.
	100 Feet	Live water (lakes, rivers, and/or streams)
	300 Feet	Well for potable water not associated with the CAFO
New CAFO Facility	1000 Feet	Residential/Agriculture Zone Boundary
	1000 Feet	Residential Zone Boundary
	1000 Feet	Commercial Zone Boundary
	2 Miles	All incorporated Cities

\* New residences not associated with the CAFO shall meet the 1000' setback or provide a recorded acknowledgement of potential CAFO nuisance conflicts.

**7.10 CEMETERY**

Graves and monuments shall not be located within fifteen feet (15') of any external property line.

**7.11 CHEMICAL, PESTICIDES, FERTILIZER STORAGE & MANUFACTURING**

Storage of chemicals, pesticides and fertilizers for wholesale, resale or as part of a manufacturing facility shall be subject to the following:

7.11.1 The applicant must furnish evidence that the facility will comply with DEQ or other Regulatory Agencies.

7.11.2 A buffer may be required within the required setback from property line.

7.11.3 Approved loading and unloading spaces and off-street parking facilities will be required.

7.11.4 A secondary retaining area will be required. The secondary retaining area shall be large enough to hold up to the amount of the largest tank located in the retaining area.

7.11.5 Setbacks for structures are to be from the secondary containment area.

7.11.6 There shall be no uncontained outdoor storage of chemicals and/or fertilizers.

7.11.7 Construction of all facilities shall meet the criteria listed in the approved County Building Code.

**7.12 CONTRACTOR'S YARD**

7.12.1 All structures or outdoor storage areas shall be located a minimum of one hundred feet (100') from any Residential Zone.

7.12.2 Outdoor storage areas shall comply with the following requirements:

- A. All outdoor storage of material or equipment shall be maintained in an orderly manner screened by view-obscuring fence. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
- B. Outdoor storage shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

7.12.3 The site shall not be used as a junkyard, vehicle wrecking yard, storage of junk, wrecked cars or parts, or used for salvaged material as herein defined.

7.12.4 All material stored within the yard must be pertinent to the type of contracting business.

7.12.5 Any repair of equipment will be limited to that of the permitted use.

**7.13 EQUIPMENT RENTAL, SALES AND SERVICE**

All repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure. All sales and equipment storage areas must be screened on all sides and back by a six (6) foot sight obscuring fence unless otherwise approved by a Conditional Use Permit as per Chapter 8.

**7.14 FARM ANIMALS**

7.14.1. The following regulation shall apply in "R" and R/A" Zones that allow animals other than household pets:

- A. Minimum lot size must be one (1) acre to have animals other than household pets. Area requirements specified are inclusive of land used for other purposes such as dwellings, accessory buildings, gardens, driveways, etc.
- B. An accumulative total of three (3) animal units are allowed per acre.
- C. Animals other than household pets are only allowed on Residential lots of less than one (1) acre by approved Conditional Use Permit.

7.14.2 A and A/NR Zones shall not be regulated in the number of animals per acre unless a CAFO or Feedlot is created.

7.14.3 C and M Zones, not in conjunction with a bona fide agriculture operation shall be determined by Conditional Use Permit as per Chapter 8.

7.14.4 For animals not listed, the Administrator shall determine the number of animals allowed based on the area requirements of the closest-related animal. Such determinations may be appealed as per Section 10.1. An approved Conditional Use Permit may allow additional animals.

7.14.5 All animal units (AU) shall be based on the following unit equivalents:

<u>Beef/Bison</u>	<u>AU Value</u>	<u># Per Acre</u>
1 Bull (mature)	1.5 Unit	2*
1 Slaughter/Feeder Cow	1.0 Unit	3*
1 Dairy Heifer	1.0 Unit	3*
1 Beef Cow/Calf Pair (up to 6 mos.)	1.2 Unit	2*
1 Dairy Cow	1.5 Unit	2*
1 Feeder Calf (6 month – 1 year)	0.5 Unit	6*
1 Calf (up to 6 mos.)	0.2 Unit	15*

Horses

Over 1000 lbs. or Mare w/ foal	1.5 Unit	2*
Over 500 lbs. & Under 1000 lbs.	1.0 Unit	3*
Under 500 lbs.	0.5 Unit	6*

Swine

	<u>AU Value</u>	<u># Per Acre</u>
1 Swine (over 55 lbs.)	0.4 Unit	7*
1 Feeder Pig (up to 55 lbs.)	0.2 Unit	15*

Sheep, Lambs, Goats

1 Sheep or Lamb	0.2 Unit	15*
1 Goat	0.2 Unit	15*

Chickens, Turkeys, Ducks, Geese

Chickens	0.01 Unit	300*
Turkeys	0.02 Unit	150*
Ducks	0.01 Unit	300*
Geese	0.02 Unit	150*

Penned Rabbits

Rabbit	0.01 Unit	300*
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7.14.5 Fish or Species Not Specifically Identified

500 lbs. 1.0 Unit 1,500 lbs.\*

\* The # Per Acre column is only for convenience and does not include the aggregate total of other animal groups on the same parcel.

**7.15 FEEDLOTS**

7.15.1 Corrals or holding area for the impoundment of livestock for market or production not incident to farm or ranch livestock operation of CAFO.

7.15.2 Any parcel of land containing twenty (20) acres or less having greater than five (5) animal units per acre, or any parcel of land containing twenty (20) acres or more having a minimum of one hundred (100) animal units in a corral for more than one hundred eighty (180) days or more in any twelve (12) month period.

7.15.3 Must be located at least one quarter mile (¼) mile or greater distance from any residential zone or incorporated city unless this distance is specifically reduced as part of the Conditional Use permit. Excluding any feeding operation controlled under Idaho Department of Agriculture.

**7.16 FOOD PRODUCTS PROCESSING**

7.16.1 All structures, loading areas, outdoor activity areas, exclusive of parking shall be located a minimum of three hundred feet (300') from any abutting residential zones.

7.16.2 Food processing shall be located a minimum of one thousand feet (1,000') from any hospital.

7.16.3 The application materials shall include written documentation that the proposed facility meets any applicable federal, state, or local standards regarding such use including, but not limited to, those of the U.S. Environmental Protection Agency, the U.S. Department of Agriculture, Idaho Department of Environmental Quality (DEQ), Idaho Department of Agriculture, Idaho Department of Water Resources, and Central District Health Department, as applicable.

**7.17 FUEL SALES FACILITY AND FUEL SALES FACILITY, TRUCK STOP**

7.17.1 General standards:

A. When allowed as an accessory use, gasoline or diesel fuel sales facilities shall not occupy more than twenty five percent (25%) of the subject property.

- B. Vehicle stacking lanes shall be available on the property but outside the fueling areas. Stacking lanes shall have sufficient capacity to prevent obstruction of the public right of way by patrons. Such stacking lanes shall be separate from areas required for access and parking.

7.17.2 Additional standards for fuel sales facility, truck stop:

- A. The use shall be located on a State Highway (Arterial) or near an I-15 Interstate interchange.
- B. The use shall be located a minimum of three hundred feet (300') from any residential zone and a minimum of one thousand feet (1,000') from any hospital.

**7.18 GRAVEL PITS, ROCK QUARRIES, SAND AND CLAY PITS**

7.18.1 Pits and excavation shall be maintained, so that they are free from debris and waste material and the bank shall have a slope of not more than thirty-five (35) degrees except during active removal.

7.18.2 A buffer zone of not less than one hundred (100) feet shall be maintained during the operation of the site. Trees and other types of noise and dust reduction may be required to be placed in the buffer area if the site is adjacent to a residential use; prior to obtaining any permit.

7.18.3 A reclamation plan, approved by the appropriate State Agency, shall be on file with the Planning and Zoning Department in advance of issuing a Zoning Permit. Due consideration shall be given to what is suitable and compatible with the surrounding area.

- A. Result in the smallest amount of bare ground exposed for the shortest time feasible.
- B. Restore topsoil or loam to a depth of not less than four (4) inches.
- C. Re-vegetate / plant with native plants.

7.18.4 Upon depletion of the area, all temporary buildings and structures, except property line fences and structures for loading, measuring, or weighing salable materials in storage, shall be entirely removed from the property.

7.18.5 Crushing of materials shall be conducted within the pit and shall be subject to conditions placed on dust, noise, and hours of operation as determined by the Commission and/or any other State or Federal Agency.

7.18.6 Development agreements, bonding, or other monetary measures may be required to guarantee rehabilitation of the site.

7.18.7 Filling, Grading, Lagooning, Dredging or other Earth-Moving Activities shall:

- A. Provide temporary groundcover, such as mulch except during active removal;
- B. Use diversions, silting, basins, terraces and other methods to trap sediment;
- C. Avoid creation of fish trap conditions;
- D. Not restrict a floodway, channel or natural drain way;
- E. Construct and stabilize sides and bottoms of cuts, fills, channels and artificial water courses to prevent erosion or soil failure;
- F. Not have below-grade excavation except for drainage ways within fifty (50) feet of any external property line, canal or public right-of-way.

**7.19 HOME OCCUPATION**

7.19.1 The provisions of this Ordinance specifically require commercial and manufacturing businesses to be located in the appropriate Zone. However it is not the intent of this Ordinance to prohibit Bingham County residents from conducting a home business. Home occupation businesses are exempt from the permitting process unless the business exceeds any of the following, in which case a Conditional Use Permit may be obtained as per Chapter 8:

- A. Not more than one (1) additional full time employee shall be employed. Family members and part time help are exempted.
- B. The use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the dwelling or adversely affect any uses permitted in the Zone where the home occupation is located.
- C. No external alterations or additions may be added to the dwelling not customarily associated with a family residence, such as storefront appearance or exterior lighting.
- D. Does not create noise, vibration, fumes, or electrical interference that is detectable off-site.
- E. The use conducted within the dwelling is not more than 50% of the gross area of the home.
- F. The home occupation or any storage of goods, materials, or products connected with a home occupation shall be allowed in a detached accessory structure of up to 1,500 square foot and up to two stories.

- 7.19.2 Off street parking shall be provided as set forth in Chapter 6 in addition to the required off street parking for the dwelling and shall not impede the traffic flow or off street parking of neighboring uses.
- 7.19.3 One (1) unlighted sign not more than four (4) square feet in area is permitted.
- 7.19.4 No mechanical or electrical equipment shall be installed or maintained that involves installation of a larger service other than what is normal for a residential purpose.
- 7.19.5 A home occupation must be in full compliance with all health and safety regulations.
- 7.19.6 A Home Occupation Permit does not override or supersede any restrictive covenants or deed restrictions that may pertain to the subject property.
- 7.19.7 A home occupation may not be used for an automobile, truck or engine repair shop.
- 7.19.8 All home occupations must meet the Building Code Occupancy Separation requirements; all Health Department and relevant State regulations.
- 7.19.9 No equipment, vehicles or materials shall be placed or parked in a manner as to create a hazard to any public roadway or neighboring driveways.
- 7.19.10 The home occupation shall not serve as a headquarters or main office where multiple employees come to the site and are then dispatched to other locations unless approved by a Conditional Use Permit as per Chapter 8.

**7.20 HOTEL OR MOTEL**

- 7.20.1 Accessory uses including, but not limited to, restaurants, retail, drinking establishments, and personal services, may be allowed if such uses are completely within the hotel or motel structure. A drinking establishment shall require separate or concurrent approval subject to the regulations of Section 7.5.
- 7.20.2 A Conditional Use Permit shall be required for any hotel or motel use that adjoins a Residential Zone or an existing residence.

**7.21 LIVESTOCK AUCTION YARDS, MEAT PACKING, AND SLAUGHTER FACILITIES**

- 7.21.1 These facilities shall be designed and located with full consideration of their proximity to adjacent uses, their effect on adjacent and surrounding properties, and to the reduction of such nuisance factors as odor and noise.
- 7.21.2 These facilities shall be adequately maintained with housekeeping practices that prevent the creation of a nuisance, and shall also be subject to Health

Authority and DEQ requirements regulating the elimination of waste materials and the maintaining water quality. All waste products must be contained to eliminate odor.

## **7.22 MULTI-FAMILY DEVELOPMENT**

Multi-family developments with multiple properties shall be considered as one property for the purpose of implementing the standards set forth in this section.

### **7.22.1 Purpose:**

- A. To create multi-family housing that is safe and convenient and that enhances the quality of life of its residents.
- B. To create quality buildings and designs for multi-family development that enhances the visual character of the community.
- C. To create building and site design in multi-family development that is sensitive to and well integrated with the surrounding neighborhood.

### **7.22.2 Site Design:**

- A. Buildings shall provide a minimum setback of ten feet (10') unless a greater setback is otherwise required by this title. Building setbacks shall take into account windows, entrances, porches and patios, and how they impact adjacent properties.
- B. All onsite service areas, outdoor storage areas, waste storage, disposal facilities, and transformer and utility vaults shall be located in an area not visible from a public street, or shall be fully screened from view from a public street.
- C. For the purposes of this section, vehicular circulation areas, parking areas and private usable open space shall not be considered common open space.
- D. No recreational vehicles, snowmobiles, boats or other personal recreation vehicles shall be stored on the site unless provided for in a separate, designated and screened area.
- E. The parking shall meet the requirements set forth in Chapter 6 of this title.
- F. Developments with twenty (20) units or more shall provide the following:
  - 1. A property management office;
  - 2. A maintenance storage area;
  - 3. A central mailbox location, including provisions for parcel mail that provides safe pedestrian and/or vehicular access;

4. A directory and map of the development at an entrance or convenient location for those entering the development.
- 7.22.2 G. Common open space shall be not less than four hundred (400) square feet in area per unit and shall have a minimum length or width dimension of twenty feet (20').
    - H. In phased developments, common open space shall be provided in each phase of the development consistent with the requirements for the size and number of dwelling units.
    - I. Common open space areas shall not be adjacent to collector or arterial streets unless separated from the street by a constructed barrier at least four feet (4') in height.
    - J. Multi-family developments shall provide for quality of life, open space and recreation amenities to meet the particular needs of the residents as approved by the Commission.
    - K. Multi-family developments shall provide a copy of the legally binding documents that state the maintenance and ownership responsibilities for the management of the development, including, but not limited to, structures, parking, common areas, and other development features.

## **7.23 PLANT NURSERY, WHOLESALE OR RETAIL**

- 7.23.1 Outdoor mechanical equipment, including, but not limited to heaters and fans, shall not be located within five (5) feet of a property line. To facilitate reduction of noise, permanently mounted mechanical equipment shall be enclosed to the maximum extent possible.
- 7.23.2 Long-term outdoor storage shall be screened from adjacent property and shall not be located within the required setback, parking, loading or unloading areas, and may not impede vehicle or pedestrian traffic.

## **7.24 PUBLIC UTILITY, MAJOR; AND PUBLIC INFRASTRUCTURE**

- 7.24.1 Accessory uses directly related to the maintenance and fueling of vehicles (including, but not limited to, truck and trailer washing, fuel pumps, garages for minor repair) may be allowed.
- 7.24.2 Installation of underground fuel tanks shall require written approval from the Idaho Division of Environmental Quality and the appropriate fire authority.
- 7.24.3 No portion of the outside storage areas and/or outside activity areas may be visible from any highway, interstate, gateway corridor, principal arterial, or minor arterial as herein defined.

7.24.4 All driveways into and through the facility and any open area with a driving surface shall be surfaced with a dustless material including, but not limited to, asphalt, concrete, pavers or bricks.

7.24.5 For any use requiring the storage of fuel or hazardous material, the use shall be located a minimum of one thousand feet (1,000') from a hospital.

**7.25 ROADSIDE STAND, AGRICULTURE**

A roadside stand shall not be larger than three hundred (300) square feet and shall be limited to the sale of agriculture products. The stand must meet the minimum required setback from a road right-of-way and must have adequate room for vehicle parking to prevent a traffic hazard.

**7.26 RECEPTION CENTER, WEDDING (OUTSIDE A COMMERCIAL ZONE)**

With a Conditional Use Permit these facilities may be located on land outside a Commercial Zone, containing no less than three (3) acres and shall meet the following:

7.26.1 Located with full consideration of their proximity and effect to adjacent use of property and the surrounding area, and to the reduction of such nuisance factors as lights, traffic and noise.

7.26.2 Be adequately maintained with housekeeping practices to prevent the creation of a nuisance.

7.26.3 Subject to the Health Authority requirements for adequate lavatory and hand washing facilities based on the maximum number of guests.

7.26.4 All food preparation and service on the premises will be subject to Health Authority requirements.

7.26.5 Dust controlled parking facility will be required with adequate ingress and egress as approved by the Public Works Department. Parking area will be marked and have a minimum of one (1) space for every five (5) guests, plus one (1) for every delivery and service vehicle.

7.26.6 Any other applicable restrictions deemed by the Commission for safety.

**7.27 RECYCLING CENTER AND SOLID WASTE TRANSFER STATION**

7.27.1 The site shall be screened from the street(s) by a sight obscuring fence. The fence shall be of sufficient height so that no storage containers shall be visible above the required screening.

- 7.27.2 All grounds and facilities shall be maintained in an orderly manner so as not to create a public nuisance.
- 7.27.3 All mechanical equipment emissions; power driven processing (including, but not limited to, aluminum foil and can compacting, baling, plastic shredding, or other processing activities necessary for efficient temporary storage and shipment of materials); and/or other outdoor activity areas shall be located a minimum of three hundred feet (300') from any abutting residential zones.
- 7.27.4 All driveways into and through the facility and any open area with a driving surface shall be surfaced with a dustless material including, but not limited to, asphalt, concrete, pavers or bricks. All driveways shall be kept open and passable by emergency vehicles.
- 7.27.5 For any use requiring the storage of fuel or hazardous material, the use shall be located a minimum of one thousand feet (1,000') from a hospital.
- 7.27.6 Additional standards for recycling centers:
- A. Any container provided for after-hour donation of recyclable materials shall be a minimum of fifty feet (50') from any abutting residential zone, shall be of sturdy construction and shall have sufficient capacity to accommodate materials collected.
  - B. Except for after-hours donation containers, no unsorted material shall be stored outside.

**7.28 SALVAGE YARD**

- 7.28.1 These facilities shall be completely enclosed by a minimum eight (8) foot sight-obscuring fence, or berm, or barrier of a height that successfully obscures vision of the salvage yard contents.
- 7.28.2 A fence plan and materials list must be approved by the Commission and the Building Department. All fence material(s) must be with new construction of eight (8) foot vertical metal or eight (8) foot chain link with sight obscuring slats. All required permits for the fence must be obtained prior to the start of construction. The fence must be completed and inspected prior to operating the salvage yard.
- 7.28.3 The storage of automobiles, junk, or salvage material shall not exceed the height of the fence and must be located within the confines of the fenced area.
- 7.28.4 Automobiles, junk, or salvage material shall not be stored outside the required fence and shall not be visible from a public right-of-way.
- 7.28.5 An area for processing vehicles as they are brought to the site shall be designated on a site plan. The processing area shall be on concrete or asphalt

that has a means to collect and properly dispose of oils and fluids in the vehicles and be located within the confines of the fenced area.

- 7.28.6 Accessory uses, such as car crushing, must be approved by Conditional Use Permit if located within five hundred (500) feet of a residence other than a dwelling that may be on site.
- 7.28.7 The permitted yard must have an adequate on-site parking and loading area.
- 7.28.8 All approvals and requirements from State and/or Local Agencies must be obtained prior to the operation of the salvage yard.

## **7.29 SCHOOL**

- 7.29.1 Accessory uses: Accessory uses including, but not limited to, daycare facilities, special events, community services, social services, meeting facilities for clubs and organizations, and school administration may be allowed.
- 7.29.2 Location criteria for elementary schools: Elementary schools should be located within the center of neighborhoods with access encouraged from local streets. Elementary school locations adjacent to public parks or open space are encouraged.
- 7.29.3 Location criteria for middle schools and high schools: Middle and high schools may take access off a designated arterial or collector street.
- 7.29.4 An education institution with less than one hundred fifty (150) students may be exempt from the requirements for open space and landscaping as determined by the Commission.
- 7.29.5 A conditional use permit shall be required for any education institution in which any of the following circumstances exist:
  - A. The education institution is in excess of two hundred fifty thousand (250,000) square feet within a residential zone.
  - B. The education institution includes lighted sports fields adjoining or within a residential zone.
  - C. The education institution will generate in excess of one thousand five hundred (1,500) vehicular trips per day.
  - D. The education institution takes access from a collector or an arterial street and there is not a safe, separate pedestrian and bikeway access between the neighborhood and the school site.

7.29.6 Portable classrooms that are not indicated on an approved conditional use or certificate of zoning compliance shall require administrative approval. If the proposed use cannot meet all of the following specific use standards, the use shall require Conditional Use approval:

- A. The portable classroom shall not be located in the front yard of the principal school structure.
- B. The portable classroom shall not be located in any required yard setbacks.
- C. The placement of the portable classroom shall not reduce the number of required off street parking spaces.
- D. The portable structures shall comply with the currently adopted Building Code.

7.29.7 Additional standards for education institution, private: The applicant shall provide written documentation that the facility meets the minimum site area guidelines as established by the Idaho State Department of Education.

7.29.8 Additional standards for vocational or trade schools: The applicant shall provide written documentation that the school will have a major curriculum relating to technological industrial research and processes.

### **7.30 SIGNS**

Signs shall be considered structures. These regulations are not intended to, and do not limit the lawful content of those signs allowed for general advertising purposes. All appropriate Building Permits and approvals from the Bingham County Public works Department or Idaho Transportation Department shall be obtained before construction begins.

#### **7.30.1 GENERAL REQUIREMENTS**

- A. Except for highway signs, no sign shall be located within any road right-of-way nor located to impede visibility at an intersection.
- B. All signs shall be continually maintained in a state of good appearance, security, safety and repair throughout their life. Nothing in this code shall relieve the owner or user of any sign or owner of property on which a sign is located from maintaining the sign in a safe condition and in a state of good repair.
- C. No freestanding permanent sign shall be erected in the same horizontal plane with other signs unless spaced at least fifty feet (50') apart.
- D. Signs shall not be permitted in the clear vision triangle as set forth by Idaho Code or Bingham County Public Works.

- E. Applicable permits such as a Building Permit and/or a Conditional Use Permit shall be obtained prior to the erections of sign(s).

#### 7.30.2 PERMITTED SIGNS IN ANY ZONE

The following types of signs, when not illuminated, do not require a Conditional Use Permit but must comply with the applicable requirements of this subsection:

- A. Any sign which is visible only from the parcel or building/structure on which it is located.
- B. Active bonafide campaign or political signs.
- C. Property signs advertising the availability of property for sale, lease, or rent, including relator signs.
- D. Home signs. An accessory sign or nameplate announcing the names of the owners or occupants of the premises, House numbers, nameplates or the name of the home occupation conducted thereon in accordance with Section 7.19.3.
- E. Memorial signs or tablets and names of buildings and dates of erection when cut into the surface or facade of the building.
- F. Signs placed by a public utility showing the location of underground facilities.
- G. Traffic or other signs required by law, railroad crossing signs, legal notices and such temporary emergency or non-advertising signs as may be authorized by the Board.
- H. Directional or informational signs bearing no advertising message located within a parcel, and signs not exceeding four (4) square feet in area, erected for the convenience of the public, such as signs identifying restrooms, public telephones, walkways and similar features or facilities.
- I. Temporary Construction Signs- erected no more than ninety (90) days prior to the beginning of construction and removed within thirty (30) days after completion of construction.
- J. Conventional flags, emblems or insignia of any national or political subdivision or corporation.
- K. "No Trespassing" or "No Dumping" signs that do not exceed four (4) square feet in area per sign. Special permission may be obtained from the administrator for larger signs where it can be demonstrated a unique hazardous or public nuisance conditions exist.
- L. Historical signs or markers.

- M. Subdivision Identification Signs - Two (2) subdivision identification signs are allowed per entrance on different sides of the entrance. Subdivision identification signs shall be a minimum of twenty feet (20') back from the right of way line of the perpendicular street.

#### 7.30.3 PROHIBITED SIGNS IN ANY ZONE

The following types of signs are prohibited in all zones:

- A. Private signs within public right of way.
- B. Signs which because of color, wording, design, size, movement, location or illumination resemble or conflict with any traffic control device or with the safe and efficient flow of traffic.
- C. Signs that emit any sound, odor or visible matter.
- D. Abandoned signs.
- E. Reader boards in all Residential Zones, except as approved with a Conditional Use Permit.
- F. Signs for illegal uses.
- G. Signs with any offensive material prohibited by the State of Idaho.

#### 7.30.4 SPECIALLY PERMITTED SIGNS

- A. Commercial advertising signs may be allowed with a Conditional Use Permit in Commercial or Manufacturing Zones with the following standards:
  - 1. That the location and placement of the sign will not endanger motorists or pedestrians and does not interfere with the clear vision triangle at street, railroad, or street-driveway intersections.
  - 2. That the sign will not cover or blanket any prominent view of a structure or facade of historical or architectural significance.
  - 3. That the sign's lighting will not cause hazardous or unsafe driving conditions for motorists and will not glare, reflect, or spill onto adjacent business or residential area.

- 7.30.4 B. There shall be an I-15 sign overlay located within an area three hundred feet (300') from and parallel to the right of way line of I-15 on both the east and west sides of the interstate. Freestanding signs and wall signs within the I-15 sign overlay shall comply with the following standards:

- 7.30.4 B.
  - 1. Not more than two (2) freeway oriented signs shall be allowed on any single building or structure.
  - 2. A freestanding sign located within the I-15 sign overlay shall not exceed forty feet (40') in height.
  - 3. The minimum distance between freestanding signs within the I-15 sign overlay is five hundred feet (500').
  - 4. No freestanding freeway oriented signs shall be allowed in a Residential Zone except those that identify the property.
- C. Public Schools shall be allowed one on-premise animated sign where the animation is a maximum of fifty percent (50%) of the sign background area, regardless of the zone in which the school is located. An alternative off-premise location where it provides better information to the community may be allowed by a Conditional Use Permit regardless of the zone.

**7.31 STORAGE FACILITY, OUTSIDE**

- 7.31.1 Materials shall be stored within the required yards. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
- 7.31.2 The site shall not be used as "vehicle wrecking or junk yard" as herein defined.
- 7.31.3 Additional standards for outside storage as an accessory use: Accessory outside storage shall be allowed for approved uses subject to the following standards:
  - A. Outside storage of materials for commercial or industrial uses shall be limited to those items owned or used by the business.
  - B. Outside storage of materials for a residential development or recreational vehicle park shall be only for recreational vehicles or personal recreation items of the owners and/or tenants.
  - C. Outside storage of materials for individual residential properties shall be screened with a six foot (6') site obscuring fence.
- 7.31.4 For any use requiring the storage of fuel or hazardous material, the use shall be located a minimum of one thousand feet (1,000') from a hospital.

**7.32 STORAGE FACILITY, SELF-SERVICE**

- 7.32.1 Storage units and/or areas shall not be used as dwellings or as a commercial or industrial place of business. The manufacture or sale of any item by a tenant from or at a self-service storage facility is specifically prohibited.
- 7.32.2 On site auctions of unclaimed items by the storage facility owners shall be allowed as a temporary use.
- 7.32.3 The distance between structures shall be a minimum of twenty five feet (25').
- 7.32.4 No structure, facility, drive lane, parking area, or loading areas shall be located adjacent to a residential zone without a solid berm or wall.
- 7.32.5 The facility shall have a second means of access for emergency purposes.
- 7.32.6 All outdoor storage of material shall be maintained in an orderly manner so as not to create a public nuisance. Materials shall be stored within the required yards. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
- 7.32.7 The site shall not be used as "vehicle wrecking or junk yard" as herein defined.
- 7.32.8 For any use requiring the storage of fuel or hazardous material, the use shall be located a minimum of one thousand feet (1,000') from a hospital.

**7.33 TERMINAL; FREIGHT OR TRUCK**

- 7.33.1 The use shall be located with direct access on a principal arterial or near an interstate interchange, and with no access through residential streets.
- 7.33.2 No outdoor activity area shall be located within three hundred feet (300') from any residential zone.
- 7.33.3 The use shall be located a minimum of one thousand feet (1,000') from any hospital.
- 7.33.4 Accessory uses directly related to the maintenance and fueling of vehicles (including, but not limited to, truck and trailer washing, fuel pumps, garages for minor repair) may be allowed.
- 7.33.5 Installation of underground fuel tanks shall require written approval from the Idaho Division of Environmental Quality and the appropriate fire district.

**7.34 TOWER; BROADCAST, CELL, TELECOMMUNICATION**

7.34.1 The applicant shall provide the following documentation with the request for approval of a wireless communication facility:

- A. Documentation from a qualified and licensed engineer showing that the proposed facility will be in compliance with the FCC standards regarding radio frequency (RF) emissions.
- B. A report from a qualified and licensed structural engineer that describes the tower height and design. The report shall include the following: a cross section of the tower, elevations that document the height above grade for all potential mounting positions for collocated antennas, and the minimum separation distances between antennas. The report must also include a description of the tower's capacity regarding the number and type of antennas that it can accommodate and what precautions the applicant will take to avoid interference with established public safety telecommunications. This report must be stamped by the structural engineer and include other information necessary to evaluate the request.
- C. A statement regarding compliance with regulations administered and enforced by the federal aviation administration (FAA).
- D. Propagation charts showing existing and proposed transmission coverage at the subject site and within an area large enough to provide an understanding of why the facility needs to be in the chosen location.
- E. A written analysis demonstrating that the proposed site is the most appropriate site within the immediate area. The analysis shall include, but is not limited to, the following:
  - 1. Description of the surrounding area, including topography.
  - 2. Natural and manmade impediments, if any, that would obstruct adequate wireless telephone transmissions.
  - 3. Physical site constraints, if any, that would preclude construction of a wireless communications facility on any other site.
  - 4. Technical limitations of the system that limit siting options.
  - 5. Statement indicating minimal interference with existing farming operations.

7.34.2 Design Standards: All new communications towers shall meet the following minimum design standards:

- 7.34.2 A. Towers and antennas shall be required to blend into the surrounding environment by paint or other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the federal aviation administration. All metal shall be corrosive resistant or treated to prevent corrosion.
- B. No part of any antenna, disk, array or other such item attached to a communications tower shall be permitted to overhang any part of the right of way or property line.
- C. The base of all towers shall be surrounded by an eight (8) foot chain link security fence.
- D. All climbing pegs within the bottom twenty feet (20') of the tower shall be removed except when the tower is being serviced.
- E. All lighting on the tower, other than may be required by the FAA, shall be prohibited.
- F. No signs or banners shall be attached to any portion of a wireless communications tower.

7.34.3 Setback Standards:

- A. In addition to the setbacks found in Sections 6.3 and 6.5, additional setback requirements shall be one (1) fall height plus thirty (30') feet, from adjoining property lines and county road right-of-way unless certified by an Idaho Licensed Engineer that the design will collapse upon itself or be designed to fall within a specific radius.
- B. Only the accessory equipment building shall be permitted to be located within the fall zone.

7.34.4 Collocation Standards:

A proposal for a new commercial communication tower should not be approved unless the decision making body finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower.

7.34.5 All proposed communication towers shall be designed (structurally, electrically, and in all respects) to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred ten feet (110') in height and for at least one additional user if the tower is over fifty feet (50') in height.

7.34.6 Abandoned Or Unused Towers Or Portions Of Towers: All abandoned or unused towers and associated facilities shall be required to be removed within 180 days of cessation of use as a wireless communication facility, unless a time extension is granted by the Commission. A copy of the relevant

portions of a signed lease, which requires the applicant to remove the tower and associated facilities upon cessation of the use as a wireless communication facility, shall be submitted at the time of application.

7.34.7 In accordance with Idaho Code § 67-6512 the Planning and Zoning Administrator shall notify property owners where a Conditional Use permit is requested by reason of height allowance that notice shall be provided individually by mail to property owners or purchasers of record within no less than three (3) times the distance of the height of the allowed height of a structure when more than one hundred (100) feet and within no less than one (1) mile when the peak height of a structure in an unincorporated area is four hundred (400) feet or more and, when four hundred (400) feet or more, the structure's proposed location and height shall be stated in the notice.

### **7.35 TRANSMISSION LINE (POWER)**

7.35.1 All transmission line siting and substations not specifically exempted under FERC regulations shall require a Conditional Use Permit as per Chapter 8.

7.35.2 The Conditional Use application shall contain the approving signatures of all landowners that the transmission line sets on or crosses. An owner signed letter of intent or easement is acceptable.

7.35.3 Electric substations and other utility structures shall be deemed outdoor storage areas and shall meet the standards in Section 7.31.

7.35.4 Towers for the purpose of communicating from the substation to remote devices shall be deemed an accessory use to an approved substation, provided that the pole and antenna are no taller than the existing towers.

7.35.5 The applicant shall provide documentation that the tower and line locations will minimize impact on existing or future farming and crop spraying operations to the extent possible.

### **7.36 VEHICLE IMPOUND YARD**

7.36.1 Outside storage and outside activity areas shall be maintained in an orderly manner so as not to create a public nuisance.

7.36.2 No portion of the vehicle impound yard, outside storage areas and/or outside activity areas may be visible from any highway, interstate, gateway corridor, principal arterial, or minor arterial as herein defined.

7.36.3 All materials shall be stored within the required yards.

7.36.4 Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.

7.36.5 Closed vision fence or wall and screening materials shall be a minimum of eight feet (8') in height.

7.36.6 A fence plan and materials list must be approved by the Commission and the Building Department. All fence material(s) must be with new construction material of eight (8) foot vertical height of metal or chain link with sight-obscuring slats. All required permits for the fence must be obtained prior to the start of construction. The fence must be completed and inspected prior to operating the impound yard.

7.36.7 Outdoor storage shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

7.36.8 No vehicles or materials shall be stored so they exceed the height of the fence or wall.

7.36.9 The use shall not constitute a junkyard as herein defined.

**7.37 VEHICLE REPAIR, MAJOR AND MINOR**

7.37.1 Where adjoining a residential property or zone, all repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure.

7.37.2 Inoperable or dismantled motor vehicles shall be stored behind a closed vision fence, wall, or screen or within an enclosed structure and shall not be visible from the street or a Residential Zone.

**7.38 VEHICLE SALES OR RENTAL**

7.38.1 Vehicle repair may be allowed as an accessory use, subject to the standards for vehicle repair, major and minor, in the zone where the use is located.

7.38.2 Inoperable or dismantled motor vehicles shall be stored behind a closed vision fence, wall, or screen or within an enclosed structure and shall not be visible from any street or Residential Zone.

**7.39 VEHICLE WASHING FACILITY**

7.39.1 A site plan shall be submitted that demonstrates safe pedestrian and vehicular access and circulation on the site and between adjacent properties. At a minimum, the application shall demonstrate compliance with the following standards:

- A. Stacking lanes shall have sufficient capacity to prevent obstruction of the public right of way by patrons.

- 7.39.1 B. The stacking lane shall be a separate lane from the circulation lanes needed for access and parking.
  - C. The stacking lane shall not be located within one hundred feet (100') of any residential zone or existing residence.
- 7.39.2 Within the industrial zones, a vehicle washing facility shall be allowed only as an accessory use to a gasoline or diesel fuel sales facility for use by non-passenger vehicles. The vehicle washing facility shall be limited in capacity to a single vehicle. The intent is to discourage facilities that cater to passenger vehicles.
- 7.39.3 Any use that is not fully enclosed shall be located a minimum one hundred feet (100') from any abutting residential zone.

#### **7.40 VEHICLE WRECKING OR JUNK YARD**

- 7.40.1 Outside storage and outside activity areas shall be located behind a fence or wall and screening materials shall be a minimum of eight feet (8') in height.
- 7.40.2 No portion of the vehicle impound yard, outside storage areas and/or outside activity areas may be visible from any highway, interstate, principal arterial, or minor arterial.
- 7.40.3 All materials or parts shall be stored and located within a closed vision fence or walled area. Salvage materials shall be stored so they do not exceed the height of the fence or wall for more than 30 days.
- 7.40.4 A fence plan and materials list must be approved by the Planning and Zoning Commission and the Building Department. All fence material(s) must be with new construction of eight (8) foot vertical metal or eight (8) foot chain link with sight obscuring slats. All required permits for the fence must be obtained prior to the start of construction. The fence must be completed and inspected prior to operating the salvage yard.
- 7.40.5 All structures or outside activity areas shall be located a minimum of one thousand feet (1,000') from any residential zone.
- 7.40.6 An area for processing vehicles as they are brought to the site shall be designated on a site plan. The processing area shall be on concrete or asphalt surface that has a means to collect and properly dispose of oils and fluids in the vehicles and must be located within the confines of the fenced area.
- 7.40.7 The applicant shall obtain all necessary permits for the storage of materials on the site, including, but not limited to, oil, hazardous waste, and tires.
- 7.40.8 No person shall establish, operate, or maintain a vehicle wrecking yard, any portion of which is within one thousand feet (1,000') of the nearest edge of the

right of way and visible from any highway, interstate or arterial as herein defined. (See Idaho Code Section 40-313)

**7.41 VETERINARY CLINIC**

Will comply with all State and local regulations relative to such an operation and will maintain adequate housekeeping practices designed to prevent the creation of a nuisance and to reduce to a minimum the factors of noise and odor.

**7.42 WAREHOUSE**

7.42.1 Accessory uses allowed: Office not to exceed twenty five percent (25%) and retail sales not to exceed ten percent (10%) of the total enclosed area of the use.

7.42.2 Outside activity areas shall be located a minimum of three hundred feet (300') from any property line adjoining a residential zone.

**7.43 WIND TURBINES**

**7.43.1 General Provisions:**

All new wind turbines shall meet the following minimum design standards:

- A. A Detailed site plan identifying all property lines, existing buildings, proposed buildings, parking areas, utilities, signs, neighboring properties, proposed transmission lines, any other information that may be required to determine if use is within the intent and requirements of this Ordinance shall be submitted.
- B. Setbacks – Each Wind Turbine shall comply with the following minimum requirements:
  - 1. One and one-half (1½) times its total height (blade tip to ground level) from nearest above-ground public electric power or telephone line, public road, and railroad right-of-way.
  - 2. Three (3) times the total tower height (blade tip to ground level) or less than 45 dbs. per manufactures listing from the nearest existing residence, school, hospital, church, place of employment or public library, unless mitigation has taken place and agreed by owner/operator and affected property owners involved and recorded in the Bingham County Recorder's office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property; but in no case less than one and a half (1½) times its total height.

- 7.43.1 C. Minimum ground Clearance: The tip of a blade shall at its lowest point, have a ground clearance of no less than twenty (20) feet.
- D. A Building permit is required and must comply with the currently adopted building code.
- E. The system shall comply with all applicable Federal Aviation Administration (FAA) standards.
- F. Wind Turbines shall be painted a non-reflective, non-obtrusive color.
- G. The design of the buildings and related structures shall, to the extent reasonable possible, use materials, colors, textures, screening and landscaping that will blend the facility to the natural setting and existing environment.
- H. Shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator. Any such identification shall not appear on the blades or other moving parts or exceed six (6) square feet.
- I. Electrical controls and control wiring and power-lines shall be underground except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.
- J. Shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- K. A timeline prior to the construction phase of the project shall be submitted to the Planning & Zoning Department identifying the starting and completion date of all construction.
- L. Wind Turbines shall not be easily climbable for a minimum of twenty (20) feet above ground level.
- M. All access doors to the wind turbine towers and electrical equipment shall be lockable and locked when unattended.
- N. Appropriate warning signage shall be placed on all wind turbine towers, electrical equipment and facility entrances.

**7.43.2 Hobbyist Wind Turbine**

- A. Less than 60 feet in height and a prop diameter of 12 feet or less.
- B. Applicant must provide proven documented verification that wind turbine is structurally sound.
- C. Limited to two (2) wind turbines per parcel.

- D. Approved Project construction must be started within twelve (12) months from date of approval.

#### **7.43.3 Personal Wind Turbine**

- A. Total height is between 60 feet and 150 feet and the nameplate is less than 100 kilowatts.
- B. Applicant must provide proven documented verification that wind turbine is structurally sound.
- C. Limited to two (2) wind turbines per parcel.
- D. Approved Project construction must be started within eighteen (18) months from date of approval.

#### **7.43.4 Commercial Wind Turbine**

- A. Total height exceeds 150 feet or the nameplate capacity exceeds 100 kilowatts
- B. In addition to the general requirements listed above the site plan shall also include:
  - 1. 2-D computer rendering, to scale, of surrounding area and all proposed turbine(s) including un-built but approved turbines. Along with a view of all existing residences from the two (2) most populated areas.
  - 2. Include a table of GPS coordinates of all proposed wind turbines and existing residences within one mile.
- C. Setbacks.
  - 1. Commercial wind turbines shall have an additional one (1) mile setback from all platted town sites and/or incorporated cities.
  - 2. Three (3) times the total tower height (blade tip to ground level) to the nearest exterior line of the project unless mitigation has taken place and agreed by owner/operator and affected property owners involved and recorded in the Bingham County Recorder's Office which describes the benefited and burdened properties and which advises all subsequent owners; but in no case less than one and a half (1½) times its total height from a residence.
- D. Minimum ground Clearance: The tip of a blade shall at its lowest point, have a ground clearance of no less than seventy-five (75) feet.
- E. Any road damage must be repaired by the permit holder after notification by the Bingham County Public Works Department within

a time period determined by the Bingham County Public Works Department.

- 7.43.4 F. A detailed decommissioning and reclamation plan in accordance with state and federal law. The owner/operator of Commercial Wind Energy Facility and/or property owner is responsible for removing the wind turbines and related facilities when no longer useful. They must remove the turbines and facilities within three years of the end of electricity generation unless a new plan is proposed to reuse the turbines. Reclamation shall be restored to its original state before wind energy facility site construction.
- G. A decommissioning bond must be provided to the landowner. Decommissioning requirements, transfer with ownership of the turbine or ownership of wind facility and/or property owner.
- H. Evidence of notification with FAA, United States Fish and Wildlife services, DEQ, and the appropriate Fire Department must be submitted by the applicant to the Planning & Zoning Department prior to the issuance of a building permit.
- I. If an area is identified by Fish and Wildlife Services to house a significant bird population a monopole tubular type tower shall be used instead of Lattice type towers.
- J. If project will be developed in phases the phase lines must be identified on the detailed site plan. Each phase must be completed within a reasonable timeline.
- K. The Commission shall conduct a Conditional Use Hearing as required by the Land Use Chart following the procedures as identified in Section 3.9.
- L. In accordance with Idaho Code § 67-6512 the Planning and Zoning Administrator shall notify property owners where a Conditional Use permit is requested by reason of height allowance that notice shall be provided individually by mail to property owners or purchasers of record within no less than three (3) times the distance of the height of the allowed height of a structure when more than one hundred (100) feet and within no less than one (1) mile when the peak height of a structure in an unincorporated area is four hundred (400) feet or more and, when four hundred (400) feet or more, the structure's proposed location and height shall be stated in the notice.

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## CHAPTER 8 CONDITIONAL USE PERMIT

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### 8.1 GENERAL

8.1.1 It is recognized that an increasing number of uses are appearing that have characteristics of a unique and special nature such that the specific use must be considered individually. We recognize that these uses are not permitted without adding certain conditions making them compatible with permitted uses in the underlying zone. The Commission may require higher standards of site development than those listed specifically in this ordinance in order to assure that the proposed use will be compatible with other conforming property and uses in the vicinity.

8.1.2 The Commission shall hold a public hearing on each Conditional Use Permit as listed on the Land Use chart and new uses brought by the Administrator. The Commission may approve, conditionally approve or deny a Conditional Use Permit under the standards listed in this chapter and may require such additional safeguards that will uphold the intent of this Ordinance.

### 8.2 CONTENTS OF APPLICATION FOR A CONDITIONAL USE PERMIT

An application for a Conditional Use Permit shall be filed with the Administrator by the property owner or by the occupant with owner approval. At a minimum, the application shall contain the following information:

8.2.1 Name, address and phone number of applicant.

8.2.2 Legal description of the property.

8.2.3 Description of existing use.

8.2.4 Current Zoning Designation.

8.2.5 Description of use being proposed.

8.2.6 A scaled Site Plan/Drawing showing the location of the following:

A. All buildings, parking and loading area.

B. Traffic access and traffic circulation.

C. Open spaces, landscaping, refuse and service areas.

D. Utilities, signs.

- 8.2.6 E. Any other information that may be required to determine if the proposed Conditional Use meets the requirements of this Ordinance,
- F. A statement evaluating the effects on adjoining property that may include, but is not limited to such elements as noise, odor, fumes and vibration. An accurate statement of the compatibility with adjacent and other properties in the zone, and the relationship of the proposed use to the Plan.
- G. More specifically, the following adverse effects shall be mitigated through setbacks, buffers, sound attenuation and/or hours of operation:
1. Noise, odor, or vibrations, or direct or reflected glare detectable by the human senses without the aid of instruments.
  2. Radioactivity and electric or electromagnetic disturbances that unduly interfere with the normal operation of equipment, instruments, or appliances on abutting properties.
  3. Any other emission or radiation that endangers human health, results in damages to vegetation or property or which exceeds health and safety standards.

8.2.7 The appropriate filing fees.

### **8.3 REVIEW OF THE APPLICATION FOR A CONDITIONAL USE PERMIT**

The Commission shall review the particular facts and circumstances of each proposed Conditional Use Permit in terms of the following standards and shall find adequate evidence showing that such use at the proposed location will:

- 8.3.1 Constitute a Conditional Use as established on the Official Schedule of Zoning Regulations or as determined by the Commission to be a Conditional Use for the zone involved.
- 8.3.2 Be in accordance with the general objectives or with any specific objection of the Comprehensive Plan and/or this Ordinance.
- 8.3.3 Be designed, constructed, operated and maintained to be appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area as far as is possible.
- 8.3.4 Will not be unduly hazardous or disturbing to existing or future neighboring uses; nor involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or the general welfare of the public by reason of excessive production of traffic, noise, smoke, fumes, odors or other pollutants.

- 8.3.5 Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the County.
- 8.3.6 Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such services.
- 8.3.7 Legal access to the subject property for the development. Have vehicular approaches to the property that are designed to eliminate a traffic hazard on adjacent public thoroughfares.
- 8.3.8 Not result in the destruction, loss or damage to a scenic or historic feature of major importance.
- 8.3.9 If applicable, adequate water, sewer, irrigation, drainage and storm water drainage facilities, and utility systems are to be provided to accommodate said use.
- 8.3.10 If the literal enforcement of the provisions herein contained would result in unnecessary hardship, the Commission may consider exceptions to non-conforming uses as permitted in Section 10.

#### **8.4 ADDITIONAL STUDIES**

Prior to making a decision concerning a Conditional Use permit request, the Commission or Board may request additional studies at the applicant's expense, of the social, economic, fiscal, and environmental effects of the proposed Conditional Use permit.

#### **8.5 PROVISIONS FOR LAND USE TIME LIMITATIONS**

When a Conditional Use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the commission, or the Board or a court of appropriate jurisdiction, if appealed, and completed within five (5) years of the same date. The following exceptions shall be limited to ten (10) years of the date of the final decision by the commission or the Board or a court of appropriated jurisdiction, if appealed. If the use is not implemented within this time period, the use and its approval shall expire:

- 8.5.1 Gravel Pits in other than A or A/NR Zones.
- 8.5.2 Electrical public service facilities.
- 8.5.3 Commercial Wind Turbines in other than A or A/NR Zones.

Upon expiration of the use or the approval of that use as provided by this section, the applicant can seek approval of the use only by filing a new initial application for review by the commission.

**8.6 PROCEDURE FOR HEARING AND NOTICE**

Prior to granting a Conditional Use Permit, the Commission shall follow the hearing procedures as identified in Chapter 3.

**8.7 ACTION BY THE COMMISSION**

The Commission shall approve, conditionally approve or disapprove the application as presented. If more information is needed for a determination to grant a Conditional Use Permit, the Commission may request information from the planning staff or public agencies concerning social, economic, fiscal and environmental effects of the proposed Conditional Use. If the application is approved or approved with modifications, the Commission shall direct the administrator to issue a Conditional Use Permit listing the conditions specified for approval.

The Commission may attach conditions that include, but are not limited to the following:

- 8.7.1 Minimizing adverse impact on other development.
- 8.7.2 Controlling the sequence and timing of development.
- 8.7.3 Controlling the duration of development.
- 8.7.4 Assuring that plans are developed to properly maintain the project.
- 8.7.5 Designating the exact location and nature of development.
- 8.7.6 Requiring more restrictive standards than those generally required in this Ordinance.
- 8.7.7 Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

**8.8 SUPPLEMENTARY CONDITIONS & SAFEGUARDS**

The Commission may prescribe appropriate conditions, bonds and safeguards in conformity with this Ordinance over and above those listed in Section 9.7 Violations of any conditions, bonds or safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance.

- 8.8.1 Upon granting or denying an application, the Commission shall specify:
  - A. The Ordinance and standards used in evaluating the application.
  - B. The reasons for approval or denial.

8.8.2 A Conditional Use Permit shall not be considered as establishing a binding precedent to grant other Conditional Use Permits. A Conditional Use Permit is not transferable from one parcel of land to another.

**8.9 APPEAL TO THE BOARD**

The applicant or any affected person may appeal the decision of the Commission to the Board, following the hearing procedures requirements of Chapters 3 & 10.

**8.10 REQUEST FOR TIME EXTENSION FOR CONDITIONAL USE PERMIT**

8.10.1 An applicant may request extension of the time period provided by this section by filing an application for extension with either the Commission or the Board depending on who approved the Conditional Use Permit.

- A. Such application must be filed at least sixty (60) calendar days prior to the date of expiration.
- B. The matter shall be heard at a public hearing before the Commission or the Board, whichever made the final decision, in accordance with the notice and hearing procedures of Chapter 3.
- C. A renewal extension, if granted shall be limited to three hundred sixty-five (365) calendar days.

8.10.2 The Commission or the Board, whoever made the final decision, may extend the commencement period or the completion period as provided above upon proof of good cause by the applicant. Good cause shall be determined at the discretion of the Commission or the Board.

**8.11 REVOCAION OF A CONDITIONAL USE PERMIT**

A Conditional Use Permit may be revoked upon violation of any of the conditions imposed therein. The Administrator or designee shall verify that a violation has occurred. The permit holder shall be notified that a violation has been noted and shall be given a reasonable time to correct said violation. If compliance is not or cannot be reached, within an approved time, the Administrator shall notify the Commission or Board, whichever approved the original Conditional Use Permit, so that they may review the preponderance of the evidence to determine if after due process the Conditional Use Permit should or should not be revoked?

**8.12 MODIFICATION OF AN APPROVED CONDITIONAL USE PERMIT**

8.12.1 A Conditional Use Permit or previously approved Special Use Permit may be modified upon a request of the Board, Commission or the Property Owner(s). The Board or Commission shall follow the same hearing procedures as per Chapter 3 for a Conditional Use Permit.

8.12.2 Modification shall only be granted if the Board or Commission finds that the modification is consistent with the provisions of the Plan and will not be detrimental to the general public health, safety or welfare.

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**CHAPTER 9**  
**NON CONFORMING USES**

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It is the intent of this Ordinance to permit non-conforming uses to continue until they are removed, but not to encourage their expansion unless approved by Conditional Use Permit.

**9.1 AVOIDANCE OF UNDUE HARDSHIP**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building or land which was lawfully approved prior to the effective date of adoption or amendment of this Ordinance.

**9.2 SINGLE NON-CONFORMING PARCELS OF RECORD**

In any zone in which a single-family dwelling is not permitted, or in any zone in which a larger Parcel area is required, a single-family dwelling and customary accessory buildings may be erected on any single Parcel of record at the effective date of adoption of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Subsequent amendments to this Ordinance will not remove the right to build on a Parcel that was established as a legally buildable lot, for residential purposes, at any time under the provisions of this Ordinance, as long as the Parcel complies with the Health Department regulations.

**9.3 NON-CONFORMING USES OF STRUCTURES OR: STRUCTURES AND LAND IN COMBINATION**

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the zone under the terms of this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 9.3.1 No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located shall be enlarged, extended, constructed or moved except in changing the structure to a use permitted in the zone in which it is located.
- 9.3.2 No non-conforming use of land, structure, or combination of land and structure shall be extended to occupy any additional area, unless approved by Conditional Use Permit.
- 9.3.3 Any non-conforming structure or land use may be changed to another non-conforming use upon the issuance of a Conditional Use Permit provided the Commission shall find the proposed use is equally appropriate to the zone. The Commission may require appropriate conditions and safeguards in accordance with other provisions of this Ordinance.

9.3.4 Notwithstanding any other provisions of this article, any owner occupied nonconforming structure which has been damaged by fire, flood, wind, earthquake or other calamity may be rebuilt with the same or less square footage and upon the same footprint of the destroyed building; provide, however, that every option of such new building conform to all provisions of the adopted building code.

9.3.5 Any structure or structure and land in combination in or on which a non-conforming use is followed by a permitted use shall thereafter conform to the regulations of the zoning and the non-conforming use may not thereafter be resumed.

9.3.6 When a non-conforming use of a structure or structure and land in combination is discontinued or abandoned as per Idaho Code § 67-6538; the structure or structure and land in combination shall not thereafter be used except in conformity with the regulations of the zoning in which it is located.

**9.4 REPAIRS & MAINTENANCE**

Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety.

**9.5 CONDITIONAL USE PROVISIONS NOT NON-CONFORMING USES**

Any use which is permitted by a Conditional Use permit in a zone under the terms of this Ordinance shall be considered a conforming use, as long as it continues to comply with the Conditional Use permit requirements.

**9.6 EXCEPTION TO NON-CONFORMING USE PROVISION**

The Commission may authorize, by Conditional Use Permit due to special circumstances, an exception to the non-conforming use provisions as allowed for by Idaho Code § 67-6512 (d).

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**CHAPTER 10**  
**APPEALS & VARIANCES**

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**10.1 ADMINISTRATIVE APPEAL**

Appeals to the Commission concerning interpretation or administration of this Ordinance may be made by any person or agency aggrieved or affected by any decision of the Administrator.

10.1.1 Such appeal shall be made within ten (10) calendar days after receiving the decision of the Administrator by filing with the Administrator a notice of appeal specifying the grounds upon which the appeal is made.

10.1.2 The Administrator shall transmit to the Commission all papers constituting the record upon which the appeal is based.

10.1.3 An administrative appeal shall not stay all proceedings in furtherance of the action taken by the Administrator unless granted by the Board or by a court based upon an application showing due cause.

10.1.4 Upon receipt of an administrative appeal the Commission shall allow all affected persons an opportunity to be heard. At least seven (7) days prior to said opportunity notice shall be given to all affected persons in such manner as shall be determined appropriate by the Commission.

10.1.5 The Commission shall approve, conditionally approve or disapprove the appeal. Upon granting or denying an appeal the Commission shall specify:

A. The Ordinance, facts and standards used in evaluating the application; and

B. The reasons and rationale for approval or denial.

10.1.6 The Commission shall make their decision within a reasonable time.

10.1.7 Once the decision is made the applicant, any affected person, or the Administrator may appeal the decision of the Commission to the Board. The appeal shall be filed with the Administrator before 5:00 p.m. of the tenth (10th) calendar day following the Commission's action.

**10.2 COMMISSION APPEAL**

Within ten (10) calendar days after a Commission decision, an affected person may appeal said decision, in writing, to the Board.

10.2.1 The Board shall set a date hold a public meeting to review and consider all information, testimony and Commission minutes of all testimony given at the public hearing concerning the application to reach a decision to uphold, conditionally uphold or overrule the decision of the Commission.

- 10.2.2 The Board shall only overrule the Commission by a majority vote.
- 10.2.3 Such action by the Board shall be made within a reasonable time period.
- 10.2.4 No public hearing shall be held by the Board, but shall be based solely on the review of the record of the proceedings of the Commission.
- 10.2.5 The Board shall allow the presentation of evidence that was not part of the record before the Commission only so far as it applies to allegations that there were defects in the required notice procedure or that a Commission member violated the conflict of interest restrictions. (IC § 67-5276)
- 10.2.6 The final decision of the Board shall be issued in writing with findings and conclusions. The Commission shall receive notice of the Board decision.
- 10.2.7 Upon denial or approval of a Conditional Use Permit with adverse conditions the applicant may, request a regulatory takings analysis as per Idaho Code § 67-8003.

### **10.3 JUDICIAL REVIEW**

An affected person aggrieved by a decision may, within twenty-eight (28) days after all remedies have been exhausted under this Ordinance, seek judicial review under the procedures provided by Chapter 52, Title 67 Idaho Code.

### **10.4 REQUEST FOR HEARING BY AN AFFECTED PERSON**

- 10.4.1 At any time prior to final action on an appeal application, if no hearing has been held, any affected person may petition the Board in writing to hold a hearing.
- 10.4.2 If twenty (20) affected persons petition for a hearing, the hearing shall be held.
- 10.4.3 The hearing and notice procedure shall comply with Section 3 and Idaho Code § 67-6509.

### **10.5 VARIANCES**

The Commission may authorize in specific cases such variance, as herein defined, from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance shall not be considered a right of a special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

### 10.5.1 APPLICATION & STANDARDS FOR VARIANCES

A variance from the terms of this Ordinance shall not be granted by the Commission unless and until a written application for a variance is submitted to the Administrator and the Commission containing:

- A. Name, address and phone number of applicant.
- B. Legal description of property.
- C. Description of variance requested.
- D. A statement demonstrating that the requested variance conforms to the following standards:
  - 1. That unique site characteristics exist which are peculiar to the land involved and which are not applicable to other lands.
  - 2. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zone under the terms of this Ordinance.
  - 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same zone.
  - 4. That the public interest will not be harmed.
- E. A variance may not be granted unless the Commission makes specific findings of fact based directly on the particular evidence presented to it which supports conclusions that the above standards and conditions have been met by the applicant.
- F. A variance may be granted in compliance with Idaho Code § 67-6516, and notice and an opportunity to be heard shall be provided to property owners adjoining the subject property.

### 10.5.2 VARIANCE PROCEDURE

Upon receipt of an application for a variance the Commission shall allow all affected persons an opportunity to be heard. The Commission shall use the hearing procedures in Chapter 3.

#### 10.5.3 SUPPLEMENTARY CONDITIONS & SAFEGUARDS

Under no circumstances shall the Commission grant or allow a variance, expressly or by implication, prohibiting by the terms of this Ordinance. In granting any variance the Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance.

#### 10.5.4 NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered the Administrator shall provide the applicant with written notice of the action on the request for variance.

#### 10.5.5 APPEAL TO THE BOARD OF COUNTY COMMISSIONERS

The applicant or any affected person may appeal the decision of the Commission relating to a variance, to the Board, provided the appeal follows the procedures as identified in Section 10.2.

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**CHAPTER 11**  
**MANUFACTURED HOMES, MODULAR BUILDINGS,**  
**MOBILE HOME AND TRAVEL TRAILER PARKS**

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**11.1 DESIGN CRITERIA**

11.1.1 Mobile Home and Travel Trailer Parks shall require a Conditional Use Permit. The following general criteria shall apply to the establishment or enlargement of any Manufactured Home, Travel Trailer, and/or Recreational Vehicle Park:

- A. Design, construction, operation and maintenance shall be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- B. Use shall be consistent with the intent and purpose of this Ordinance and the Plan.
- C. Minimum health standards as set forth by the Health Authority shall apply.
- D. The park shall be screened by a site obscuring fence not less than six (6) feet in height extending along both side and rear property lines. The Commission shall approve the site obscuring fence material.
- E. No Manufactured Home, Travel Trailer or Recreational Vehicle shall be allowed in a park until all the improvements are final and approval has been obtained from the Planning and Zoning and the Building and Safety Departments and the Health Department and DEQ if required.
- F. No Manufacture Home shall be placed in a Manufactured Home Park without first obtaining a setting permit from the Building and Safety Department.
- G. The land for the park shall be in one (1) ownership and shall not be divided.

11.1.2 The following area requirements shall apply:

- A. The minimum area required for a new Manufactured Home Park shall be five (5) acres
- B. The minimum area required for a Travel Trailer and/or Recreational Vehicle Park shall be two (2) acres.
- C. Expansion of an existing park must increase the overall size to the minimum acreage requirement.

- 11.1.2 D. Density is limited by the square footage requirement per manufactured home space, excluding road area requirements.
- E. A recreation and/or open space area may be required to serve the need of park residents and to create an area for placement of snow during winter.
- F. A Manufactured Home Park, Travel Trailer and/or Recreational Vehicle Park may be combined; however, the minimum acreage requirements shall remain the same for each type of use and the uses shall be separated.

## 11.2 MANUFACTURED / MODULAR HOME STANDARDS

The Commission shall review the proposed plans for each new or expansion proposal for a manufactured home park in terms of the following standards and shall find adequate evidence that each has been addressed and compliance exists:

### 11.2.1 SPACE

- A. The minimum size of designated space per manufactured home shall be six thousand (6000) square feet.
- B. Each manufactured home area shall have a patio area of at least two hundred (200) square feet and be of a hard surfaced material.
- C. Each manufactured home space shall have a stand area that is hard surfaced or compacted gravel.

### 11.2.2 SETBACKS

- A. The placement of dwellings within a mobile home park shall observe a twenty (20) foot setback from all abutting property. The Commission may require landscaping in this area in addition to the site-obscuring fence. No additional rear yard area is required where the residence is adjacent to the twenty (20) foot perimeter area.
- B. Setback from any County Road shall be the same as required for any other structures in this Ordinance.
- C. Setback from any interior road way shall be fifteen (15) feet from the edge of the pavement.
- D. There shall be a minimum of twenty (20) feet between manufactured homes.
- E. At no time shall a designated side yard area be reduced to less than five (5) feet.

- F. All storage buildings must maintain a minimum distance of five (5) feet from any manufactured home and shall not be located in the front setback area.

#### 11.2.3 PARKING

- A. A minimum of two (2) vehicle parking spaces at least ten (10) by twenty (20) feet in size for each residential space with unobstructed access to the roadway.
- B. A minimum of two (2) guest parking spaces shall be located in a separate parking area and an additional one and a half (1 ½ ) parking spaces for every five (5) residences thereafter when the roadway width does not allow for parking.

#### 11.2.4 STRUCTURES

- A. Structures for each resident space shall be limited to a storage building and a carport or a combination thereof.
- B. No permanent or temporary structure, excluding approved awnings or patio covers, shall be attached to or supported by a manufactured home.
- C. Skirting is required, but shall not create a fire hazard.

#### 11.2.5 PARK STORAGE

A separate, fenced area shall be provided for the storage of accessory items such as boats, vacation trailers, campers, and related equipment owned by the park residents, there shall be no onsite storage of these items on designated residence spaces or on roadways.

#### 11.2.6 REFUSE DISPOSAL

- A. Storage, collection, and disposal of refuse shall be managed so that it does not create health hazards, rodent habitat, insect breeding areas, accident hazards, or air pollution.
- B. Refuse collection containers shall be rodent-proof containers, located not more than five (500) hundred feet from any residential space, and sufficient in number to prevent refuse from overflowing.
- C. Containment areas shall be screened from view and racks or holders shall be provided for refuse containers and designed to prevent containers from tipping, minimize spillage and container deterioration, and facilitate cleaning.
- D. All refuse shall be collected weekly.

11.2.7 INSECT AND RODENT CONTROL

Insect and rodent control shall be applied as recommended by the Health Authority.

11.2.8 UTILITIES

- A. If gas is available all hookups shall be installed in accordance with the appropriate Code and provided to each space.
- B. An electrical outlet shall be provided for each space and installed in accordance with the appropriate Code. All service lines shall be installed underground.
- C. The park shall be well drained, with provisions approved by the County's Public Works Department.
- D. Sewage disposal shall be a municipal system or a private system that shall meet all rules and regulation of the Health Authority and D.E.Q. and any other State or Federal Regulations.
- E. A safe and potable Central Water System that has adequate pressure shall be provided to all space connections.
- F. The park must meet all rules and regulations of the appropriate fire district.

**11.3 STANDARDS FOR TRAVEL TRAILER OR RECREATIONAL VEHICLE PARK**

11.3.1 The same standards listed in the previous Manufactured Home Section for this Ordinance shall be applied with the following exceptions:

- A. Stands shall be a minimum of twenty (20) feet by fifty (50) feet, located at least five (5) feet from all access ways, and have fifteen (15) feet between stands.
- B. One (1) parking space shall be provided for each space.
- C. No patio or storage building shall be required.
- D. A convenience store may be allowed as part of the park in a Commercial Zone; however the convenience store must meet all requirements in this Ordinance for such use.

### 11.3.2 SUPPLEMENTAL PROVISIONS

- A. Due to the short-term parking nature of Travel Trailer and Recreational Vehicle Parks, adequate restroom and laundry facilities shall be provided as follows:
- B. A minimum of one (1) laundry facility and a minimum of one (1) thereafter for every twenty (20) spaces and separated from a restroom unit, each having an exterior entrance.
- C. A minimum of two (2) restrooms, one for each gender and a minimum thereafter of one (1) for each gender for every ten (10) spaces or as approved by the Health Authority.
- D. A shower facility with a dressing compartment and stool or bench for each gender in separate compartments with self-closing doors, the shower facility may be located in the same building as the restroom.
- E. All laundry and restroom facilities shall be constructed of waterproof material for cleaning purposes and well lighted with both interior and exterior lighting.
- F. All walkways shall be hard surfaced or gravel contained within a concrete curb or as approved and shall be well lighted and maintained in a safe and non-hazardous manner.
- G. All entrances and exits from the park shall be forward motion only. No travel trailer space shall be allowed direct access to a public roadway or street other than by the approved park roadway system.

### 11.4 **REVIEW AND APPROVAL**

After review and approval by the Commission, the developer shall record a final site plan at a scale of not less than one inch equals two hundred (200) feet and shall provide, in detail, the information required in this Ordinance. This shall include detailed and complete plans of the alignment, location and grade of all streets and utilities. If public streets are to be dedicated to the County, they must first be approved by the Board following the Subdivision procedure in Chapter 16.

### 11.5 **INSTALLATION STANDARDS**

All Mobile and Manufactured Homes shall comply with the State of Idaho Manufactured Home Installation Standard promulgated by the Division of Building Safety Manufactured Housing Section and/or the adopted Building Code.

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## CHAPTER 12 PLANNED UNIT DEVELOPMENTS

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### 12.1 PURPOSE

It is the purpose of this section to encourage the unified and planned development of land at the time of development by the use of planned unit developments (PUD) by considering deviations from specific or strict compliance with zone regulations in this ordinance and to allow by master planning flexibility in site design and dimensional standards to develop residential, commercial and/or industrial uses not allowed individually within the specific zones, resulting in:

- 12.1.1. A more efficient, aesthetic and desirable use of open space and recreational amenities.
- 12.1.2. A variety of housing and building types.
- 12.1.3. The placement of structures is compatible with abutting development.
- 12.1.4. An integrated development that is served by essential services.
- 12.1.5. Protection of existing natural, scenic, and historic resources.
- 12.1.6. Protection of existing neighborhoods through buffering techniques including screen planting, open space, and landscaping.
- 12.1.7. A more efficient use of land than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
- 12.1.8 A development pattern in harmony with land use density, transportation and community facilities objectives of the Plan.
- 12.1.9 A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns.

### 12.2 EFFECT

Uses approved as part of a PUD are the uses for that development, despite how the land is zoned.

### 12.3 PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS

Whenever there is a conflict or difference between the provisions of this Chapter and those of other chapters of this Ordinance, the provisions of this Chapter shall prevail. Subjects not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Ordinance.

**12.4 MINIMUM AREA**

A PUD for the following principal uses shall contain an area of not less than:

- 12.4.1 Three (3) acres for residential development.
- 12.4.2 Five (5) acres for residential use with subordinate commercial or industrial uses.
- 12.4.3 Ten (10) acres for commercial use.
- 12.4.4 Ten (10) acres for industrial use.

**12.5 REQUIREMENTS**

- 12.5.1 The development is preplanned in its entirety with the subdivision and zoning controls applied to the project as a whole rather than to individual lots as development occurs. Therefore, densities are calculated for the entire development, usually permitting a trade-off between clustering of housing and provision of common open space.
- 12.5.2 The PUD is usually characterized by a unified site design and while most commonly used for residential development, the techniques are also frequently applied to other forms of development such as shopping centers and industrial parks.
- 12.5.3 Occasionally, a PUD may have a mix of uses. The PUD also refers to the process of site-plan review, in which public officials have considerable involvement in determining the nature of the development. The technique includes aspects of both subdivision and zoning regulations but permits a variation in the rigid zoning and subdivision regulations.
- 12.5.4 A PUD is administered through a Conditional Use permit (CUP), if approved, must be platted. The applicant may be required with the application to submit a proposed development agreement in conformance with the model development agreement.

**12.6 OWNERSHIP REQUIREMENTS**

- 12.6.1 An application for approval of a PUD shall be filed in the name(s) of the recorded owner(s) of the property.
- 12.6.2 One person or entity shall be in control of a PUD and the subject property to ensure that the development can be accomplished, until an approved final plat is recorded.

**12.7 COMMON OPEN SPACE**

- 12.7.1 A minimum of ten (10) percent of the gross land area developed in any residential PUD project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed.
- 12.7.2 The required amount of common open space reserved under a PUD shall be held in corporate ownership by owners of the project for the use of each owner who buys property within the development, or shall be sold to the owners of the project as a group or be dedicated to the public and retained as common open space for parks, recreation or related uses. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable and is approved by the Commission.
- 12.7.3 The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the Final Development Plan.
- 12.7.4 Every property developed under the PUD approach should be designed to abut common open space or similar areas. A clustering of dwellings is encouraged.
- 12.7.5 Dedicated open space/amenities shall abut any lots that have been reduced below the minimum property size and shall abut multi-family development within the PUD.

**12.8 AMENITIES**

All PUD's must contain a minimum of two amenities of a size appropriate to meet the needs of the development to qualify as a PUD. The amenities may include:

- 12.8.1 At least 10% of the gross area of the development for open space;
- 12.8.2 Private active recreational facilities;
- 12.8.3 Swimming pool;
- 12.8.4 Tennis court;
- 12.8.5 Playground;
- 12.8.6 Picnic area;
- 12.8.7 Private Park;
- 12.8.8 Golf course;
- 12.8.9 Pedestrian and/or bicycle pathways; or
- 12.8.10 Other amenities, including public amenities, approved by the Commission.

**12.9 UTILITY REQUIREMENTS**

Underground Utilities, including telephone and electrical systems are required within the limits of all PUD's. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Commission finds that such exception will not violate the intent or character of the proposed PUD.

**12.10 ARRANGEMENT OF COMMERCIAL USES**

12.10.1 When PUD's include commercial uses, commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections. Plant screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.

12.10.2 The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding non-commercial areas.

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

**12.11 ARRANGEMENT OF INDUSTRIAL USES**

12.11.1 PUD's may include industrial uses if it can be shown that the development results in a more efficient and desirable use of land.

12.11.2 Industrial uses and parcels shall be developed in park like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks and/or outdoor storage of raw materials or products. A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as are required. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic.

12.11.3 Project side yards of forty (40) feet and a rear yard of fifty (50) feet shall be required if the project is located adjacent to any residential uses. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas and improved areas shall be landscaped with trees and plantings and shall be properly maintained.

**12.12 ARRANGEMENT OF RECREATIONAL USES**

- 12.12.1 PUD's which are primarily recreational in nature shall be developed utilizing natural surroundings and existing woodlands as buffers to screen non-recreational uses.
- 12.12.2 Buildings shall be harmonious and compatible with the surrounding scenery and terrain. Residential buildings shall be grouped so as to preserve as much land as possible in its natural state and thoroughfares shall be kept to a minimum in order to reduce through traffic.
- 12.12.3 All areas designed for future expansion or not intended for immediate development shall be left as natural as possible

**12.13 CONTENTS OF THE DEVELOPMENT PLAN APPLICATION**

A Development Plan shall be filed with the Administrator by at least one (1) property owner or his agent. At a minimum the plan shall contain the following information:

- 12.13.1 Name, address and phone number of applicant.
- 12.13.2 Legal description of property.
- 12.13.3 Description of existing use.
- 12.13.4 Zones.
- 12.13.5 Vicinity map prepared by a Surveyor or Engineer, showing property lines, area in acres, existing streets, current zoning, topography at two (2) foot intervals, existing features including major wooded area, structure, easements, utility lines and land uses.
- 12.13.6 A site plan indicating, location and type of residential land uses, layout, lot sizes and dimensions, building setback lines, proposed streets and proposed names, utility easements, parks and community spaces, landscape plan, all proposed buildings, and all functional use areas including parking areas, public improvements and open space and such other characteristics as the Commission may deem necessary.
- 12.13.7 A schedule of the development of units and site to be constructed in progression, a description of design principles and preliminary building plans including general flood plans and exterior elevations, or an architect's rendition thereof.
- 12.13.8 Engineering feasibility studies and plans showing water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvements and nature and extent of earth work required for site preparation and development.

12.13.9 The application of a Development Plan shall be accompanied by a written statement by the developer setting forth the reasons why, in his/her opinion, the PUD would be in the public interest.

12.13.10 Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas which are to be commonly-owned and maintained.

#### **12.14 PROCEDURE FOR PUBLIC NOTICE & HEARING**

The Commission shall follow the hearing procedures requirements of Chapter 3.

#### **12.15 RECOMMENDATION BY THE COMMISSION**

The Commission shall recommend that the Development Plan be approved as presented, approved with supplementary conditions or disapproved. The Commission shall transmit all papers constituting the record and the recommendations to the Board.

The Commission shall find that the facts submitted with the application and presented to them establish that:

12.15.1 The proposed development can be initiated within two (2) years of the date of approval:

12.15.2 Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be obtained.

12.15.3 The uses proposed will not be detrimental to present and potential surrounding uses and will have a beneficial effect which would not be achieved under standard zone regulations.

12.15.4 The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and any increased densities will not generate traffic in such amounts as to overload the street network outside the PUD.

12.15.5 Any proposed commercial development can be justified at the location proposed.

12.15.6 Any exception from standard zoning requirements is warranted by the design and other amenities incorporated in the Final Development Plan.

12.15.7 The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.

12.15.8 The PUD is in general conformance with the Plan.

12.15.9 The existing and proposed utility services are adequate for the population densities and non-residential uses proposed.

**12.16 ACTION BY THE BOARD**

12.16.1 Within a reasonable time; the Board shall either approve, approve with supplementary conditions or disapprove the application as presented. Upon granting or denying the application the Board shall specify:

- A. The Ordinance section(s) or standards used in evaluating the application.
- B. The reasons for approval or denial.

**12.17 EXPIRATION & EXTENSION OF APPROVAL PERIOD**

The approval of a Development Plan for a PUD shall be for a period not to exceed two (2) years to allow for preparation and recording of the plats and the development of the project. If no construction has begun within two (2) years after approval if granted, the approved Development Plan shall be void. An extension of the time limit or modification of the approved plan may be granted if the Board of County Commissioners finds such extension or modification is not in conflict with the public interest.

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## CHAPTER 13 ENFORCEMENT

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### 13.1 VIOLATIONS

The land owner/ property owner is responsible for all violations on their property. Violations include but are not limited to:

13.1.1 It is a violation of this Ordinance for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or real property within Bingham County without first obtaining permits, if required by adopted building code. (Less than 200 sq. ft. and agriculture exempt structures do not require a building permit).

13.1.2 It is a violation of this Ordinance for any person to not comply with specific conditions of approval as stated in a Certificate of Zoning Compliance, Conditional Use Permit, Final Plat, Development Permit or Planned Unit Development as set forth in this Ordinance.

13.1.3 It is a violation of this Ordinance to misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization as set forth in this Ordinance.

### 13.2 CODE ENFORCEMENT

13.2.1 Authority to Enforce:

- A. It shall be the authority of the Planning Administrator to interpret this Ordinance.
- B. It shall be the duty of the Code Enforcement Officer as authorized by the Administrator to enforce the regulation of this Ordinance. Code Enforcement officers may call upon the services of the sheriff, fire, or other appropriate county departments as allowed by state law.
- C. It is the intent of this Title to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and/or structures.

13.2.2 Investigation:

- A. Upon receipt of a complaint a complaint file may be initiated.
- B. The code enforcement officer may investigate any structure or use which he or she reasonably believes does not comply with the

standards and requirements of this Title. They shall not enter the property in question without the express consent of the owner.

- 13.2.2 C. If, after investigation, it is determined that the standards or requirements of this Ordinance have been violated, a code enforcement officer may serve a notice of violation upon the owner, tenant and/or other person responsible for the condition.
- D. The notice of violation should state separately each standard or requirement violated; should state what corrective action, if any, is necessary to comply with the standards or requirements; and should set a reasonable compliance date in light of the date of service of notice or publication of violation. The notice should state that any further violation may result in criminal prosecution and/or civil penalties.
- E. The notice shall be served upon the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested addressed to the last known address for such person. If, service cannot be made within 10 days and effort is made to serve or mail notice without success, then notice may be made by publication in the newspaper of record for Bingham County. Notice shall be considered complete upon date of last publication. The Code Enforcement officer will record all efforts made to effect service in person or by mail as part of their investigative report.

### **13.3 EXTENSION OF COMPLIANCE DATE**

13.3.1 The Administrator may grant a reasonable extension of time for compliance with any notice or order, whether pending or final, upon finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension. Such extension of time should not exceed one hundred and eighty (180) days, except in extreme cases.

13.3.2 An extension of time may be revoked by the Administrator if it is shown that any of the following are true:

- A. The conditions at the time the extension was granted have changed.
- B. The Code Enforcement Officer determines that a party is not performing corrective actions as agreed and so notifies the Administrator.
- C. If the extension creates an adverse effect on the public.

13.3.3 The date of revocation shall then be considered as the compliance date.

**13.4 PENALTIES**

- 13.4.1 First Offense - Any person who pleads guilty or is found guilty of a violation of this Ordinance shall be guilty of an infraction punishable by a fine of thirty-five dollars (\$35.00) when the violator has not previously been convicted of a violation of the same or similar provision of this Ordinance.
- 13.4.2 Any person who pleads guilty or is found guilty of a violation of this Ordinance, who has previously been found guilty of or has pled guilty to a violation under the same or similar provision of this Ordinance within the past five (5) years, shall be guilty of a misdemeanor, punishable as per Idaho Code § 18-113
- 13.4.3 Notwithstanding the provisions above, the Prosecuting Attorney, at his or her sole discretion, may civilly prosecute any violation of this Code and seek all available remedies that may include, but are not limited to abatement of the non-compliant conditions, revocation of existing permits for non-compliance, civil damages for enforcement, or any other remedy as allowed by law.

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**CHAPTER 14**  
**SUBDIVISION REGULATIONS**

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**14.1 PURPOSE**

This Chapter establishes the minimum standards for development of subdivision plats within Bingham County. It shall be the policy to guide subdivision development to provide the following:

- 14.1.1. Promote orderly growth within the County
- 14.1.2. Uniform standards for the subdivision of property and to protect the health, safety, and general welfare of the people of Bingham County.
- 14.1.3. The manner and form of making and filing of any plat.
- 14.1.4. The administration of these regulation by defining the powers and duties of approval authorities including procedures for the equitable review and approval of all plats of subdivision covered by these provisions.
- 14.1.5. Encourage development to locate in the City Impact Areas.
- 14.1.6. Provide adequate traffic circulation by coordination of streets within a subdivision and existing streets.
- 14.1.7. Provide for adequate public or private sanitation facilities, water supply and drainage.
- 14.1.8. Provide for adequate open space within a subdivision having lots one-half (½) acre or less in size.

**14.2 JURISDICTION**

These regulation and procedures shall apply to the subdivision of all land within the unincorporated parts of the county.

- 14.2.1. The subdivision of land into more lots than allowed by the original parcel, parcels or tracts for transfer of ownership or development.
- 14.2.2. These regulation and procedures supplement all other regulations of this Ordinance, and where at variance with other regulations, the more restrictive shall apply.
- 14.2.3 These regulations do not apply to any prior recorded legal division by right or to a lot or lots forming a part of a subdivision created and recorded prior to the effective date of this Ordinance, except when further dividing said lots,

any further division of said lots will require compliance with this Chapter and the filing of an amended or new plat.

**14.3 ORIGINAL PARCEL DIVISION**

14.3.1 An Original Parcel in any zone may be divided into no more than four (4) lots including the original parcel. The Original Parcel shall constitute the 1<sup>st</sup> division/building right. Any division of land beyond four (4) of an Original Parcel shall require a subdivision plat to be filed in accordance with provisions set forth in this Chapter. Exceptions to the foregoing are as follows:

- A. An allocation of land in a legal condemnation.
- B. The exchange of land that does not result in an increase of the number of lots or decrease a lot in area to less than the required minimum size for the zone.

14.3.2 Lots in a platted subdivision are not considered to be an Original Parcel and shall not be further reduced without the filing of a new subdivision plat with Commission and Board review and approval.

14.3.3 Any Original Parcel that is divided, regardless of the size of the newly created parcel, retains any remaining rights for further divisions assuming all other conditions of this Ordinance are met.

- A. The act of conveying any portion of land will be counted as a division if it is large enough to count as a buildable lot.
- B. The original parcel shall retain any remaining division rights when any split occurs; unless they are transferred by deed to another parcel.
- C. Non buildable lots due to size or setback shall not count as a division.
- D. Any unused division rights within an original parcel may be transferred by deed to another lot within the same original parcel except for the one associated with the original parcel. All division right transfers shall be recorded in the Bingham County Clerk's Office giving the full legal descriptions of those properties involved.
- E. Division rights shall not be transferred from one Original Parcel to another Original Parcel unless they are assessed under one ownership and are approved by a Conditional Use Permit.
- F. When two or more Original Parcels are combined into one description, each shall still retain their original available division rights.

14.3.4 An agriculture exemption shall be allowed in an A, A/NR or R/A zone, outside an impact area, for parcels consisting of 5.01 acres or more. These parcels must be retained specifically for agriculture purposes and shall not be used as a residential building lot. If those parcels consisting of five acres or larger

are for residential purposes, or have not been clearly designated as an agriculture division only on the deed, they will be counted as one of the four (4) rights of division.

14.3.5 Agriculture exemptions, lot splits and/or division rights in a City Impact Area are controlled by the current adopted Ordinance governing said Impact Area.

14.3.6 Division rights cannot be located within the interior boundaries of any subdivision.

14.3.7 Those parcel(s) that are in excess of four (4) divisions from an Original Parcel will be recognized as buildable, that meet all of the following:

A. Legally recorded before July 1, 1999.

B. Minimum of five (5) acres.

C. Have a minimum of fifty (50) foot road frontage on either a public county road or a fifty (50) foot easement with no more than for (4) dwellings on one easement.

D. If the parcel(s) lot lines are adjusted after the date of implementation of this ordinance, the parcel will no longer be considered buildable, unless the number of lots is reduced by the adjustment back to pre '99 status.

#### **14.4 PRELIMINARY PLAT**

The developer shall submit a written application for the Preliminary Plat to the administrator and shall include at a minimum the following:

14.4.1. Three (3) copies of the preliminary plat, or in combination with a report, drawn in accordance with the following:

A. The name of the proposed subdivision

B. The names, addresses and telephone numbers of the developer, owner and engineer and/or surveyor who prepared the plat.

C. The legal description of the subdivision by section, township and range; reference by dimension and bearing to a section corner or quarter section corner.

D. A statement of the intended use of the proposed subdivision, such as: residential single-family, commercial, recreational or agricultural, etc.

E. Each copy shall have a North arrow and date of preparation including dates or any subsequent revisions.

- 14.4.1 F. If the proposed subdivision is part of a larger area intended for development, a development master plan of the entire area shall be provided. If the proposed subdivision will be developed in phases the phase lines must be identified on the preliminary plat. All phases must be continuous and progress in an orderly fashion.
- G. A vicinity map drawn to scale of one inch equals eight hundred feet (1"=800'), clearly showing the relationship of the proposed site to the surrounding area within a one-mile radius, including adjacent subdivisions, main arterial routes, collector streets, etc.
- H. The existing zoning of the subdivision and the adjacent land.
- I. The approximate acreage of the proposed subdivision and the number of proposed lots.
- J. Boundaries of the tract to be subdivided shall show dimensions for lot lines and blocks including curve data to scale and numbers of each lot and block.
- K. Streets, street names, rights-of-way and roadway widths, including adjoining streets, roadways or railroads and if applicable of the water, sewer, sidewalks and other required public facilities. A private road, as allowed in a Planned Unit Development (PUD), Commercial or Industrial subdivision, must be a separate lot. These drawings are not meant to be cross sections or detailed designs, but shall contain sufficient information to enable the Commission to make a determination as to conformance with the standards and regulations in this Chapter.
- L. Appropriate details for any special development areas in the proposed plat, such as hillside, planned unit development, flood plain, nitrogen priority area as defined by IDEQ, large-scale development or any other pertinent features, areas or types of development.
- M. Contour lines shown at a minimum of two (2) foot intervals and shall be shown on the preliminary plat map which shows the proposed subdivision layout. Where land slope is greater than 10% show contour lines at ten (10) foot contour intervals.
- N. Any proposed or existing utilities, including but not limited to, gas lines, power lines, water and sewer lines, or storm drainage system.
- O. Plat must include the location and distance of the nearest municipal/community water and sewer services.
- P. A Subdivision Guarantee from a Title Company.

- 14.4.1 Q. A statement from the appropriate agency or agencies, if an individual or community well is proposed that an adequate developable water source exists to provide water for the subdivision.
- R. A statement from the appropriate agency or agencies, if individual or a community sewer is proposed, that an adequate developable wastewater system exists to provide service for the subdivision.
- S. All proposed easements will be shown on the plat, including location, width and use.
- T. Any existing irrigation canals, private ditches, ridges, culverts, water mains, lakes, streams, or natural waterways, direction of flow, or drainage area.
- U. The applicant shall submit an irrigation plan showing the availability and the proposed method of delivery of irrigation water to each lot.
- V. A preliminary storm water drainage plan.
- W. For a plat of ten (10) lots or more being one-half (½) acre or less in size, must provide open space, playground or recreational area to a minimum of 0.25 acres per every ten (10) lots.
- X. Each copy shall have dimensions of not less than 18 by 24 inches and shall be drawn to a scale of not less than 1 inch to 200 feet.
- Y. Submit an additional three (3) copies 11 x 17 inch drawing of the preliminary plat showing all the required information thereon shall also be filed for office mailing purposes.

14.4.2 Proposed Utility Methods:

- A. Sewage: It shall be the responsibility of the developer to furnish a statement as to the type of proposed sanitary sewage facilities and shall appear on the preliminary plat.
- B. Water Supply: It shall be the responsibility of the applicant/developer to provide a statement as to the type of proposed water supply facilities and shall appear on the preliminary plat.
- C. Storm Water Disposal: It shall be the responsibility of the developer to furnish the Planning & Zoning Department such evidence as may be required relative to the design and operation of any proposed storm water system. A statement as to the type of proposed facilities shall appear on the preliminary plat.

- 14.4.2 D. Irrigation System: It shall be the responsibility of the developer to furnish the Planning & Zoning Department such evidence as may be required relative to the design and operation of any proposed irrigation system. A statement as to proposed irrigation systems shall appear on the preliminary plat. Consistent with Id Code § 31-3805.1.b
1. All irrigation ditches within a residential subdivision along the front of the subdivision and the front of each individual lot(s) must have enclosed systems.
  2. All lots of one (1) acre or less shall be provided irrigation through an underground tile or other like satisfactory underground conduit.
  3. Any improvements involving the distribution system of any irrigation district shall have the prior written approval of the affected irrigation district.
  4. If water rights have ever been associated with the property, then irrigation must be provided to each lot.
- E. Utility Easement: The utility easement width shall be a minimum of ten (10) feet from the exterior boundaries and five (5) feet from the interior boundaries.

14.4.3 Administrator Review

- A. Upon receipt of the preliminary plat and all other required data, the Administrator or designated agent shall certify the application as complete and shall affix the date of the application acceptance thereon.
- B. The Administrator or designated agent shall transmit one copy of the preliminary plat and application to county departments and all other agencies as deemed necessary for review. The agencies may include, but are not limited to the following:
  1. School Districts.
  2. Health District.
  3. Fire Districts.
  4. Utility Companies.
  5. Irrigation Districts or Canal Company.
  6. Other inter-governmental departments, (Public Works, etc.)
  7. Adjacent town sites or cities having an impact area agreement.

8. The Fort Hall Tribal Council.
  9. And any other State or Federal agency deemed necessary.
- C. The Administrator or designated agent shall prepare a staff report and place the preliminary plat and application on the Commission agenda within a reasonable time not to exceed Sixty (60) days from the date of acceptance.

#### 14.4.4 Commission Action

- A. The Commission shall hold a public hearing to review the proposed subdivision plat.
- B. The hearing and notice procedure shall comply with Idaho Code § 67-6509 being prior to granting a recommendation to the Board, at least one public hearing shall be held in conformance with Chapter 3.
- C. In determining the acceptance of the proposed subdivision the Commission shall consider the objectives of the Ordinance and at a minimum the following:
  1. Recommendations for conditions of approval that would minimize adverse conditions, if any.
  2. The reasons for recommending the approval, conditional approval, modification, or denial.
  3. The proposed subdivision to be consistent with the Comprehensive plan.
  4. The availability of public or private services to accommodate the proposed subdivision.
  5. The public financial capability of supporting services for the proposed subdivision.
  6. Any other health, safety, or environmental problems that may be brought to the Commission's attention.
  7. The recommendations of a City if the proposed development is located within a City Impact Area or within one (1) mile of a City not having a valid Impact Area.
- D. The Commission may recommend approval, recommend conditional approval, recommend disapproval or table the preliminary plat for additional information. The Commission shall set a time for any additional information to be reviewed.

- 14.4.4 E. Upon recommending, granting or denying a preliminary plat, the Commission shall specify:
1. The Ordinance sections and standards used in evaluating the application.
  2. The reasons for approval or denial.
- F. The Administrator shall forward a statement of the action taken and the reasons for such action and/or the Commission Minutes containing such action, together with a copy of the preliminary plat to the Board their information and review.

14.4.5 Board Action

- A. The Board shall set a date to review the preliminary plat and the Commission decision.
- B. The Board shall review the Preliminary plat, the written information presented to the Commission, and the Commission minutes or the statement of action taken, prior to making a determination on the proposed plat.
- C. The Board may uphold, conditionally uphold, or overrule the decision of the Commission on the proposed subdivision. The Board may determine that more information is required and shall return the plat to the Commission for a new hearing. Upon reaching a decision the Board shall make written findings to specify the following:
  1. The Ordinance and standards used in evaluating the proposal:
  2. The reasons for approval or denial.
  3. If denied; what actions could the applicant have taken to obtain approval?

**14.5 FINAL PLAT**

After the approval or conditional approval of the preliminary plat, the developer may cause the total parcel, or any part thereof, to be surveyed and a final plat prepared in accordance with the approved preliminary plat. The developer shall submit to the Administrator the following:

14.5.1 Three (3) copies of the final plat.

14.5.2 Three (3) copies of the final engineering construction drawings for streets, water, sewer, sidewalks, irrigation system, estimate of cost and plans for any other public improvements, if applicable.

14.5.3 The final plat shall include and be in compliance with the provisions of Title 50, Chapter 13, Idaho Code and shall be drawn to a scale suitable to insure the clarity of all lines, bearings and dimensions. If more than 1 (one) sheet is

required for the final plat, including any certificates, all sheets shall be serially numbered as sheet 1 of 2, etc. as per Idaho Code § 50-1305.

#### 14.5.4 Administrator Review

- A. Upon receipt of the final plat the Administrator shall review the final plat for compliance with the approved or conditionally approved preliminary plat and compliance with all other requirements provided in this Ordinance. If the administrator determines that there is a substantial difference in the final plat from the preliminary plat or the conditions have not been met, the Administrator may have the developer re-submit the plat to the Commission.
- B. If the Administrator determines the final plat is in compliance with all requirements as provided herein and there is no substantial difference from the preliminary approval; the Administrator shall affix the date of acceptance on the plat.

#### 14.5.5 Approval Period

The Final plat may not be recorded until all the fees are paid, a surety bond or other financial provisions posted or recorded along with a signed and recorded development agreement approved by the Board. The final plat must be recorded within two (2) years from the date of final approval by the Board; otherwise such approval becomes null and void. The developer may request a one-time extension not to exceed 1 (one) year, said extension must be submitted prior to the expiration date. One (1) year extension may only be granted by the Board.

### 14.6 VACATED PLAT

An owner or applicant may petition the Board for a total or partial vacation of a recorded subdivision plat, including easements and streets. The vacation shall be processed in accordance with the regulations set forth in Idaho Code Title § 50-1306A and recorded in accordance with the regulation set forth in Idaho Code Title § 50-1324.

### 14.7 COMBINING PRELIMINARY AND FINAL PLATS (SHORT PLAT)

The Developer may request that the subdivision application be processed as both the preliminary and final plat if all the following exists:

- 14.7.1 A complete subdivision application form and plat data as required by this Ordinance.
- 14.7.2 The proposed subdivision does not exceed 4 lots (excluding landscaping lots).
- 14.7.3 No new street dedication or street widening is involved.

- 14.7.4 The development does not include any special development considerations, such as flood plain, hillside or any other special circumstances.
- 14.7.5 All required information for both the preliminary and final plat is complete and in the correct format
- 14.7.6 And all other agency approvals have been obtained.

#### **14.8 DESIGN STANDARDS**

- 14.8.1 Subdivision, improvements and facilities done, constructed or made in accordance with said provisions shall comply with the minimum design standards set forth in this Chapter; provided however, that any higher standards adopted by the Public Works Department, State Highway Department or the Health Department shall prevail over those set forth herein.
- 14.8.2 All improvements such as roads, private roads, easements, water facilities, sewer facilities, irrigation systems, street lights, storm drainage system, and curb, gutter and sidewalks shall be the responsibility of the developer. Construction plans shall be prepared and submitted with the final plat. All final approval for construction plans shall be with the responsible agencies.
- 14.8.3 Building permits will not be approved for any development on lots until all improvements are installed and final approval is received from all agencies and departments involved. Final approval for each phase of the project must be received from the Board.
- 14.8.4 Lot Design

Lots shall conform to the following:

- A. The lot width, depth and total area shall not be less than the requirements of any zone.
- B. In subdividing tracts that may be re-subdivided in the future, especially in approved City Impact Areas, the location of lot lines and other details of the layout shall be such that re-subdivision may readily take place without violating the requirements of these regulations and without interfering with the orderly development of streets. Restrictions of building within future street locations shall be made a matter of record.
- C. The dimensional standards for all lots shall be in accordance with the applicable zone. Corner lots in subdivisions with lots of less than 1 (one) acre shall be increased above the minimum size if needed to see that appropriate side and rear setbacks can be met.

- 14.8.4 D. Every lot shall have access to an approved public street except in a Planned Unit Development, a recreation Subdivision or a Commercial/Manufacturing Subdivision where lots may abut on a private street that furnishes satisfactory access to a public street.
- E. Lots shall combine driveway approaches where feasible.
- F. Private ingress/egress easements shall be prohibited within the boundaries of the subdivision unless approved by the Board.
- G. All Road Rights of Way and future Road Rights of Way must extend to the property boundary and/or the subdivision boundary.
- H. All lots shall be designed to discourage backing onto a county road.
- I. If the site grading is such that access would be prevented if one (1) road is blocked, then a second access may be considered for all plats more than 4 lots.
- J. Division rights shall not be located within the interior boundaries of any subdivision.
- K. Show the location and distance of all existing and proposed wells and individual septic system on each lot.

#### 14.8.5 Block Design

Every block shall be so designed as to provide two tiers of lots, except where lots back onto an arterials street, natural feature or subdivision boundary.

#### 14.8.6 Road, Street, Right of Way widths

Street design, right-of-way widths, cul-de-sacs and radiuses shall conform to the current Highway and Street Standards adopted by the County as identified by the Bingham County Public Works Department

#### 14.8.7 Intersections standards - Intersections shall conform to the following:

- A. Angle of Intersection – Streets shall intersect at 90° or as closely thereto as possible, and in no case, shall streets intersect at less than 70°. Streets intersecting an arterial shall do so at a 90° angle.
- B. Where any street deflects at an angle of 10° or more, a connecting curve shall be required to have minimum centerline radius of 300 feet for arterial and collector streets and 125 feet for local streets.
- C. If there is an offset of opposing road; the street centerlines shall be offset by a distance of at least one hundred twenty-five (125) feet.

- 14.8.7 D. Sight Triangles - Minimum clear sight distance at all street intersections shall permit vehicles to be visible to the driver of another vehicle. The sight triangle must be unobstructed along both approaches of both roads and across their included corners for a distance sufficient to allow the operator of vehicles to see each other in time to prevent collisions at the intersection. The sight triangle distances are determined by § 49-221 Idaho Code or Bingham County Public Works Department respectively.
- E. Number of Streets – No more than two (2) streets shall cross at any one intersection. Street intersections with more than 4 legs and Y-type intersections where legs meet at acute angles shall be avoided.
- F. Maximum and minimum grades for all streets shall be determined by the Bingham County Street Standards Manual.
- G. Pedestrian ways with right-of-way widths of eight (8) feet or greater may be required where essential for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

#### 14.8.8 Irrigation Supply and Distribution Systems

The sub-divider shall disclose, pursuant to Idaho Code § 31-3805, and Idaho Code § 50-1306 B or file as part of the preliminary plat with Planning & zoning Department, evidence that an adequate irrigation supply and distribution system to serve the land within the plat to be recorded will be provided and must include existing water rights that go with the land being platted, including but not limited to the following:

- A. Copies of the plans of the proposed distribution system for the lots and areas to be served in the proposed development.
- B. Copies of the community association or similar organization's documents which may be required precedent to the establishment of an irrigation distribution system within the proposed development.
- C. Provide copy of operating plan and water user agreement.

### 14.9 **SPECIAL DEVELOPMENTS**

The purpose of this section is to identify various types of special developments that normally pose special concerns to the Commission and the Board when reviewing and acting upon subdivision requests. The provisions of this article are in addition to other applicable requirements of these subdivision regulations. Required information shall be submitted to the Planning and Zoning Department with the preliminary plat.

14.9.1 General: The development of any hazardous or unique areas may need special consideration, to assure that the development is necessary and desirable to the public interest. Areas that may be hazardous or unique may be as follows:

- A. Unstable soils.
- B. Scenic areas.
- C. Historical significance areas.
- D. Flood plains.
- E. Wetlands.
- F. Nitrate Priority areas.
- G. Other areas of critical concern.

14.9.2 Plan Submission: The applicant, if required, shall prepare and submit an environmental assessment statement for those areas as above noted and designated along with the preliminary plat application.

14.9.3 Content of Environmental Assessment Statement: The content of the environmental assessment statement, if required, shall be prepared by professional(s) that will provide answers to the following questions:

- A. What detrimental environmental effect may occur as a result of the proposed development?
- B. What corrective action or alternative plans could be developed so as not to significantly cause detrimental environmental effects?
- C. What adverse effects of the proposed development cannot be mitigated?

14.9.4 Condominium(s)

- A. Site Development Plan – The applicant shall provide the commission with a site plan, elevations, perspective drawings and such other illustrated information at a scale to be determined by the Planning Department to show the proposed development that will include at least the following:
  - 1. Site Plan.
  - 2. Plat showing lots, including common lots and roads.
  - 3. Architectural styles and building design concepts.
  - 4. Type of landscaping.
  - 5. Screening, if proposed.
  - 6. Type of solid waste facilities.

- 7. Parking concept.
- 8. Open space areas.

- 14.9.4 B. Storage Areas – Storage areas shall be provided for the anticipated needs of boats, campers and trailers. For typical residential development, one (1) adequate space shall be provided for every three (3) living units. This may be reduced by the Commission if there is a showing that the needs of a particular development are less.
- C. Parking Space – One (1) additional parking space beyond that which is required by the zoning regulations may be required for every three (3) dwelling units to accommodate visitor parking.
- D. Control During Development – Single ownership or control during development shall be required and a time limit may be imposed to guarantee the development is built and constructed as planned.

14.9.5 SUBDIVISION FOR A CEMETERY:

- A. The developer shall provide the county with written documentation that will sufficiently explain if the proposed cemetery will be used for either human or animal remains or the functions that are anticipated on the property.
- B. The developer shall submit a written statement that has been prepared by an attorney that adequately assures the compliance of the proposed cemetery with the procedural platting requirements and management requirements that are outlined in Idaho Code § Title 27.
- C. Cemetery subdivisions shall not be located within the one hundred (100) year flood plain.

**14.10 AS-BUILT DRAWINGS & SPECIFICATIONS**

- 14.10.1 Prior to acceptance by the county of any improvements installed by the subdivider, two (2) sets of prints of the approved “as-built” plans and specifications shall be certified by the sub-divider’s engineer and filed with the Public Works Department and approved by the Board.
- 14.10.2 Within 30 calendar days after completion of improvements and submission of “as-built” plans in accordance with county specifications, the applicant’s engineer, or if applicant chooses, then the Board or its designated representative, shall certify the completion and acceptance.

**14.11 FINANCIAL AGREEMENT**

Prior to the Board signing the final plat:

- 14.11.1 The sub-divider or the applicant shall have previously constructed all required improvements and secured a certificate of completion from the County, or filed with the county clerk a surety bond or other acceptable guarantee of performance to ensure the actual construction of such improvements as submitted and approved.
- 14.11.2 The improvements when covered by a surety bond shall be constructed within two (2) years from the date of recording of the final plat; provided, however, the Board may extend the period one (1) year upon showing of just cause by the sub-divider.
- 14.11.3 Such surety bond or other guarantee shall be in the amount of one hundred twenty (120) percent of the estimated cost of the improvements as determined by the county.

#### **14.12 MODIFICATIONS TO A RECORDED PLAT**

- 14.12.1 Modified lots in a previously platted subdivision shall not be recognized as buildable unless they are recorded on an approved amended plat.
- 14.12.2 All amendments to a recorded plat involving: public rights of way or easements, vacations of plats and dedications of rights of way to public use, re-plats or amendments of easements granted for gas, sewer, water, telephone, cable television, power, drainage, and slope purposes shall be governed by the provisions of Idaho Code Title 30.

#### **14.13 SUBDIVISION & EASEMENT VACATIONS**

- 14.13.1 Any property owner desiring to have an existing subdivision vacated, in whole or part, including easements, shall complete and file an application with Planning & Zoning Department and also file such other applications as are otherwise required by law.
- 14.13.2 Upon receipt of the completed application and other information as may be required, Planning & Zoning Department shall affix the date of application acceptance thereon. The application shall be considered by the Commission at a public hearing noticed as provided for in Chapter 3 of this ordinance. Vacations shall be processed in accord with the regulations set forth in Idaho Code § 50-1306A and recorded in accord with the regulations set forth in Idaho Code § 50-1324.
  - A. The commission shall review the request and any agency response and make a recommendation to the Board for approval, conditional approval or denial.
  - B. The applicant shall pay an appropriate fee as determined by the Board.

**14.14 MINERAL EXTRACTION DURING SUBDIVISION CONSTRUCTION**

Mineral extraction (short term) – gravel, sand, soil or other minerals excavated and removed during the process of constructing a subdivision. The minerals must be removed from the subject property within six (6) months from the date excavation begins, per each phase. Extracted minerals may not be stored on site beyond the six (6) month time period. Prior to commencing any phase of extraction, the landowner or operator/extractor must deliver to Planning & Zoning Department a written notice of the following:

- 14.14.1 Name of landowner.
- 14.14.2 Name of the operator/extractor.
- 14.14.3 Legal description of the property where material is to be extracted.
- 14.14.4 A site plan of the property showing the area where the gravel, sand, soil or other minerals is to be extracted.
- 14.14.5 The amount of material to be extracted.
- 14.14.6 Any extracted materials cannot be screened, crushed, or processed without obtaining a conditional use permit.
- 14.14.7 The written notice must be dated and signed by the landowner and the operator/extractor.
- 14.14.8 Zoning compliance.
- 14.14.9 Application processing fee.
- 14.14.10 A copy of an approved reclamation plan, if required.

**14.15 PROTECTIVE COVENANTS (RESTRICTIVE COVENANTS)**

Protective covenants may be prepared and recorded as part of a subdivision by the developer. This is usually done to provide protection to future property owners by establishing higher standards than required under other regulations. The provisions within protective covenants are enforceable through civil action, and local governments are not responsible for enforcement of these provisions. They are not to be used as a basis for decision on an action before the Commission or Board.

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## **CHAPTER 15 AMENDMENTS**

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Whenever the public necessity, convenience, general welfare or good zoning practices require, the Board, after receipt of recommendation thereon from the Commission; and being subject to procedures provided by law, may amend, supplement, change or repeal by Ordinance the Zoning regulations, restrictions and boundaries or classification of property.

### **15.1 INITIATION OF ZONING AMENDMENTS**

Amendments to this Ordinance may be initiated in one (1) of the following ways:

- 15.1.1 By adoption of a motion by the Commission.
- 15.1.2 By adoption of a motion by the Board.
- 15.1.3 By written petition designating the change desired and the reason therefore, said petition will be forwarded to the Commission.
- 15.1.4 By the filing of an application by a property owner of the area proposed to be changed.

### **15.2 CONTENTS OF APPLICATION**

Applications for amendments to this Ordinance shall contain the following information:

- 15.2.1 Name, Address and phone number of applicant.
- 15.2.2 Proposed text amendment or proposed zone change.
- 15.2.3 Present land use and present zone.
- 15.2.4 A vicinity map at a scale approved by the Administrator showing property lines, existing roads and proposed zoning and such other items as the Administrator may require.
- 15.2.5 A statement of how the proposed amendment relates to the Comprehensive Plan and the criteria of the Ordinance.
- 15.2.6 Rezone requests for small tracts and/or single ownership tracts must be accompanied by findings that this change will be a continuation of orderly development and be a benefit to community interests.

**15.3 TRANSMITTAL TO COMMISSION**

Zoning boundary Amendments shall be amended in the following manner:

15.2.1 Request for an amendment to this Ordinance shall be submitted to the Commission which shall evaluate the request to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction.

15.3.2 If the request is in accordance with the adopted Plan, the Commission may recommend and the Board shall adopt or reject the Ordinance amendment under the notice and hearing procedures as herein provided.

15.3.3 If the request submitted to the Commission is not in accordance with the adopted Plan, the Commission may recommend to the Board that they amend the Plan. The Board shall only amend the Comprehensive Plan using the notice and hearing procedures provided in Chapter 3. After the Comprehensive Plan has been amended, the Ordinance may then be amended as hereinafter provided.

**15.4 COMMISSION PUBLIC HEARING PROCEDURE**

The Commission, prior to recommending a Zoning Ordinance Text Amendment to the Board shall conduct a hearing following the procedures in Chapter 3.

**15.5 RECOMMENDATION BY THE COMMISSION**

After considering the Plan, the extent and nature of the effects of any proposed amendment may have upon the delivery of services by any political subdivision providing services, including school districts and any other evidence presented through the public hearing process the Commission shall make a recommendation to the Board. They may recommend that the amendment be approved, approved with modifications or that the amendment be denied.

**15.6 ACTION BY THE BOARD**

15.6.1 The Board, prior to adopting, revising or denying an amendment as recommended by the Commission shall conduct a hearing following the procedures as identified in Section 3.

15.6.2 In the event the Board approves an amendment, such amendment shall thereafter be made a part of this Ordinance with passage and publication in the manner required by law.

- 15.6.2 A. If an amendment to a zoning classification is approved pursuant to a request by a property owner, the Board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the Board adopted said individual property owner's request for a zone reclassification change.
- B. No property owner shall reapply for a reclassification of any property which has been denied by the Board or re-submit in either substantially the same form or with reference to substantially the same premises for the same purposes within a period of one (1) year from the date of such action, unless there is an amendment to the Comprehensive Plan which applies to the specific property under consideration.
- C. An amendment of a Zoning Ordinance applicable to an owner's lands or approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by Section 67-8003, Idaho Code, consistent with the requirements established thereby.

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**CHAPTER 16**  
**EFFECTIVE DATE**

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This Ordinance shall become effective upon its publication in the manner required by law.

**Passed and approved by the Board of Commissioners, Bingham County,  
Idaho, this 9<sup>th</sup> day of October, 2012**

**BOARD OF COUNTY COMMISSIONERS:**

\_\_\_\_\_  
Chairman Cleone Jolley

\_\_\_\_\_  
Date

\_\_\_\_\_  
Commissioner Ladd Carter

\_\_\_\_\_  
Commissioner Whitney Manwaring

**ATTESTED BY:**

\_\_\_\_\_  
Bingham County Clerk, Sara Staub

\_\_\_\_\_  
Date