Title 9 ZONING REGULATIONS

Chapter 1 TITLE, PURPOSE, INTERPRETATION AND ENACTMENT

9-1-1: TITLE:

This title shall be known and may be cited to as the BLAINE COUNTY ZONING ORDINANCE. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-1-2: AUTHORITY AND PURPOSE:

This zoning title is adopted pursuant to authority granted to Idaho Code, section 67-6501 et seq., and article 12, section 2 of the Idaho constitution. It is enacted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property and property values; to secure the most appropriate use of lands; to control the density of population; to prevent undue traffic congestion, to preserve the scenic and aesthetic values of Blaine County, to assure the economical provision of adequate public improvements, and to implement the policies set forth in the Blaine County comprehensive plan. The encouragement of planned unit developments through use of density incentives is fundamental to this title. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-1-3: PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS:

In their interpretation and application, the provisions of this title shall be held to be minimum requirements. Whenever the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive rules or those imposing the higher standards shall govern. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-1-4: PRESERVATION OF PRIVATE PROPERTY RIGHTS:

This title shall be interpreted to equally protect each citizen from the undue encroachment on such citizen's private property by his or her neighbors' use of his or her own private property. Each citizen shall have a reasonable use of his or her property, as guaranteed by the United States constitution, without placing undue burden upon his or herneighbor. Every citizen of Blaine County shall at all times have the right to appear in person or by his or her agent before the commission or board to freely petition for the relief of an alleged burden created by this title, and to appeal any decision of the administrator or commission pursuant to the procedure stated herein. The enforcement of this title shall apply equally to each person and property in the similar circumstances. (Ord. 2006-15, 10-26-2006; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-1-5: PROHIBITED USES:

All uses not permitted under the terms of this title are prohibited. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-1-6: SEPARABILITY CLAUSE:

Should any chapter, section or provision of this title be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this title as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 2 DEFINITIONS

9-2-1: DEFINITIONS OF WORDS AND TERMS:

Certain terms and words are hereby defined for the purpose of this title. When consistent with the context, the present tense includes the past or future tense, the singular includes the plural and the plural includes the singular. The word "shall" is mandatory, "may" is permissive and "should" means the preferred action. The following words and terms shall have the meanings ascribed to them in this section:

ACCESSORY USE: A use or structure subordinate to the principal use on the same lot or premises, and serving a purpose customarily incidental to the use of the principal building. The gross floor area of an accessory structure shall not exceed seventy five percent (75%) of the gross floor area of the primary building containing the permitted use on the lot. Exceptions: The size limitation shall not apply to agricultural buildings, indoor riding arenas, or accessory dwelling units that are detached from any other building containing an accessory use. An accessory use is a use that is commonly, habitually and by long practice established or associated in Blaine County with such primary use.

AFFECTED PERSON: One having an interest in real property which may be affected by the issuance or denial of a permit authorizing development.

AGRICULTURAL BUSINESSES: An agricultural business shall be a commercial use where activities occurring on the site are compatible with the surrounding agricultural lands. It shall occupy and use to the extent possible existing on site agricultural facilities, buildings and other structures. Such agricultural businesses shall include, and not be limited to, the following:

- A. Commercial pet care, breeding and boarding.
- B. Storage, fabrication and sales of irrigation systems.
- C. Alcohol plants such as winery, brewery or distillery.
- D. Greenhouses and commercial nurseries with an on site retail facility.
- E. Landscape contractor with more than two (2) employees.
- F. Stables and riding schools.
- G. Guest ranches.
- H. Processing of milk products.
- I. Storage, mixing, blending for the purpose of sales of fertilizers or compost not to include restaurant waste.
- J. Transportation services for hauling agricultural products.
- K. Post and pole fabrication.

AGRICULTURAL PURPOSES AND AGRICULTURAL USES: Refers to the growing of timber, crops, or livestock including grazing, horticulture, nurseries, and the necessary accessory uses such as processing, packing, treating, storing, or selling products limited to those grown on the premises or as part of an integrated agricultural operation under common management with no on site retail facility. The operation of any such accessory use shall be secondary to that of normal crop, livestock or timber growing, and shall not include feedlots, slaughterhouses, rendering plants, or sawmills.

ANIMAL HOSPITAL: A place used for the care, grooming, diagnosis, and treatment of sick or injured animals, and for the care of those who are in need of medical or surgical attention, including overnight accommodations for recuperation and observation purposes.

ANIMAL SHELTER: A facility that is owned, operated, or maintained by a public body or nonprofit organization devoted to the welfare, shelter, protection and humane treatment of animals. An animal shelter facility may also provide: a) shelter for homeless pets and impounded animals; b) services and programs related, but not limited to, the shelter, care, boarding, adoption, health, and medical treatment of animals; and c) community services including, but not limited to, education, spay/neuter services, pet surrender, pet crematory, contract for services with local jurisdictions, and dog license sales and tracking.

APPRECIABLE DEGRADATION: Any dust, odor, fumes, detectable pollution, noise or flashing light which is perceptible without instruments more than two hundred feet (200') from the boundaries of the property from which it emanates, except for warning devices, construction or maintenance work.

ASPHALT BATCH PLANT: A facility which manufactures asphalt.

AUTO WRECKING YARD: Any use of premises whereon currently nonlicensed motor vehicles not in operating condition are standing more than sixty (60) days, or on which such used motor vehicles or parts thereof are dismantled or stored.

BANK: The ordinary high water level of the stream, river, lake or impoundment, which in the absence of evidence to the contrary shall be presumed to be the edge of the vegetation growing along the shore.

BENCH: A level step created by the former flood deposits of a river.

BEST MANAGEMENT PRACTICES: State of the art technology as applied to a specific problem and including a schedule of activities, prohibited practices and maintenance procedures. The BMP presents physical, institutional, or strategic approaches to environmental problems, particularly with respect to nonpoint source pollution control.

BOARD: The board of county commissioners.

BUILDABLE SITE: A dwelling construction site which will not require diking or riprap for protection against flooding, nor increase the possibility of contamination of ground or surface water from septic tanks and drain fields, nor require that the proposed site be excavated so as to oversteepen a slope or toe of a slope.

BUILDING: Any structure used or designed to be used for supporting or sheltering any use or occupancy.

BUILDING, AGRICULTURAL: A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or horticultural products, but not for the purposes of human habitation or processing of agricultural products.

BUILDING, EXISTING: A building erected prior to the effective date hereof, or one for which a valid building permit has been issued prior to the effective date hereof.

BUILDING HEIGHT: The vertical distance measured from the highest point of the roof directly to natural grade. Parapet walls required by code shall not be included in the measurement of height. This provision does not apply to accessory fixtures such as flagpoles, lightning rods, weather vanes, antennas (not including satellite dishes), chimneys or air conditioners. Buildings located in the floodplain shall be measured from the intermediate regional flood elevation, where base flood elevations are available.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which the building is located.

BUILDING SETBACK LINE: An imaginary line that requires all buildings to be set back a certain distance from lot lines.

CAMPGROUND: A facility where camper/recreational vehicles may stop or park for short periods of time.

CEMETERY: Land used or intended to be used for the burial of the human dead, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

CERTIFICATION: The act whereby the administrator verifies that an application is complete and complies with relevant ordinance requirements.

CHURCH: A building for public worship. A body or organization of religious believers.

CITY: Any incorporated municipality within the county.

CLUSTER DEVELOPMENT (CD): A type of subdivision for limited residential use within the A-20 or A-40 productive agricultural districts, the R-10 rural residential district, and the RR-40 rural remote district. Each cluster development consists of: a) the cluster tract occupying not more than twenty percent (20%) of the land area of the parent tract, and b) the conservation tract occupying not less than eighty percent (80%) of the land area of the parent tract. In a designated TDR receiving area, as defined by title 10, chapter 10 of this code, the cluster tract shall not occupy more than fifty percent (50%) of the land area of the parent tract, with the conservation tract occupying not less than fifty percent (50%) of the land area of the parent tract.

CLUSTER TRACT: A designated location within a cluster development upon which residential development may occur. The cluster tract shall not occupy more than twenty percent (20%) of the parent tract.

COMMERCIAL USE: The purchase, sale, or other transaction involving the handling or disposition of any article, service, substance, or commodity for livelihood or profit, or the ownership or management of office buildings, offices, recreation or amusement enterprises, or the maintenance and use of offices by professionals and tradespeople rendering services.

COMMISSION: The Blaine County planning and zoning commission.

COMPREHENSIVE PLAN: The Blaine County comprehensive plan, dated November 7, 1994.

CONDITIONAL USE: A use permitted only upon issuance of a conditional use permit.

CONSERVATION TRACT: That part of a cluster development that remains dedicated to agriculture, open space, and/or natural resource protection and is devoid of any structures other than those for the benefit of agricultural uses (including, but not limited to, barns, well houses, irrigation structures, hay sheds) or conservation purposes, but may include a primary residential dwelling unit (and any accessory employee housing as allowed). The conservation tract(s) shall not occupy less than eighty percent (80%) of the land area of the parent tract, except in a cluster development in a TDR receiving area, where the minimum area shall be fifty percent (50%).

CONTINUING CARE RETIREMENT COMMUNITY (CCRC): Senior housing community that provides different levels of housing and care based on the needs of their residents, including, but not limited to, independent living, assisted living, memory support and skilled nursing. The skilled nursing component of a CCRC is not age restricted. The CCRC may include housing for staff of the facility. The developable density of dwelling units contained within a CCRC shall not be based on the underlying zoning district(s) but shall be determined through the conditional use permit process and be subject to compliance with regulatory requirements for the provision of potable water and sewage disposal. CCRCs are public facilities as defined herein.

CONTRACTOR'S STORAGE YARD: Indoor or outdoor storage of building materials and equipment commonly used in the construction business.

DENSITY: A unit of measurement, the number of dwelling units per acre of land.

DENSITY, BASE: The unit of measurement used to determine the number of possible dwelling units on a parcel of property, provided all applicable standards of this code and the comprehensive plan are met. If more than one zoning district is involved, base density for that development is the sum total of multiplying the number of acres within each zoning district by the developable density specified for each individual district.

DENSITY, GROSS: The total area of a development, including public and private rights of way, divided by the total number of dwelling units.

DENSITY, NET: The number of dwelling units allowed per acre in a subdivision after subtracting the land occupied by public or private rights of way.

DENSITY, TOTAL DEVELOPABLE: The base density, plus any density bonus awarded specifically for utilizing the PUD option, plus any density bonus accumulated from transferring density from contiguous overlay districts or hazardous areas within the same ownership.

DIMENSIONAL STANDARDS: Bulk and setback regulations.

DISCRETE DRAINAGE: Any area of land that acts as a watershed for a creek, stream or river, identified on the national hydrography data set, dated February 2000.

DUPLEX: A building which contains two (2) dwelling units and two (2) separate kitchens.

DWELLING, ACCESSORY: A separate building or portion thereof or portion of a residential building excluding mobile homes which may, but is not required to, provide complete, independent living facilities for a single family or housekeeping group including permanent provisions for living, sleeping, cooking, eating, and sanitation. The primary factors which cumulatively may result in a building or portion of a building being classified as an accessory dwelling unit are that:

- A. The area is not functionally integrated with the floor plan of the primary residence (i.e., the area does not share a common hallway);
- B. There is a kitchen consisting of a sink, counters, cabinets, refrigerator and cooking appliance; or electrical outlets and plumbing that would support kitchen facilities:

Other factors include, but are not limited to, that the building or portion of the building:

- A. Can be locked off from primary residence and used independently from the primary residence;
- B. Has a separate entrance;
- C. Has conditioned space or wood burning stove;
- D. Has a three-fourths $(^{3}/_{4})$ or full bath;
- E. Has power and plumbing for washer and dryer;
- F. Has a separate mechanical system;
- G. Has upper and lower cabinets;
- H. Has counters.

Said accessory dwelling shall be clearly subordinate to the principal residential use on the lot and shall serve a purpose customarily incidental to the use of the principal residential use. Said unit shall meet criteria set forth in section 9-3-11 of this title. Exception: A building or portion of building that does not exceed five hundred (500) square feet and does not have a kitchen (i.e., sink, counters, cabinets, refrigerator and cooking appliance; or electrical outlets and plumbing that would support kitchen facilities) and has no more than a half bath (i.e., sink and toilet) may be considered an accessory building and not an accessory dwelling unit.

DWELLING, MULTI-FAMILY: A structure or portion thereof designed for and used as the living quarters for three (3) or more families or housekeeping groups.

DWELLING, SINGLE-FAMILY: A structure designed for and used as the living quarters for a single-family or housekeeping group. A manufactured home that is placed on a foundation and meets the building code shall be considered a single-family dwelling; however, a mobile home shall not be considered a single-family dwelling except as otherwise provided in this title.

DWELLING UNIT: A single building or part thereof providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, cooking, eating, and sanitation.

EASEMENT: A nonpossessory interest in real property which gives the holder of such interest the right to use some part, or all, of the real property of another.

EXCAVATION: The movement of earth material.

EXTENDED CARE FACILITY: A medical facility providing short or long term subacute care, or a facility or distinct part of a facility licensed or approved as a nursing home; or a governmental medical institution.

EXTRACTION: Removal and processing of any mineral. Mining, quarrying, separating, or cleaning mineral resources.

FEEDLOT: An open area where domesticated livestock which have been purchased from other ranches are grouped together for intensive feeding purposes prior to their sale for slaughter.

FILL: A deposit of material.

FIREBREAK: A barrier of cleared or plowed land intended to check a forest or grass fire.

FLOOD OF 100-YEAR FREQUENCY: A flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year, as determined by probability analysis of historical hydrological data.

GARAGE, RESIDENTIAL: A building or portion of a building that is primarily used for the parking and storage of passenger vehicles owned and operated by the residents thereof. A garage may contain other accessory uses related to the residential use of the property such as storage of household goods and property maintenance equipment, laundry facilities, work area, etc. A garage may contain a half bath consisting of a sink and toilet, but no shower or bathtub.

GRAVEL OR SHALE PIT: Any point where stone, sand, gravel, or other mineral resources are removed, extracted, crushed, or stockpiled.

HAZARDOUS AREA OR DISTRICT: A parcel of land that is determined to be susceptible to physical hazards such as flooding, avalanche, geologic instability, steep slopes, or low flying aircraft.

HEAVY INDUSTRIAL USE: Any manufacture, processing, or testing of goods and materials, including the production of power, where the byproducts of such use include noise, smoke, odor, glare, gas, vibration, dust, light, or traffic which may have a detrimental effect on neighboring property.

HIGH WATER MARK: See definition of Bank.

HILLSIDE: A part of a hill between and including the summit and the foot and includes, but is not limited to, such landforms as ridges, saddles, and knolls.

Foot: The lowest part of a hillside where the grade of slope increases from horizontal or near horizontal; the bottom or base of a hillside.

Knoll: A small round hill or mound.

Ridge: A sharp, elongated crest or a linear series of crests.

Saddle: A ridge connecting two (2) higher elevations.

Summit: The highest part, top or peak of a hillside.

HILLSIDE ROAD: Any existing or proposed public or private road, street, alley, driveway or other vehicular access to property located or proposed to be located on any property, or portion thereof, within the mountain overlay district.

HOME OCCUPATION: Self-employment by the inhabitant of a dwelling which is clearly incidental and secondary to its use as a dwelling.

HOSPITAL: A healthcare service facility, comprised of one or more structures, licensed as a hospital by the state of Idaho, providing primary health services and medical or surgical care to persons suffering from illness, disease, injury, deformity, infirmity or other abnormal physical or mental conditions and including, as an integral part of the facility, related facilities such as laboratories, diagnostic services, outpatient facilities (such as rehabilitation, medical imaging and community education), medical offices and staff residences which are owned by and under the direct control of the primary medical provider.

HOUSEKEEPING GROUP: A group of unrelated persons living together.

INHOLDINGS, PRIVATE: Parcel(s) of land in private ownership that are wholly located within the exterior boundaries of federal or state public lands.

INTERMEDIATE REGIONAL FLOOD (IRF): Same as 100-year flood.

JUNKYARD: An outdoor space where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, dismantled, stored or hauled.

KENNEL: Any lot or premises on which four (4) or more domesticated animals are housed, groomed, bred, boarded, trained in return for compensation, or sold, and which may offer incidental medical treatment.

LIGHT INDUSTRIAL USES: Warehousing, manufacturing, and/or processing of goods and materials which do not emit offensive odor, dust, smoke, glare, gas, light, noise, or vibration which cannot be confined to the site itself. Wholesaling will be allowed as a light industrial use only if the items are manufactured on site and are not for sale as retail merchandise to the general public.

LOT: A parcel, plot, tract, other contiguous land area, or "original parcel of land" as defined by title 10 of this code.

LOT AREA: The area of any lot exclusive of street and road easements.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the county recorder; or a lot or parcel created pursuant to subsection 10-1-4B of this code, exceptions to the subdivision regulations; or an "original parcel of land", pursuant to section 10-2-1, "Definitions Of Words And Terms", of this code. Lots of record that are nonconforming in size are subject to section 9-27-9 of this title.

MANUFACTURED HOME: A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards and as defined by Idaho Code section 39-4105. For clarification, this definition excludes mobile homes, recreational vehicles and park trailers.

MATERIAL CHANGE: Any change or modification in any application or proposed amendment to this title which, in the opinion of the commission or board, is of such importance that the public interests will be better served by additional notice and public hearing.

MAXIMUM EXTENT FEASIBLE: All possible efforts to comply with the regulation or to minimize potential harm or adverse impacts have been undertaken. Economic considerations may be taken into account but shall not be the overriding factor in determining "maximum extent feasible".

MOBILE HOME: A factory assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation, as defined by Idaho Code section 39-4105.

MOBILE/MANUFACTURED HOME PUD: A residential planned unit development designed for siting mobile or manufactured homes on individual spaces that are rented or leased or on individual lots.

MOBILE/MANUFACTURED HOME PARK: A residential development designed for siting mobile or manufactured homes on individual spaces that are rented or leased.

MOBILE/MANUFACTURED HOME SUBDIVISION: A subdivision designed for mobile home or manufactured home residential use on individual lots under individual ownership.

NONCONFORMING BUILDING: Any building existing at the effective date hereof, or amendment thereto, which does not conform to dimensional standards of this title for the district in which such building is located. Existing improvements on lots that do not conform to present district densities shall not be considered nonconforming buildings as long as the use of the building is allowed in that district.

NONCONFORMING USE: Any use existing at the effective date hereof, or any amendment thereto, which does not conform to the use regulations of this title.

NURSERY: A farm and/or greenhouse growing trees, shrubs, and plants with no on site retail facility, whose commercial use is limited to the sale of those above mentioned products actually grown on the premises or as part of an integrated agricultural operation under common management.

NURSERY, COMMERCIAL: A combination of land, buildings, and structures for the sale of live trees, plants, shrubs, or gardening products, or landscaping services.

NURSERY, FOR CHILDREN: Facility charging a fee to provide care for preschool age children; includes daycare centers.

NURSING HOME: Facility for the care and treatment of more than three (3) elderly patients; includes rest homes and retirement homes.

OFF STREET LOADING AREA: An open, hard surfaced tract of land other than a street or public way, the principal use of which is for standing, loading, and unloading of motor vehicles.

OFF STREET PARKING: An open area, other than street or public way, for the temporary location of motor vehicles.

100-YEAR FLOODPLAIN: The lowland near the channel of 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 established by the engineering practices of the army corps of engineers.

OPEN SPACE, PRIVATE: A land or water area devoid of buildings, streets, parking or other physical structures except fences and irrigation structures.

OPEN SPACE, PUBLIC: An open space area managed or owned by the public is any section of land left undeveloped for scenic, wildlife, vegetative, recreation, visual relief or other related public purposes. Some examples include wilderness areas, natural areas, buffer zones, scenic corridors, and botanical gardens. Permitted management activities are limited to fences, signs, parking, irrigation systems, and public access trails. The site design is to protect natural features of the open space while allowing public access.

OPEN SPACE RECREATIONAL USE: Recreational uses not requiring a building, structure or pond greater in size than one acre.

OUTDOOR RECREATIONAL FACILITY: Facilities such as golf courses, marinas, shooting ranges, rod and gun clubs, and dude ranches whose use is primarily outdoor rather than indoor recreation, for which buildings are incidental and accessory.

OWNER: The individual, firm, association, syndicate, partnership, corporation, or other entity having proprietary interest in the land to be subdivided. A leasehold interest is excluded from such proprietary interest.

PUD DENSITY BONUS: A percentage of the base density for any parcel of land which may be awarded to provide incentive for utilization of the PUD option.

PARENT TRACT: A lot or lots of record situated within an A-20, A-40, R-10, or RR-40 zoning district proposed to be developed either as a straight lot subdivision and/or as a cluster development and used for calculating the density allowance for said subdivisions. A parent tract shall be a minimum twenty (20) acres in size to qualify for an R-10 cluster development, forty (40) acres in size to qualify for an A-20 cluster development, and eighty (80) acres for an RR-40 or A-40 cluster development.

PARK TRAILER: Recreational vehicle primarily designed as temporary living quarters for recreation, camping or seasonal use, as defined by Idaho Code section 39-4201.

PERMITTED USE: An authorized use in a particular zoning district which is subject to the regulations particular to that district.

PLANNED UNIT DEVELOPMENT (PUD): An area of land developed primarily for residential use in which restriction of lot sizes, setbacks, densities, and land uses may be adjusted in return for conformity with an approved plan for the entire parcel.

POTABLE WATER SOURCE: Private water system, such as wells and springs, or public water systems.

POTENTIAL CONTAMINANT SOURCES: A list of potential contaminant sources and potential contaminants associated with commercial, industrial, agricultural, rural, residential, municipal and miscellaneous sources as adapted from 1993 EPA guidelines and published in Idaho department of environmental quality (IDEQ) manual "Protecting Drinking Water Sources In Idaho", published August 2000, or as updated by IDEQ. Said list shall be adopted by resolution by the Blaine County board of commissioners and set forth in appendix A of this title on file in the county and title 7 of this code.

PUBLIC FACILITY: Structure for the use and benefit of the community, limited to a school, hospital, extended care facility, continuing care retirement communities or cultural building.

PUBLIC UTILITY AND PUBLIC SERVICE FACILITIES: Structures essential to furnishing the public with electric power two hundred thirty (230) kilovolts or less, gas, water supply, water treatment, and public services, including power plants or substations, water treatment plants or pumping stations, fire stations, police stations or snow storage locations.

PUBLIC WATER SYSTEM: A system that provides the public with piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty five (25) individuals daily at least sixty (60) days out of the year. Such term includes:

- A. Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
- B. Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.

PUBLIC WORKS ASPHALT PLANT: A facility which manufactures or produces cold and/or hot asphalt and which is operated by a public agency including the United States government, the state of Idaho or any political subdivision of the state of Idaho. To constitute a public works asphalt plant, the applicant must be a public agency, the project must be operated by the public agency or by a private contractor under contract with the public agency, and the final product produced at the plant must be used solely for a public purpose.

PUBLIC WORKS GRAVEL OR SHALE PIT: Any point where stone, sand, gravel or other mineral resources are removed, extracted, crushed or stockpiled by a public agency including the United States government, the state of Idaho or any political subdivision of the state of Idaho. To constitute a public works gravel or shale pit, the applicant must be a public agency or a private contractor under contract with a public agency, the project must be operated by the public agency or by a private contractor under contract with the public agency, and the final product produced at the pit must be used solely for a public works project, including, without limitation, public highway projects.

RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle (includes: travel trailer, camping trailer, truck camper, fifth wheel trailer, and motor home), as defined by Idaho Code section 39-4201.

REFERENCE ROAD: Any federal, state or city public road, or county road designated as a graded and drained or higher improvement designation on the official county highway map.

RETAIL FACILITY: A structure or portion thereof that is used primarily for display and sales to the general public.

RETREAT: Facilities, including living accommodations, which provide for group withdrawal for prayer, meditation, study and instruction under a director. Accommodations cannot be used for general tourist trade, e.g., quasi-motel or resort.

RIGHT OF WAY: A strip of land dedicated or acquired for use as a public thoroughfare, which normally includes streets, sidewalks, and other public utilities or service areas.

ROADS, ARTERIAL: Highways 20, 26, 75 and 93, Gannett Road and Trail Creek Road.

SNRA: Sawtooth national recreation area.

SCENIC CORRIDOR: An area of significant scenic importance to Blaine County as a representation of the rural character and general attractive beauty of the County. Scenic Corridor 1 (SC1) includes the area on both sides of State Highway 75 north of the east to west Glendale Road intersection that is visible from said State Highway 75. The designated scenic travelway contained within SC1 is State Highway 75, carrying the largest volume of commuter, recreational, and tourism traffic in Blaine County.

SELF-SERVICE STORAGE FACILITIES: A structure containing separate individual, and private storage spaces of varying sizes, owned or leased/rented on individual leases for varying periods of time. The following uses are prohibited: residential, commercial, wholesale or retail sales, or garage sales; the servicing, repairing or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment; the operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment; the establishment of a transfer and storage business; and any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations.

SIGN: Any structure or natural object, or part thereof, or device attached thereto or painted or represented thereon, which shall be used to attract attention to any product, place, activity, person, institution, organization or business, or which displays or includes any letter, word, model, banner flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement.

Sign, Directional: Includes only the title of an enterprise and the distance to it.

Sign, Freestanding: Any sign separate from a building, being supported by itself or on legs.

Sign, Informational: Includes descriptive phrases intended for advertisement purposes.

Sign, Off-Site: A sign that advertises or indicates a use that does not occur on contiguous property under the same ownership.

Sign, On-Site: A sign that advertises or indicates a use that occurs on contiguous property under the same ownership.

Sign, Projecting: A sign which projects out from the exterior of a building.

SIGN, SURFACE AREA: The entire area of a sign, including all the copy, background, and borders, excluding frames and structural members.

SITE ALTERATION: The erection, construction, establishment, movement, removal, alteration, conversion or demolition of any building, other structure, or hillside road within the Mountain Overlay District, and also includes, but is not limited to, the excavation or grading of any lot and/or any fill activity within the Mountain Overlay District.

SKYLINED: An outline of a structure against the background of the sky as viewed from Federal roads, State roads and/or roads as shown on the grade and drain map for Blaine County.

SLAUGHTERHOUSE: A building used for the killing, butchering, or processing of animals for human consumption.

SLOPE: An inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance. Percent slope is calculated by multiplying this ratio (rise/run) by one hundred (100). Slope is measured from the base of the hill.

STREET: A right of way which provides access to adjacent properties, and that has been officially accepted. Street shall include the terms highway, thoroughfare, parkway, road, avenue, boulevard, land and place.

STRUCTURE: An edifice, building, or any piece of work artificially built up or composed of parts jointed together in some definite manner, including a gas or liquid storage tank.

SUBDIVISION: The division of a lot, tract, or parcel of land into two (2) or more parts for the purpose of sale, lease, or building development, whether immediate or future.

TERRACE: A level, alluvial or narrow plain with a steep front found at the mouth of side canyons or in the alluvium deposits of valley floors.

TOWNHOUSE DEVELOPMENT: A planned project of two (2) or more townhouse units where a duplex is permitted either as part of previous development approvals or in this title that may be constructed as single building(s) containing two (2) or more townhouse units, each unit being separated from the adjoining unit or units by a one hour fire resistant party wall or walls extending from the basement floor to the roof along the dividing townhouse sublot line, each unit having its own access to the outside, and no unit located over another unit in part or in whole. All townhouse development(s) shall be platted under the procedures contained in title 10 of this code.

TOWNHOUSE SUBLOT: The lot(s) resulting from platting a townhouse development. Townhouse sublots shall have a minimum area equal to that of the perimeter of each individual townhouse unit measured at the foundation. Said sublots shall not be buildable for structures other than a "townhouse unit" as defined herein. Platting of sublots shall follow the procedures set forth in title-10 of this code and other applicable codes in effect. Detached garages, accessory dwelling units, and all other detached and/or accessory buildings shall be contained within the perimeter of the townhouse sublot. Townhouse sublots shall not be considered nonconforming as defined herein. Townhouse sublots shall be considered independently of each other for the purpose of lot size as it relates to accessory dwelling units as regulated herein and other uses or buildings limited by the size of the parcel.

TOWNHOUSE UNIT: One or more rooms, including a minimum of one bathroom and a single kitchen, designed for or occupied as a unit by one family for living and cooking purposes, located in a townhouse development on a platted townhouse sublot.

TRANSPORTATION FACILITIES: Roads, parking areas, turnarounds, bike paths, horse trails, ski or scenic lifts, or any other thoroughfare associated with moving people or materials.

UNDUE HARDSHIP: Special conditions depriving the applicant of rights commonly enjoyed by other property owners in the same district under the terms of this title, but not merely a matter of convenience and profit.

USE: The specific purposes for which land or a building is being used and shall include, but not be limited to, parking lots, roads, and driveways. Use is also defined under the property zoning classification.

USE, EXISTING: Any use legally existing at the time of adoption hereof.

UTILITIES: Installations for conducting water, sewage, gas, electricity, television, stormwater, and similar facilities providing service to and used by the public.

VISIBILITY AND VISIBLE: For lands within the mountain overlay district, the quality, state, or fact of being seen or exposed to view, or capable of being seen or exposed to view without aid of binoculars or other vision enhancing devices, to the occupants of an automobile traveling upon a reference road.

WELLHEAD PROTECTION AREA: Land in Blaine County that is located within a ten (10) year time of travel zone of a public water system as determined by Idaho department of environmental quality (IDEQ), or land within three hundred feet (300') of a potable water source. Wellhead protection area shall include any new and/or modified public water system and any new potable water source without need to amend this definition.

YARD: An open space on the same lot with a principal building, which is unoccupied and unobstructed.

ZONE DISTRICT: A portion of the unincorporated territory of Blaine County defined by this title and designated on zoning maps, to which the provisions of this title apply. (Ord. 2014-06, 12-2-2014; Ord. 2012-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2010-13, 1-18-2011; Ord. 2010-10, 12-7-2010; Ord. 2010-03, 1-19-2010; Ord. 2009-07, 9-8-2009; Ord. 2008-18, 12-2-2008; Ord. 2008-14, 10-21-2008; Ord. 2008-13, 10-7-2008; Ord. 2006-13, 10-26-2006; Ord. 2006-05, 6-29-2006; Ord. 2004-04, 6-7-2004; Ord. 2001-02, 3-19-2001; Ord. 2000-10, 11-6-2000; Ord. 98-6, 7-7-1998; Ord. 98-1, 1-7-1998; Ord. 96-12, 10-15-1996; Ord. 96-10, 9-16-1996; 1996 Code; Ord. 95-5, 4-3-1995; Ord. 95-1, 1-9-1995; Ord. 94-14, 11-14-1994; Ord. 94-5, 6-16-1994; Ord. 93-1, 1-11-1993; Ord. 92-6, 9-28-1992; Ord. 92-5, 9-14-1992; Ord. 92-3, 5-11-1992; Ord. 91-15, 11-25-1991; Ord. 90-4, 6-11-1990; Ord. 81-3, 8-24-1981; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 3 GENERAL PROVISIONS

9-3-1: HOME OCCUPATIONS:

- A. It shall be carried on by the inhabitant living on the premises with a maximum of three (3) on site employees.
- B. It shall use less than one-fourth $\binom{1}{4}$ the floor area of the dwelling unit.

A home occupation shall meet all the following conditions:

- C. There shall be no display or exterior storage associated with the use except a sign no more than two feet (2') square.
- D. It shall not emit noise, vibration, smoke, dust, odors, heat or glare which is noticeable at or beyond its own property lines such that its presence in the neighborhood is obtrusive.
- E. It shall provide adequate off street parking as specified in chapter 28 of this title.
- F. It shall not change the residential character of the neighborhood.
- G. Items shall not be offered for sale unless the raw materials used have been so modified that the final product is unquestionably manufactured on the site.
- H. Home occupations shall be conditional uses in agricultural and residential districts. (Ord. 2009-03, 4-7-2009)

9-3-2: OBJECTIONABLE USES PROHIBITED:

Any use which constitutes a public nuisance, as defined in Idaho Code sections 52-101 and 52-102, is prohibited. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-3: SLOPE CLAUSE:

No site alteration or structural use may occur on any hillside land whose slope exceeds twenty five percent (25%), or fifteen percent (15%) in the scenic corridor 1, except as authorized in chapter 21 of this title. (Ord. 98-1, 1-7-1998; Ord. 91-15, 11-25-1991; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-4: CONVERSION OF ACCESSORY BUILDING PROHIBITED:

No accessory building on the same lot as an existing principal residential dwelling unit shall be converted to residential use except in conformance with section 9-3-11 of this chapter. (Ord. 95-5, 4-3-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-5: BUILDING PERMIT REQUIREMENT AND ADMINISTRATIVE REVIEW OF ALL PERMIT APPLICATIONS:

A. Permit Required: It shall be unlawful to commence construction on any building without having first obtained a valid written building or setback permit. All habitable buildings shall be required to obtain a building permit. All nonhabitable buildings, including agricultural buildings, located in any district in the county other than A-20, A-40, R-10 and RR-40 zoning districts shall be required to obtain a building permit prior to commencement of construction. All nonhabitable buildings, including agricultural buildings, located in A-20, A-40, R-10 and RR-40 zoning districts are required to obtain a setback permit.

- B. Application Review; Notice; Appeal: The administrator, in consultation with the county engineer or his/her designated representative, shall review all applications for building or other permits and all applications for development proposals filed with the county, including those filed pursuant to this title and title 10 of this code, and determine whether: 1) the application is complete, and 2) the use or activity contemplated by the application is subject to provisions of this code relating to a special use overlay district or requires an additional special use, conditional use or other permit. If the administrator determines that a permit or application is incomplete or requires application for an additional permit, the administrator shall so notify the applicant in writing. Any person aggrieved by such written notice from the administrator may appeal the administrator's decision to the board according to the procedures and time requirements of section 9-32-3 of this title. If no appeal is taken, the applicant shall have sixty (60) days from the date of the administrator's written notice to submit the requested additional information or file the requested application for additional permit. For good cause shown, one extension of sixty (60) days may be granted by the administrator upon written request. If the applicant does not timely submit the requested additional information or file the requested application for additional permit, the application for permit or development proposal shall be deemed withdrawn by the administrator.
- C. Permitted And Accessory Uses Located Within A Wellhead Protection Area: The administrator or building official may require that the applicant solicit and document the request for written agency comment from Idaho department of environmental quality, or other appropriate agency, including, but not limited to, the owner of public water systems for projects located in the general commercial zoning district, light industrial zoning district, and heavy industrial zoning district that may involve potential contaminant sources or potential contaminants as set forth in appendix A of this title on file in the county, prior to administrative review of building and other permits for zoning compliance and prior to issuance of a building permit. The administrator or building official may consult with the county engineer or his/her designated representative or Idaho department of environmental quality (IDEQ) or both at the expense, if any, of the applicant. Construction and operation of uses within a wellhead protection area shall conform to best management practices for those potential contaminant source activities. (Ord. 2008-05, 3-11-2008; Ord. 2006-13, 10-26-2006; Ord. 2006-08, 6-29-2006; Ord. 98-1, 1-7-1998; Ord. 95-1, 1-9-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-6: CERTIFICATE OF OCCUPANCY REQUIRED:

No commercial building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor and administrative approval has been obtained for outdoor lighting under chapter 29A of this title. A certificate of occupancy shall also be required for any building or structure for which a valid zoning permit has also been issued. (Ord. 2010-06. 5-25-2010)

9-3-7: SEWAGE TREATMENT APPROVAL:

Sewage disposal facilities for all residential dwelling units must be approved either by the South Central Idaho health district or by the Idaho department of health and welfare, division of environment. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-8: DENSITY TRANSFER:

Developable density transfers shall occur only through the planned unit development process. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-9: SCHEDULE OF FEES:

- A. Filing Fees: Those applications referred to in this title may have a fee established for the processing of the application. The fees shall be paid to the county and deposited with the administrator. No action shall be taken on an application until all applicable fees have been paid in full.
- B. Adoption Of Schedule: Fees shall be established by resolution passed and adopted by the board of commissioners and shall take effect on the date of adoption. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-10: STRUCTURE SETBACK ON HIGHWAY 75:

All structures along Highway 75 shall be set back a minimum of one hundred feet (100') from the edge of the right of way. Utilities and driveways are exempt. Signs within this setback are regulated in chapter 29 of this title. Fences, walls, earthen structures and landscape are regulated in chapter 21A of this title. Address markers are regulated in section 7-7-5 of this code. (Ord. 2009-09, 12-22-2009)

9-3-11: ACCESSORY DWELLING UNIT(S):

The purpose of the accessory dwelling unit regulations is to define what an accessory dwelling unit is; address under what circumstances it is appropriate to allow increased density on a lot; and address the impacts an accessory dwelling unit may have on the surrounding area such as the need for potable water and sanitation, increased traffic and compatibility with the neighborhood.

- A. Standards: One accessory dwelling unit may be constructed on a lot provided the following standards are met prior to issuance of a building permit:
 - 1. On lots of one acre to less than two (2) acres in size (where allowed by South Central district health):
 - a. One accessory dwelling unit which is directly attached to the principal residential dwelling unit with a common interior wall of not less than one hundred twenty (120) square feet shall be a permitted use; or
 - b. One accessory dwelling unit that is detached from or indirectly attached by a breezeway or other feature to the principal residential dwelling unit may be allowed under a conditional use permit obtained from the commission. Notice and hearing procedures contained in chapter 25 of this title shall be followed. The application shall be subject to the provisions contained herein and the standards of evaluation contained in subsections 9-25-3A3 and A4 of this title.
 - 2. On lots of two (2) acres to less than five (5) acres in size:
 - a. One accessory dwelling unit which is attached to the principal residential dwelling unit with a common interior wall or the nearest wall of which is located a maximum of twenty five feet (25') from the nearest point of the principal residential dwelling unit, measured at the foundations, shall be a permitted use; or
 - b. One accessory dwelling unit that is located in excess of twenty five feet (25') from the principal residential dwelling unit, measured as described in subsection A2a of this section, may be allowed under a conditional use permit obtained from the commission. Notice and hearing procedures contained in chapter 25 of this title shall be followed. The application shall be subject to the provisions contained herein and the standards of evaluation contained in subsections 9-25-3A3 and A4 of this title.
 - 3. On lots of five (5) acres or greater in size:
 - a. One accessory dwelling unit which is either attached to or detached from the principal residential dwelling unit shall be a permitted use.
 - b. A second accessory dwelling unit may be allowed under a conditional use permit obtained from the commission. Notice and hearing procedures contained in chapter 25 of this title shall be followed. The application shall be subject to the provisions contained herein and the standards of evaluation contained in subsections 9-25-3A3 and A4 of this title.
- B. Restrictions: All accessory dwelling unit(s):
 - 1. Shall be limited to a maximum one thousand two hundred (1,200) square foot floor area with a maximum of two (2) bedrooms. Said floor area shall be the total of all floor areas as measured from the exterior face of the exterior walls. Garage space up to an additional one thousand two hundred (1,200) square feet is allowed.
 - a. The area encompassing the mechanical system shall be included in the square footage calculation based upon the location of the mechanical system. If the mechanical equipment is located in the crawl space, it shall be exempt from the square footage calculation.
 - b. Exterior stairs that are not enclosed shall be excluded from the square footage calculation.
 - c. When an attic roof truss system creates an unusable and inaccessible attic space between the interior and exterior wall, the floor area measurement shall be taken from the outside of the interior wall;
 - 2. Shall be allowed in the A-20, A-40, R-10, RR-40, R-5, R-2¹/₂, R-2, R-1, R-.4, R-1¹/₄, and RD zoning districts and shall not be allowed in any designated overlay district; except where an accessory dwelling unit is proposed in the floodplain overlay district (see subsection B3 of this section) or on property located within the CH overlay district that is not part of a CH-PUD; or within the MOD and within a platted building envelope or categorically excluded pursuant to section 9-21-4 of this title;
 - 3. May be allowed in the floodplain overlay district as a residential use only upon approval by the commission of a conditional use permit pursuant to <u>chapter</u> 17 of this title and these provisions;
 - 4. Shall meet setbacks for the zoning district in which it is located;
 - 5. Shall require a building permit;

- 6. Shall be located on the same lot as the principal residential dwelling unit;
- 7. Shall provide for one parking space in addition to the minimum required for the principal residential dwelling unit;
- 8. Shall meet requirements of the South Central health district evidenced by approval therefrom upon application for building permit;
- 9. Shall be prohibited on any lot less than one acre in size, regardless of the applicable zoning district;
- 10. May be part of an accessory building containing other accessory uses, as allowed in the zoning district provided that: a) the gross floor area of the accessory building does not exceed seventy five percent (75%) of the gross floor area of the primary residence; b) the accessory dwelling unit portion of the building satisfies all applicable regulations; c) the floor area of the accessory dwelling unit and garage associated therewith is separate and distinct from other accessory uses contained within the same building. (Ord. 2011-01, 1-18-2011; Ord. 2007-02, 3-20-2007; Ord. 2006-11, 8-22-2006; Ord. 2006-08, 6-29-2006; Ord. 2004-04, 6-7-2004; Ord. 2001-08, 9-10-2001; Ord. 95-5, 4-3-1995)

9-3-12: SETBACK FOR NEW COMMERCIAL AND LIGHT INDUSTRIAL STRUCTURES:

New commercial and light industrial structures or uses along Highway 75 shall be set back a minimum of one hundred feet (100') from the property line. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-13: PLANNED UNIT DEVELOPMENTS (PUDs):

Planned unit developments may be allowed only in the following districts: R-10, R-5, R-2¹/₂, R-2, R-1, R-4, R-¹/₄, RD, commercial, light industrial and heavy industrial. Planned unit developments may be allowed in the A-20 district, but only under the following circumstances:

- A. In a designated A-20 transferable development rights receiving area if, as part of the PUD, development rights are being transferred to the site from a TDR sending area to increase the maximum allowable density in the receiving area (see sections <u>9-5-7</u> to <u>9-5-9</u> of this title), or
- B. When land zoned A-20 is contiguous to land in the same ownership that is zoned R-5 or R-10, the base density of the A-20 parcel may be transferred to the contiguous R-5 or R-10 land if development restrictions are placed on the A-20 parcel to restrict all future residential and nonresidential development, except that associated with agricultural purposes. (Ord. 2006-07, 6-29-2006; Ord. 95-1, 1-9-1995)

9-3-14: DAYCARE FACILITIES:

- A. Intent: Blaine County recognizes that the need to establish reasonably priced and closely located childcare facilities is a nationwide concern and is being addressed throughout the country. In order for working parents to continue working or because only a two (2) income family can maintain a reasonable standard of living, parent(s) must be able to find affordable local care for their children. This is not always available in the commercial area of the cities where higher costs and less attractive physical facilities are centered. In an effort to achieve an equitable balance between the private property rights of neighbors and the community needs for childcare facilities, this title is amended to provide a separate section to establish the county's desire to accommodate such facilities. Blaine County recognizes that the impact of initial and subsequent daycare facilities in a neighborhood may differ and that subsequent daycare facilities in a neighborhood may create excessive noise and traffic in residential areas requiring the denial of an application of a conditional use permit for a daycare facility. By approving the concept of childcare facilities in residential areas with appropriate limits, the county is adding its recognition of the importance of childcare to the concerns being expressed throughout the United States and sending a message of support for this service within Blaine County.
- B. Definitions: As used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:
 - DAYCARE CENTER: A home providing daycare for thirteen (13) or more children under twelve (12) years of age.
 - DAYCARE FACILITY: Means and includes a group daycare facility and a daycare center.
 - GROUP DAY CARE FACILITY: A home providing day care for five (5) to twelve (12) children under twelve (12) years of age.
 - The number of children allowed in a group day care facility does not include the care givers' own children and refers to the number of children during any given time.
- C. Conditional Use:

1. Prohibited In Light Or Heavy Industrial Districts: Any group day care facility or day care center shall obtain a conditional use permit pursuant to Chapter 25 of this Title. No day care facility may be established in either a Light Industrial or Heavy Industrial District. Day care centers will be allowed in only a General Commercial District.

- 2. Standards Of Evaluation: The standards of evaluation set forth in subsection 9-25-3A of this Title shall be evaluated before the issuance of any conditional use permit for a day care facility except evidence of traffic generated by vehicles dropping off and picking up children staying at a day care facility will not be the controlling factor in the approval or denial of a conditional use permit for a day care facility located in a residential or agricultural district. Evidence of sounds made by children at a day care facility will not be deemed "excessive noise" unless the noise on an effected landowner's property is greater than sixty (60) dba. The point on a complaining neighbor's property for measurement of noise will be the nearest side of the complaining neighbor's house to the child care facility. Furthermore, the provisions set forth in Section 9-3-1 of this Chapter shall not be considered in an application for a conditional use permit for a day care facility. The occasional care of a neighbor's, relative's or friend's child or children by a person not ordinarily in the business of child care shall not be considered a conditional use and will not require a conditional use permit.
- 3. Procedures: The procedures for a conditional use permit set forth in Sections <u>9-25-2</u>, <u>9-25-4</u>, <u>9-25-5</u>, <u>9-25-6</u>, <u>9-25-7</u> and <u>9-25-9</u> of this Title shall apply in any application for a conditional use permit for any child care facility.
- 4. Requirements And Standards To Be Continued: Any approved day care facility shall continue to meet the requirements and standards of a conditional use permit for a day care facility and failure to continue to meet the requirements and standards shall result in the revocation of a conditional use permit for a day care facility. Existing day care facilities which are sold or otherwise transferred to another individual or entity shall obtain a new conditional use permit and licenses.
- 5. Expiration: Each conditional use permit for a day care facility shall expire after two (2) years unless the Commission has previously granted a lesser expiration period. Thirty (30) days before any expiration period, the applicant shall notify the Administrator who will review the conditional use permit for compliance with this Title and with any previously imposed conditions. If deemed necessary by the Administrator, the Commission shall hear public comment and review the conditional use permit pursuant to the standards of this Title. No fee is required for renewal of a conditional use permit.

D. Mandatory Requirements:

- 1. State Basic Day Care License: Any approved day care facility shall comply with the provisions of Idaho Code, chapter 11, title 39, and any approved day care facility shall obtain and maintain a current basic day care license from the Idaho Department of Health and Welfare pursuant to Idaho Code, chapter 11, title 39. A basic day care license shall be renewed every two (2) years and proof of renewal shall be furnished to the Blaine County Planning and Zoning Office.
- 2. Radon Test: Any approved day care facility shall submit to a radon test and show proof indicating radon levels for the facility below four (4) pico curies per liter. A radon test will be conducted at the lowest level of the facility at which the children will normally be in attendance. A new radon test showing compliance with the standards stated herein will be required before renewal of a conditional use permit.
- 3. Hours Of Operation In Residential And Agricultural Zones: Any approved group day care facility in residential and agricultural zones shall operate only on Monday through Friday between the hours of six thirty o'clock (6:30) A.M. and six thirty o'clock (6:30) P.M. The maximum number of children in any group day care facility on weekdays shall not exceed twelve (12) children at any one time nor more than eighteen (18) children between six thirty o'clock (6:30) A.M. and six thirty o'clock (6:30) P.M. Group day care facilities in residential and agricultural zones may provide day care for no more than four (4) children during any one day on weekends or on Federal and state holidays and for no more than four (4) children on weekdays between six thirty o'clock (6:30) P.M. and six thirty o'clock (6:30) A.M. All children in group daycare facilities on weekends or federal and state holidays shall remain indoors until ten o'clock (10:00) A.M.
- 4. Weekends And Holidays: Except as provided herein, any approved daycare facility shall not operate on a Saturday, Sunday and federal or state holidays.
- 5. Exterior Play Areas: Any approved daycare facility with exterior play areas for children shall be fenced if the facility is near major roads or water hazards, or if deemed necessary for the safety of the children.
- 6. Parking Facilities: Any approved daycare facility shall provide adequate and safe parking facilities for pick up and drop off of children and shall not create any traffic hazards. If deemed necessary, the conditions for parking and prevention of traffic hazards may include, but are not limited to, paving, lighting, snow removal and installing reflectors and safety signs.
- 7. Signs: Any approved daycare facility shall not post any sign for advertisement purposes.
- 8. Inspections: Any approved daycare facility must consent to unannounced inspections by the staff of the Blaine County planning and zoning department to determine whether the facility is complying with the conditions of any conditional use permit for a daycare facility.
- 9. Health District Approval: Any approved daycare facility must obtain a letter of approval from the South Central health district.
- 10. Actions By Commission: The conditions set forth in section 9-25-5 of this title may be attached to any conditional use permit for a daycare facility.
- 11. CPR On Premises: Any approved daycare facility shall ensure that there is at least one person on the premises who has attended and completed a basic cardiopulmonary resuscitation (CPR) course and has received a current certificate of completion for the CPR course.
- 12. Smoking: Any approved daycare facility shall not allow smoking on the premises when children are in attendance.
- 13. List Of Children And Pertinent Information: Any approved daycare facility shall post in a conspicuous place a current list with the child's name, age, home address and parent's or custodian's home and work phone numbers.

Failure to maintain any of the conditions set forth in this subsection may be reviewed by the commission and may result in the revocation of a conditional use permit for a daycare facility.

E. Enforcement: Operation of a daycare facility without a conditional use permit or in violation of an issued conditional use permit is a misdemeanor and subject to penalty as provided in section 1-4-1 of this code. Each day that such a violation continues shall constitute a separate criminal offense. Any landowner, tenant, subdivider, builder, public official or other person who commits, participates in, assists in or maintains such violation may be found guilty of a misdemeanor.

F. Disclaimer: The issuance of a conditional use permit for any daycare facility shall not constitute a representation or affirmance to any person that the facility is free from risk with regard to the standards under state law, county ordinance or as a condition of a conditional use permit. The county, its political subdivisions and its employees or agents shall not be liable for nor shall a cause of action exist for any loss or damage based upon the failure of any person or daycare facility to meet the standards under state law, county ordinance or as a condition of a conditional use permit. (Ord. 88-5, 1-12-1989; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-3-15: ROAD AND DRIVEWAY ACCESS STANDARDS FOR EMERGENCY VEHICLES:

- A. All new driveways or roads, public or private, which are located on the applicant's property, shall be provided and maintained in accordance with the provisions of the international fire code fire apparatus access road standards, as may be amended and adopted by the state of Idaho or the county of Blaine. Aggrieved parties may appeal the decision of the applicable fire chief, fire code official or building official to the appointed board of appeals as set forth in the applicable Blaine County fire protection ordinance.
- B. All new driveways or roads, public or private, across hillside slopes that exceed twenty five percent (25%) shall be constructed in accordance with the standards set forth in chapter 21, "Mountain Overlay District (M)", of this title.
- C. Fire apparatus access roads standards in the fire code is amended to provide the exception as follows: When fire apparatus access roadways cannot be installed due to topography, waterways, nonnegotiable grades or other similar conditions, one single-family structure under one thousand two hundred (1,200) square feet may be allowed, provided spark arresters, clearance from surrounding vegetation, noncombustible roof materials and required fire control equipment are used, and further provided, that all other requirements contained in this title and title 10 of this code have been met. (Ord. 2006-15, 10-26-2006; Ord. 91-15, 11-25-1991)

9-3-16: WIRELESS COMMUNICATION FACILITIES:

9-3-16-1: PURPOSE AND INTENT:

The purpose and intent of this section <u>9-3-16</u> is to provide for an appropriate method of review, evaluation and decision upon conditional use permit applications for wireless communication facilities, provide for the timely processing of applications, and preserve community values expressed in the comprehensive plan. These regulations seek to preserve the natural beauty as exhibited by the mountainous terrain that is the cornerstone of Blaine County's recreation industry, and ensures a quality of life that is important to the county's residents. Blaine County derives many of its community values and environmental quality from the way it appears to residents, visitors and those passing through. These regulations recognize that the location, siting and design of wireless communication facilities is first and foremost a land use issue, which considers the impact of wireless communication facilities on the surrounding natural and manmade environments.

The goals of this section 9-3-16 are to: a) allow for various types of wireless communications facilities subject to location, siting and design standards; b) require wireless communication facilities to be sited in a manner that eliminates to the greatest extent possible, the visual impact of wireless communication facilities; c) promote wireless communications facilities that are compatible with surrounding land uses; d) protect the beauty of the natural environment by eliminating the potential visual blight of wireless communication facilities to the greatest extent possible; and e) safeguard the health, safety, general welfare, and property values of the community.

These wireless communication facility regulations are consistent with the limitations of section 704 of the telecommunications act, as adopted by the U.S. congress, that defines personal wireless services and personal wireless service facilities and preserves local zoning authority over decisions regarding the placement, construction, and modification of personal wireless service facilities except for five (5) limitations. The first limitation is that a local government shall not unreasonably discriminate among providers of functionally equivalent services. The second limitation is that a local government shall not prohibit or have the effect of prohibiting the provision of personal wireless services. The third limitation is that a local government shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is filed. The fourth limitation is that a local government shall put any decision to deny a personal wireless service facility into writing and support such decision by substantial evidence contained in a written record. The fifth limitation is that a local government shall not regulate personal wireless service facilities on the basis of the environmental effects of radio frequency emission to the extent that such facilities comply with the federal communication guidelines. Section 704 of the telecommunications act does not pertain to radio and broadcast facilities, which are subject to local zoning regulations. It is the intent of Blaine County that these regulations apply uniformly to wireless communication facilities and broadcast service facilities as they have similar visual impacts on the surrounding area. (Ord. 2001-09, 10-1-2001)

9-3-16-2: **DEFINITIONS**:

ANTENNA: A whip (omnidirectional antenna), panel (directional antenna), disc (parabolic antenna) or similar device used for transmission and/or reception of radio frequency signals.

ANTENNA ARRAY: One or more whips, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antennas (whips), directional antennas (panels), and parabolic antennas (discs). The antenna array does not include the "mount" as defined herein

APPLICANT: The applicant for a WCF shall include the property owner, all personal wireless or broadcast service providers that will locate on the WCF, and the owner of the mount if different than the service providers or property owner.

BROADCAST SERVICE FACILITIES: A facility that transmits and/or receives broadcast signals for television and/or radio. Broadcast service facilities include antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or receipt of broadcast signals; towers or other structures supporting the equipment; equipment buildings, shelters, cabinets; parking area, and other accessory development.

CAMOUFLAGE: To disguise, mask or alter the appearance of a WCF so as to obscure the identity or true nature of the facility.

CARRIER: A company licensed by the federal communications commission (FCC) that provides wireless services. A tower builder is not a carrier.

CELLULAR: A form of personal wireless services operating in the 800 MHz spectrum, or its successor technology.

COLLOCATION: The use of a common mount or common site by two (2) or more wireless license holders or by one wireless license holder for more than one type of communications technology as well as placement of two (2) or more WCFs on adjacent properties.

COMMERCIAL MOBILE RADIO SERVICES (CMRS): Pursuant to section 704 of the telecommunications act of 1996, any of several technologies using radio signals at various frequencies to send and receive voice, data and video; a form of personal wireless services. According to the FCC, these services are "functionally equivalent services". Section 704 of the telecommunications act prohibits unreasonable discrimination among functionally equivalent services.

CONCEAL: To enclose a WCF within a natural or manmade feature resulting in the facility being either invisible or made part of the feature enclosing it.

DISGUISE: See definition of Camouflage.

ELEVATION: The measurement of height above mean sea level.

ENHANCED SPECIALIZED MOBILE RADIO (ESMR): Private land mobile radio with telephone services.

EQUIPMENT CABINET/EQUIPMENT SHELTER: An enclosed structure at the base of the mount within which are housed the equipment for the WCF such as batteries and electrical equipment.

FALL ZONE: The area within a prescribed radius from the base of a WCF. The fall zone is the area within which there might be a potential hazard from falling debris or a collapsing mount.

FEDERAL COMMUNICATIONS COMMISSION (FCC): An independent federal agency charged with licensing and regulating wireless communications at the national level.

FUNCTIONALLY EQUIVALENT SERVICES: Forms of personal wireless services including cellular, PCS, enhanced specialized mobile radio, specialized mobile radio and paging. Section 704 of the telecommunications act prohibits unreasonable discrimination among functionally equivalent services.

HEIGHT: The distance measured from above ground level to the highest point of a WCF, including the antenna array. For purposes of measuring height, all antennas or other attachments mounted on a structure shall be included in the measurements to determine overall combined height.

LICENSED CARRIER: Any party authorized by the FCC to operate in an assigned frequency.

MONOPOLE: The shape of mount that is self supporting with a single shaft of wood, steel or concrete.

MOUNT: The structure or surface upon which antennas are mounted, e.g.:

- A. Roof Mounted: Mounted on the roof of a building;
- B. Side Mounted: Mounted on the side of a building;
- C. Ground Mounted: Mounted on a monopole, mast, pole or tower;
- D. Structure Mounted: Mounted on a structure other than a building.

PERSONAL WIRELESS SERVICE FACILITY: Facility for the provision of personal wireless services, as defined by section 704 of the telecommunications act of 1996. A personal wireless service facility is any unstaffed facility for the transmission and/or reception of personal wireless services, usually consisting of an antenna array, transmission cables, equipment shelter and a mount.

PERSONAL WIRELESS SERVICES: Any personal wireless service defined in the federal telecommunications act which includes federal communications commission (FCC) licensed commercial wireless telecommunications services including, but not limited to, cellular, personal communications services (PCS),

specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging as well as unlicensed wireless services, and common carrier wireless exchange access services.

PUBLIC EMERGENCY SERVICE AGENCY: Any public agency directly responsible for providing police, fire, safety, ambulance, or emergency medical care services to the public.

RADIO FREQUENCY (RF) ENGINEER: A professionally trained, licensed electrical or microwave engineer who specializes in the study of radio frequencies.

RADIO FREQUENCY (RF) SIGNAL: The actual beam or radio waves sent and received by a WCF. A signal contains RF emissions.

RADIO FREQUENCY RADIATION (RFR): The emissions from a WCF that can, in excessive amounts, be harmful to humans. RF emissions are part of the RF signal.

REFERENCE ROAD: Any federal public road, state highway or road, or county road designated as graded and drained, or higher improvement designation, on the official county highway map, located within Blaine County.

SECURITY BARRIER: A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

SPECIALIZED MOBILE RADIO (SMR): A form of dispatch or two-way communication used by companies that rent space or time from an SMR carrier, a form of personal wireless service. Used primarily for data, delivery vans, truckers or taxis within a small, definable geographic area.

TOWER: A generic term used to describe a mount used for the attachment of antenna, microwave communication equipment, parabolic antennas, directional antennas and other types of equipment for the transmission or receipt of RF signals.

UNLICENSED WIRELESS SERVICES: Commercial mobile services, a form of personal wireless services, that can operate on public domain frequencies and therefore need no FCC license for their sites.

UTILITY POLE: A telephone pole, utility distribution pole, streetlight or traffic signal stanchion, that is commonly used in Blaine County to provide telephone service, cable television, electricity or light. A monopole is not a utility pole.

WIRELESS COMMUNICATIONS FACILITY (WCF): A facility that transmits and/or receives electromagnetic signals for voice, data, image, graphic and other information, including antennas, microwave dishes, parabolic antennas, directional antennas and other types of equipment for the transmission or receipt of such signals; towers or other structures supporting the equipment; equipment buildings, shelters, cabinets; parking area, and other accessory development. WCFs include, but are not limited to, personal wireless services and facilities as defined by section 704 of the telecommunications act of 1996, and broadcast service facilities. (Ord. 2001-09, 10-1-2001)

9-3-16-3: ZONING DISTRICT REGULATIONS:

The placement, use or modification of a WCF as allowed by law within unincorporated Blaine County, including on state and federally administered lands by a permittee, is subject to the provisions of this title. A WCF shall be a conditional use in each residential, agricultural, recreational, commercial and industrial zone in the county, unless a written categorical exclusion from the conditional use permit process has been granted by the administrator as provided in section 9-3-16-7 of this chapter. A WCF located within a designated overlay district is also subject to the requirements of said overlay district as set forth in this title. (Ord. 2001-09, 10-1-2001)

9-3-16-4: REQUIREMENTS FOR EXISTING WCFs:

- A. An existing WCF that is constructed and is being operated in compliance with a conditional use permit issued by the county on or before October 10, 2001, the effective date of Blaine County ordinance 2001-09, shall constitute a lawful nonconforming structure and use to the extent said WCF does not conform to the requirements of this section 9-3-16. Said WCF shall be governed by the terms of said permit and chapter 27, "Nonconforming Uses And Buildings", of this title.
- B. Any expansion, addition, alteration, modification and/or change to a county approved WCF, including collocation by another carrier, requires a conditional use permit unless categorically excluded and is subject to the requirements of this section 9-3-16.
- C. Any existing WCF improvements that are not in compliance with a valid conditional use permit or categorical exclusion, or WCFs that have been constructed without a valid conditional use permit or categorical exclusion, are subject to the enforcement measures as set forth in section <u>9-32-5</u> of this title, and may be removed by the county at the expense of the owner of the mount, service provider, and/or property owner.
- D. A WCF that has been damaged or destroyed by natural causes may be restored as set forth in chapter 27 of this title, except when the surrounding screening vegetation or other aspects of the site that were the basis of the approval of the conditional use permit or categorical exclusion are so damaged that the site cannot be reasonably restored to its previous condition. In which case, no grandfathered rights run with the WCF, and any new WCF shall comply with this section 9-3-16.

E. Any personal wireless or broadcast service provider with an existing WCF(s) in Blaine County, including within the incorporated cities, or on state or federally administered lands, may be required to demonstrate that they have obtained necessary permits from the governing jurisdiction, by providing an accounting of said facilities and permits issued, before any conditional use permit application or categorical exclusion request for an additional WCF for that carrier is certified as complete by Blaine County. As part of the application process, agency comment from the governing jurisdiction in which the existing WCF is located may be sought. If the jurisdiction does not respond within thirty (30) days of said request, the application for the new WCF may be certified as complete, provided all other submittal requirements have been satisfied. (Ord. 2014-05, 10-27-2014)

9-3-16-5: WCFs LOCATED WITHIN THE MOUNTAIN OVERLAY DISTRICT ("MOD"):

In addition to satisfying the requirements set forth in chapter 21 of this title, WCFs located within the mountain overlay district ("MOD") shall also be subject to the following requirements:

- A. New WCF sites in the MOD shall be served by existing roads to the greatest extent possible.
- B. When it is not possible to access a new WCF site in the MOD from an existing road, the applicant may be required to construct and maintain the site without the benefit of a new road when the site can safely be reached by either all wheel drive vehicles that do not produce visual scarring, or by helicopter, and approval from the applicable fire authority is obtained. (Ord. 2001-09, 10-1-2001)

9-3-16-6: PERMITS REQUIRED:

- A. Conditional Use Permit: It shall be unlawful to construct, install, site or operate a new WCF, or modify, add onto, or alter an existing WCF, or collocate a new antenna, support structure(s) or WCF at an existing site, unless the applicants have either obtained a conditional use permit in accordance with this section, or the administrator has determined in writing pursuant to section 9-3-16-7 of this chapter that the proposed construction, installation, placement, addition and/or modification of the WCF falls within a categorical exclusion as provided herein. A conditional use permit or a written categorical exclusion is required prior to issuance of a building permit. If a licensed carrier or service provider is seeking to locate WCFs on more than one site, a conditional use permit application or categorical exclusion request for each site is required. The administrator may, at his/her discretion, require applications by the same carrier for multiple sites, or application(s) for multiple carriers at the same site, to be heard simultaneously by the commission or hearing examiner. The standards of evaluation contained in section 9-25-3 of this title shall not apply to WCFs.
- B. Building Permit: It shall be unlawful to commence construction on any new WCF, or modify, alter or add an antenna to an existing WCF, without having first obtained a valid written building permit as may be required under the building code as adopted by Blaine County.
- C. Exclusion From Permit Requirements: This section 9-3-16 shall not govern:
 - 1. The installation of television satellite dish antennas for personal use when attached to a residential or commercial structure.
 - 2. The installation of amateur radio facilities that are owned and operated by a federally licensed amateur radio station operator, or are used exclusively for noncommercial, receive only antennas. Any WCF which is attached to an amateur radio facility antenna apparatus is subject to the requirements of this section 9-3-16.
 - 3. Routine maintenance of a WCF, but not the replacement of any support structure apparatus, antennas or any exterior alteration of the WCF or any component thereof. (Ord. 2014-05, 10-27-2014; Ord. 2001-09, 10-1-2001)

9-3-16-7: CATEGORICAL EXCLUSIONS:

- A. Exclusions: The conditional use permit application requirements of this section <u>9-3-16</u> shall not apply to the following, provided the applicant and coapplicant(s), prior to construction, placement or modification of a WCF, first obtain a written decision from the administrator, in consultation with the county engineer, or other qualified person designated by the county, that the proposed action falls within and meets one of the following categorical exclusions. The processing fee established by resolution of the board shall accompany each written request for a categorical exclusion. Fees resulting from the technical review by the county engineer, or other qualified person designated by the county, are the responsibility of the applicant, and shall be paid prior to the administrator rendering a decision as provided herein. Proposals that qualify for a categorical exclusion shall demonstrate compliance to the mandatory siting and design standards as set forth in this section <u>9-3-16</u>.
 - 1. Replacement or upgrade of equipment by a valid conditional use permit holder at an existing WCF, provided the existing equipment is replaced with

equipment of equal or greater technical capacity and is reduced in size so as to minimize the visual impact.

2. Addition of antenna(s) and support structure(s) onto an existing county approved mount that is fully concealed within a structure or building, provided that the additional equipment will not result in any visible change to the exterior of the structure or building, and the structure or building is engineered to accommodate the additional antennas.

- 3. The temporary testing and placement of a WCF for the purpose of determining the feasibility of a site, provided the testing and placement of the WCF does not exceed thirty (30) days from the date testing commences, and the site is restored to its previous conditions.
- 4. The administrator may, after consultation with the governing board, waive all or parts of the requirements of this section <u>9-3-16</u> for an application for a WCF made by a public emergency service agency for temporary structures needed on an emergency basis, upon a demonstration by the public service agency that communications needed to ensure the prompt and efficient response to public health, safety and welfare cannot be accomplished without such a waiver.
- 5. For a WCF located in the mountain overlay district:
 - a. Addition or replacement of antenna(s) and fixtures accessory thereto, such as cables, ice shields and similar fixtures, onto an existing mount if the antenna and accessory fixtures do not exceed the mount height and do not extend more than ten feet (10') beyond the footprint of the mount. (Additional mounts or extensions of mounts shall not be categorically excluded.)
 - b. One equipment shelter serving each tower which does not exceed six hundred twenty five (625) square feet in floor area, and a maximum height of fifteen feet (15').
- B. Administrator's Review Of Categorical Exclusions: The administrator, in consultation with the county engineer, or other qualified person as designated by the county, shall review all written requests for determinations of categorical exclusions under this section, and promulgate appropriate forms to be used for such requests. The applicant shall have the burden of demonstrating that the proposed development proposal falls within and meets the requirements of a categorical exclusion. The administrator shall issue a written decision within thirty one (31) days of receipt of an application for determination of categorical exclusion. The administrator, prior to issuance of his/her decision, may request additional information from the applicant, including, without limitation, technical review from the county engineer or other qualified person designated by the county. Said technical review shall be at the applicant's expense. Failure to provide such requested information within sixty (60) days of request shall be grounds for denial of the request for determination of categorical exclusion. The thirty one (31) day time period for issuance of the administrator's decision shall begin to run anew following the date of the administrator's receipt of additional information from the applicant. Such period also shall be tolled during any periods that the administrator does not have reasonably safe access to the site of the proposed development. Any person aggrieved by the written decision of the administrator as to a categorical exclusion may appeal the administrator's decision to the board, according to the procedures and time requirements of section 9-32-3 of this title. (Ord. 2014-05, 10-27-2014; Ord. 2001-09, 10-1-2001)

9-3-16-8: CONDITIONAL USE PERMIT PROCEDURE:

Application for a conditional use permit shall be made on a form furnished by the administrator and shall be filed by the applicant and coapplicant(s), consisting of the property owner, all personal wireless or broadcast service provider(s) that will locate on the WCF, and the owner of the mount if different than the service providers or property owner. The application fee established by resolution of the board shall accompany each application. Fees resulting from the technical review by the county engineer or other qualified person as designated by the county are the responsibility of the applicant, and shall be paid prior to public hearing. No application shall be certified as complete unless it includes the following minimum information in sufficient detail for the commission or hearing examiner to determine compliance with the standards of evaluation as set forth in section 9-3-16-12 of this chapter. Based upon site specific circumstances, and upon appropriate findings, the commission or hearing examiner may require additional information in order to render a decision on an application. Further, the administrator may waive certain submittal requirements based upon site specific conditions and appropriate findings.

A. Application: The application shall include at a minimum:

- 1. Name, address and telephone number of applicant and all coapplicants as well as any agents for the applicant or coapplicants. When the application involves the placement of a WCF on a utility pole or mount, and the utility pole or mount is situated on privately owned property, the property owner shall be a coapplicant. If the utility pole or mount is situated within an easement, written approval of the easement holder is required.
- 2. Signatures for the applicant and all coapplicants applying for the conditional use permit to verify the application is true and correct. If the applicant and/or coapplicant is represented by an agent, signature authorizing the agent to represent the applicant and/or coapplicant is required.
- 3. A complete legal description of the land on which the WCF will be sited, by lot, block, tract or metes and bounds description, and street address, or similar description that will readily identify and definitively locate the proposed site. A vicinity map shall be included.
- 4. Zoning designation of subject property including any overlay districts.
- 5. Reserved.
- 6. Written input from the applicable rural fire district, or the county fire marshal if the parcel is located outside an established fire district, addressing compliance with fire protection requirements.
- 7. A parcel map drawn to scale showing the subject property, and all properties within one thousand feet (1,000') of the project location, and the approximate location and approximate height of all buildings, including accessory structures, within one thousand feet (1,000') of the project location. Map shall include owners' names.

8. A list of the names and addresses of all property owners and residents within three hundred feet (300') of the external boundaries of the land being considered. Names and addresses shall also be provided on mailing labels.

- 9. Map showing access to the proposed site from a public road, including the names and addresses of intervening private and public landowners.
- 10. Map indicating existing locations and service areas of other WCF sites operated by the applicant and area to be served by the proposed WCF both within and outside of Blaine County.
- 11. Sufficient information to accurately identify and locate the proposed site, provided in digital format compatible with the county geographic information system.
- 12. Applications for a collocation mount shall provide at least two (2) letters of intent from carriers to collocate on the mount, and said carriers shall be coapplicants.
- 13. A copy of the FCC construction permit;
- B. Site Plan: Site plan drawn to scale of no less than one inch equals twenty feet (1" = 20'), specifying the following:
 - 1. Dimensions: Property lines with dimensions, existing structures, land uses and zoning on the subject property;
 - 2. Adjacent Land: Land uses, structures and zoning on all land adjacent to the subject property;
 - 3. Representations: Representations, dimensioned and to scale, of the proposed mount, antenna and support structure(s), equipment shelters, cable runs, utilities, parking areas and any other construction or development pertinent to the WCF;
 - 4. Circulation: Adjacent roadways, ingress and egress from said roadways and parking including temporary or permanent roads and driveways;
 - 5. Fences, Signs, Lighting And Drainage: Fences, signs, exterior lighting and storm drainage;
 - 6. Security Barrier: Proposed security barrier, indicating type and extent, as well as point of controlled entry;
 - 7. Use Restrictions: Existing watercourses, utility lines, easements, deed restrictions and other built or natural features restricting the use of the subject property;
 - 8. Distances: Distances, at grade, from the proposed WCF to each building on the site plan;
 - 9. Topographic Study: A topographic study by a licensed surveyor may be required based upon site specific conditions;
 - 10. Scale And Legend: North arrow, scale and legend;
- C. Landscape Plan: Landscape plan drawn to scale of no less than one inch equals twenty feet (1" = 20'), specifying the following: (Note: The landscape plan may be waived when the WCF is to be attached to a building or utility pole and the equipment is located either within the building or underground.):
 - 1. Existing and proposed landscaping, indicating size, location, quantity and species of vegetation;
 - 2. Indication of existing vegetation to be removed, retained or disturbed;
 - 3. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two foot (2') contours;
 - 4. Photographs of the proposed site taken from various vantage points such as neighboring properties, nearest reference roads, Wood River trail system and State Highway 75, sufficient to demonstrate compliance with subsection <u>9-3-16-12</u>B1 of this chapter;

D. Design Information:

- 1. Equipment brochures for the proposed WCF such as manufacturer's specifications or trade journal reprints. Information shall be provided for the antenna and support structure(s), mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- 2. Materials for the proposed WCF specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, galvanized steel, painted fiberglass, etc.). Information shall be provided for the antenna and support structure(s), mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- 3. Colors of the proposed WCF represented by a color board showing actual colors proposed. Colors shall be provided for the antenna and support structure(s), mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- 4. Dimensions of the WCF specified for all three (3) directions: height, width and breadth. These shall be provided for the antenna and support structure(s), mounts, equipment shelters and security barrier, if any.
- 5. Appearance shown by at least two (2) photo simulations and elevation drawings of the WCF within the subject property. The photo simulations shall include the antenna and support structure(s), mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth of the site.
- 6. Photo simulations of the proposed WCF from reference roads, Wood River trail system, and State Highway 75 as it passes through the municipalities.

7. When locating a new antenna array on an existing mount, sufficient information depicting the total visual impact of the entire mount shall be provided.

E. Additional Information Required:

- 1. Other Existing Facilities: If the proposed facility involves an applicant who has other existing facilities within Blaine County, an accounting of said facilities, and copies of permits issued by governing jurisdictions, may be required, as determined appropriate by the administrator.
- 2. Provide Master Plan If Part Of Networked System: When the proposed WCF is part of a networked system, the applicants shall provide a master plan that describes all major components of the network (location and general description of antennas and support structures, and switching hub) that are located either in Blaine County, or within one mile of the exterior county boundary, and indicate:
 - a. What components are existing;
 - b. Whether the components are owned by the applicant or are used by agreement with other service providers;
 - c. How the proposed WCF fits within the carrier's network design;
 - d. When proposed components will be completed and/or operational;
 - e. The potential expansion of their system within Blaine County over the next five (5) years including the general location of future facilities, and a description of the type of facilities contemplated.
- 3. Alternative Analysis Required: A narrative and graphic representation of two (2) less visually obtrusive alternative proposals for the WCF facility in terms of location, siting, height, and/or design each of which complies with the provisions of this section 9-3-16 is required. Such alternatives shall be substantially different from the primary proposal. The application shall not be certified as complete unless the alternative analysis comparison has been provided to the county. WCFs that are determined by the administrator to qualify as categorical exclusions under section 9-3-16-7 of this chapter are exempt from the analysis and comparison requirement.
- 4. Narrative: If the application involves the development of a single user mount and/or site, the applicant shall provide a narrative explaining why the proposed WCF cannot be located on an existing mount for which a conditional use permit has been issued by the county.
- 5. Written Agency Comment: Written agency comment from appropriate agencies as determined necessary by the administrator including, but not limited to, the federal aviation administration, Idaho transportation department aeronautical division, Blaine County recreation district and Idaho transportation department. (Ord. 2014-05, 10-27-2014; Ord. 2001-09, 10-1-2001)

9-3-16-9: ADMINISTRATIVE REVIEW OF APPLICATION:

Upon receipt of the application, the administrator shall review the application submittal for compliance to the submittal requirements set forth herein. Once it has been determined by the administrator that the submittal requirements have been satisfied, the administrator shall certify the application as complete and place the application on the agenda of the next available regular meeting of the commission or hearing examiner wherein legal notice requirements can be satisfied. No application shall be certified as complete unless it includes information in sufficient detail for the commission or hearing examiner to determine compliance with the standards of evaluation as set forth in section 9-3-16-12 of this chapter. In the event the application is not complete, the administrator shall advise the applicant of the corrective action needed. In the event the data required for the administrator to certify the application as complete is not filed within one hundred eighty (180) days from the date the application was filed with Blaine County planning office, the application shall be null and void. One time only, the administrator, at his/her discretion, may approve one extension of time within which materials may be submitted upon receipt of a written request by the applicant giving in detail the reason additional time is required to file said data. When the administrator approves an extension to submit materials under this section, said approval shall be in writing and for a specific period of time not to exceed forty five (45) days. (Ord. 2001-09, 10-1-2001)

9-3-16-10: PUBLIC HEARING AND NOTICE REQUIREMENTS:

Notice requirements for a conditional use permit application for a WCF shall be satisfied as set forth in section 9-25-4 of this title. (Ord. 2001-09, 10-1-2001)

9-3-16-11: COMMISSION OR HEARING EXAMINER REVIEW AND ACTION:

Decisions shall be based on the standards of evaluation as set forth in section 9-3-16-12 of this chapter. The standards of evaluation contained in section 9-25-3 of this title are not applicable to WCFs. Review of the application and receipt of public input shall be conducted at a duly noticed public hearing as set forth in section 9-25-4 of this title. The commission or hearing examiner may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required, other than that requested by the commission or hearing examiner. Continuation beyond thirty one (31) days shall require further published notice, according to section 9-25-4 of this title. The commission or hearing examiner shall approve, approve with conditions, or deny said application, making appropriate findings to support the decision. The commission or hearing examiner shall enter an order or adopt its written findings of fact and decision within thirty one (31) days after the action is taken by the commission or hearing examiner. The granting of the 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. (Ord. 2001-09, 10-1-2001)

9-3-16-12: STANDARDS OF EVALUATION:

The applicant has the burden of demonstrating compliance with each of the following standards of evaluation as set forth in this section. The commission or hearing examiner shall review the application and determine if there is substantial evidence in the record to make a finding that either the proposal complies with each of the following standards of evaluation, or the specific standard is not applicable to the application:

A. Threshold Standards:

- 1. Applicant Review: The commission or hearing examiner may consider whether existing WCFs operated by the applicant in Blaine County, including within the incorporated cities, or on state or federally administered lands by a permittee, have obtained necessary permits from the governing jurisdiction, before any new permit for the applicant is granted. If the applicant has not obtained the required permits from the appropriate jurisdiction, the commission or hearing examiner may require the applicant to obtain other required permits as a condition of approval for any new permit issued by the county.
- 2. Alternative Sites: Alternative site and/or design studies provided by the applicant shall demonstrate that reasonable consideration has been given to such alternative sites and/or designs, and the proposal is the preferred alternative when considered in light of the purposes and intent of this chapter.
- 3. Conditional Use Permit: If the applicant or landowner with respect to an application for a conditional use permit under this section is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code 67-6528.

4. Height Limitations:

- a. In the R-1/4 (high density residential district), R-.4 (medium density residential district), R-1 (low density residential district), R-2 (planned residential development district), R-21/2 (rural residential district), R-5 (residential/agricultural district), RD (recreation development district), FP (floodplain overlay district), C (general commercial district), and LI (light industrial district) zoning districts, the WCF, including all attachments thereto, shall not exceed thirty five feet (35') as measured from ground level to the highest point of the structure, including all attachments thereto, except:
 - (1) When roof mounted on a nonresidential building, the WCF may exceed the thirty five foot (35') height limitation by a maximum of ten feet (10');
 - (2) When attached to a utility pole the WCF may exceed the height of the utility pole by no more than ten feet (10'); (see also subsection C of this section);
 - (3) In the LI, C and RD zoning districts, the WCF may exceed the thirty five foot (35') height limitation when it is located within a dense growth of trees of similar height;
- b. In the HI (heavy industrial district), the WCF shall not exceed forty five feet (45') as measured from ground level to the highest point of the structure including all attachments thereto, except:
 - (1) When roof mounted on a nonresidential building, the WCF may exceed the forty five foot (45') height limitation by a maximum of ten feet (10');
 - (2) When attached to a utility pole the WCF may exceed the height of the utility pole by no more than ten feet (10'); (see also subsection C of this section);
 - (3) When it is located within a dense growth of trees of similar height;
- c. In the A-20 and A-40 (productive agricultural zoning districts) and R-10 (rural residential district) and RR-40 (rural remote district), WCFs shall not exceed forty feet (40') in height as measured from ground level to the highest point of the structure, including all attachments thereto, except:
 - (1) When roof mounted on a nonresidential building, the WCF may exceed the forty foot (40') height limitation by a maximum of ten feet (10');
 - (2) When attached to a utility pole the WCF may exceed the height of the utility pole by no more than ten feet (10'); (see also subsection C of this section);
 - (3) When attached to an existing agriculturally related building which exceeds forty feet (40'), provided the WCF does not exceed the height of the structure;
 - (4) When it is located within a dense growth of trees of similar height;
- d. WCFs located in the mountain overlay district shall not exceed the height of any existing WCF at the site, as measured from ground level to the highest point of the WCF, including all attachments thereto.

5. Setback Requirements:

- a. Freestanding WCFs, including mounts and equipment shelters, shall be set back a minimum of fifty feet (50') from:
 - (1) The nearest residence on the same property as the WCF;
 - (2) The residential building envelope on adjacent undeveloped lots; or
 - (3) Property lines if adjacent lots are either undeveloped or do not contain a platted residential building envelope.
- b. More restrictive setbacks may be established through the conditional use permit process as deemed necessary to protect the public health, safety and welfare.

c. On parcels with a principal building housing a permitted use, all components of the WCF may be required to be located behind the main building line nearest the street or public pathway.

- d. WCFs shall satisfy the fall zone requirements set forth in subsection A7 of this section.
- 6. Facade Mounted Antennas: Facade mounted antenna arrays associated with a WCF shall:
 - a. Meet or exceed the building setback requirements established for the zoning district in which the WCF is located;
 - b. Extend no more than twenty inches (20") horizontally from the attachment structure at the point of attachment;
 - c. Not exceed the maximum allowed building height for the zoning district in which the WCF is located;
 - d. Be located no closer than thirty feet (30') to an opening of a habitable structure.
- 7. Fall Zone Requirements:
 - a. Freestanding WCFs, excluding those that are concealed in a building or structure, shall contain a fall zone of at least two (2) times the height of the WCF, as measured from the WCF to any habitable structure or outdoor area where people congregate (such as schools, churches, parks, recreational areas, public buildings, etc.). This requirement does not apply to utility pole mounted WCFs.
 - b. Freestanding WCFs, excluding those that are concealed in a building or structure, shall contain at a minimum a fall zone of a radius equal to the height of the WCF, as measured from the WCF to an adjacent property line. This requirement does not apply to utility pole mounted WCFs.
- 8. Parking Requirements: Adequate off street parking to accommodate maintenance and construction workers may be required.
- 9. Access Requirements:
 - a. The applicant shall demonstrate in writing that they have authority to access the WCF site for construction and maintenance purposes from a public right of way, across privately and publicly owned lands. Said written authority shall include the right of county officials to cross said lands for legitimate public purposes.
 - b. The applicant shall demonstrate that the site can be safely accessed by county officials and fire protection personnel.
- 10. Facility Upgrade: At the time of modification or upgrade of facilities, existing equipment shall be replaced with equipment of equal or greater technical capacity and reduced in size so as to minimize visual impact.

B. Design And Siting Standards:

- 1. Visibility: The WCF shall be designed to eliminate, to the greatest extent possible, the visibility of the proposed facility as viewed from a reference road, Wood River trail system, or State Highway 75 as it passes through a municipality by means of concealment, camouflage, disguise and placement. While complete elimination of any visual impact cannot be accomplished in every case, the applicants shall make every available effort to ensure that the visibility of the proposed WCF is slight. Techniques that can be used to potentially eliminate the visual impact include, but are not limited to, the following:
 - a. Selection And Use: Selection and use of antennas, support structures and configurations which result in the least bulk, profile and height possible;
 - b. Concealment: Concealment of the WCF within or on a structure, building, or edifice when said structure, building or edifice is compatible and in scale with the surrounding land uses and structures. Examples are:
 - (1) Church steeples, flagpoles, weather vanes and cupolas, etc.;
 - (2) Buildings and structures designed to look like typical agricultural buildings or structures such as windmills, silos, or barns, provided the building or structure housing the WCF is accessory to a permitted use on the same parcel;
 - (3) Buildings and structures designed to look like typical residential accessory structures such as garages and storage buildings, provided the building or structure housing the WCF is accessory to a permitted use on the same parcel; or
 - (4) Artificial features (such as synthetic rock) which is made to appear as a naturally occurring form in the environment;
 - c. Camouflage Or Disguise:
 - (1) Colors and materials for the WCF chosen to minimize visibility of the WCF;
 - (2) A WCF located on a building, wall or roof, designed to blend with the existing building's architecture by painting or shielding with material which is consistent with the design features and materials of the building;
 - d. Placement:
 - (1) Locating the WCF, where it is backdropped by existing structure(s) or geographical feature(s) such as a hillside or building, sufficient that the profile of the WCF as viewed from a reference road, Wood River trail system or State Highway 75 as it passes through a municipality is eliminated to the greatest extent possible;
 - (2) Locating the WCF within an dense growth of trees of similar height;
 - (3) Roof mounted on a nonresidential building;
 - (4) Attached to the facade of a nonresidential building or structure;

- (5) Attached to a utility pole (see subsection 9-3-16-13 E of this chapter).
- 2. Scale: The WCF shall be designed and constructed to be in scale with the surrounding land uses and structures as exhibited by relative height, mass and proportion.
- 3. Lighting:
 - a. A WCF shall not be artificially lighted, except as needed for routine maintenance of the facility. Exterior lighting shall utilize:
 - (1) Minimum wattage necessary for the proposed use,
 - (2) Full cut off lighting fixture whereby light is downcast, and does not extend horizontally beyond the base of the fixture, and
 - (3) Timing device.
 - b. WCFs which are required to be illuminated by a local, state or federal agency shall be reduced in height and/or otherwise modified or located so as to not require lighting. No lighting other than for routine maintenance of the facility is permitted.
- 4. Security Barriers: A security barrier may be required by the building official, commission or hearing examiner to be erected no closer than twenty five feet (25') around the perimeter of ground mounted WCFs. In the case of a roof mounted WCF, a security barrier may be required around the antenna and support structure(s) or antenna array. Security barriers shall be maintained by the operator of the WCF or mount for the life of the installation. Security barriers shall be constructed of nonreflective material.
- 5. Equipment Vaults, Sheds And Structures: Equipment vaults, sheds and structures shall satisfy at least one of the following requirements:
 - a. Placed underground; or
 - b. Disguised, camouflaged, painted, fenced or screened with vegetation so that visibility of the equipment vault, shed or structure as viewed from a reference road, Wood River trail system or State Highway 75 as it passes through a municipality is mitigated as required under subsection B1 of this section.
- 6. Noise Emissions:
 - a. Aboveground equipment for WCFs exclusive of roof and facade attached WCFs shall not generate noise in excess of 50 decibels (db) at the property line.
 - b. Roof or facade attached equipment for WCFs shall not generate noise in excess of 50 db at ground level at the base of the structure closest to the antenna and support structure(s).
- C. Design Standards For Utility Pole Mounted WCFs: In addition to complying with the standards of evaluation as set forth in this section, utility pole mounted WCFs shall satisfy the following design standards:
 - 1. One Permitted: Only one WCF shall be permitted on any one utility pole.
 - 2. Concealed Or Camouflaged: The antenna and mounting bracket shall be either fully concealed within the street pole or camouflaged to appear to be an integrated part of the utility pole.
 - 3. Mounting Brackets: The antenna and mounting bracket shall:
 - a. Utilize the thinnest silhouette that technology allows;
 - b. Be constructed of nonreflective material.
 - 4. Height: A WCF may exceed the height of the utility pole by no more than ten feet (10').
 - 5. Pole Replacement: Existing utility poles may only be replaced with a new pole of the same height, dimension and appearance as the existing pole. (Ord. 2011-01, 1-18-2011; Ord. 2006-08, 6-29-2006; Ord. 2001-09, 10-1-2001)

9-3-16-13: CONDITIONS:

Conditional uses are subject to the conditions specified prior to issuance of their permits. Pursuant to Idaho Code 67-6512, conditions which may be attached include, but are not limited to, those which will:

- A. Minimize adverse impact on other development:
 - 1. The licensed carrier or service provider shall provide the administrator a certification by a licensed radio frequency engineer that the as built WCF complies with the FCC guidelines for radio frequency radiation, prior to issuance of the certificate of occupancy.
 - 2. The applicant shall provide the administrator written evidence that the WCF has been registered as a hazardous facility, as may be required by the Idaho department of environmental quality, if petroleum products are used to fuel power supplies, or any toxins are contained in equipment cabinets or shelters or alternative power sources.

3. Prior to issuance of the certificate of occupancy, the applicant(s) shall provide the administrator an as built certification by a licensed acoustical engineer that the noise generated by the WCF does not exceed fifty (50) dB as required in subsection 9-3-16-12B6 of this chapter.

- 4. No equipment shall be operated at a WCF so as to produce noise in excess of fifty (50) dB, except for emergency situations requiring the use of a backup generator, where the noise standards may be exceeded up to a maximum of thirty six (36) hours or until such emergency has passed.
- 5. No hazardous waste shall be discharged on the site of any WCF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials as required by the uniform building code and/or uniform fire code.
- 6. When a WCF is mounted on a utility pole located in a publicly owned right of way, the applicant shall obtain necessary permits from the applicable entity such as the Blaine County board of commissioners, Idaho transportation department or local governing jurisdiction.

B. Control the sequence and timing of development:

1. Construction or activation of a WCF shall commence within one year of approval of the permit or the permit shall be null and void. An additional ninety (90) day extension may be granted by the administrator in writing due to weather conditions or other extenuating circumstances beyond the control of the applicant. Requests for an extension shall be made in writing by the permit holder(s) and be filed prior to expiration of the permit.

C. Control the duration of development:

- 1. The applicant(s) shall demonstrate compliance to the conditional use permit, and obtain a certificate of occupancy from the building official as may be required under the uniform building code as adopted by the county, prior to activation of the site.
- 2. Conditional use permits issued for WCFs are subject to administrative review to determine ongoing compliance to the terms of the permit. Such permits may be subject to suspension or revocation by the board if it is determined that the WCF does not comply with the terms and/or conditions of the permit. If the permittee fails to take necessary corrective action to bring the permit into compliance, the board shall hold a public hearing, and public notice shall be provided as set forth in section 9-25-4 of this title. The board may modify, revoke or suspend the permit, based upon the evidence in the record, and negative findings on one or more of the standards of evaluation as set forth in section 9-3-16-12 of this chapter.

D. Assure that development is maintained properly:

- 1. Weatherproofed identification plaque at the site which is readily visible to persons approaching the WCF shall include:
 - a. The name and telephone number of a representative of the carrier and mount owner to be contacted in the event of any emergency WCF site. The contact representative is to be available on a twenty four (24) hour a day, seven (7) day a week basis. The information shall be kept current at all times.
 - b. A list of toxic/hazardous materials at WCF site, including in the equipment shelter.
 - c. Instructions for emergency personnel on the approach action to be taken in case of an emergency involving any toxic/hazardous substances.
 - d. The identification plaque shall be kept current at all times.
- 2. Each permittee shall maintain its WCF in a good and safe condition, preserving the original appearance and concealment, disguise or screening elements incorporated into the design at the time of approval and in a manner which complies with all applicable federal, state and local requirements. Such maintenance shall include, but not be limited to, such items as painting, repair of equipment, and maintenance of landscaping.
- 3. At such time that a licensed carrier or service provider plans to abandon or discontinue operation of a WCF, such carrier shall notify the county by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a licensed carrier or service provider fails to give such notice, the WCF shall be considered abandoned upon such discontinuation of operations.
- 4. Upon abandonment or discontinuation of use, the carrier, property owner or owner of the mount shall physically remove the WCF, or the abandoned portion thereof, within a specified period of time, not to exceed one year from the date of abandonment or discontinuation of use. If good cause for delay in removing the abandoned equipment is shown, the administrator may once only extend the period for removal for a period not exceeding six (6) months, provided application is made for an extension before the end of the one year period. "Physically remove" shall include, but not be limited to:
 - a. Removal of antennas, support structures, equipment enclosures and security barriers from the subject property;
 - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations;
 - c. Restoring the location of the WCF to its natural condition, except that any landscaping and grading shall remain in the after conditions. Minor modification for integration with other landscaping or site design will be permitted and approved by staff.
- 5. If a carrier, property owner or owner of the mount fails to remove the abandoned portion of the WCF in accordance with this section, the county may cause the abandoned portion of the facility to be removed, and all expenses of removal shall be paid by the owner of land where the facility is located. In the event of nonpayment, the county may place a lien on the property in the amount of one hundred twenty percent (120%) of all costs associated with removal and disposal of the WCF, or portion thereof.
- 6. In the event more than one provider is using the mount, the mount shall not be considered abandoned until all such users cease using the mount as provided in this section 9-3-16.
- 7. Provide financial guarantee for removal of unused or abandoned equipment and/or mount, and reclamation of the site to its previous condition prior to the installation of the WCF.

- 8. The access road and site shall be available for inspection by county officials and fire protection personnel.
- E. Designating the exact location and nature of development:
 - 1. Existing natural vegetation shall be undisturbed to the greatest extent possible.
 - 2. Applicants may be required by the county to allow collocation of additional antennas by other carriers on the mount as a condition of obtaining a conditional use permit.
 - 3. Applicants may be required by the county to provide space at no cost for the placement of emergency service equipment on the mount, and within the building or structure housing the equipment, as a condition of obtaining a conditional use permit.
 - 4. Prior to obtaining a building permit for a collocated WCF, the applicants shall provide signed lease agreements between the property owner, owner of the mount and at least two (2) service providers. The lease agreements shall contain the following provisions:
 - a. Facility owner can, with county and landowner's approval, enter into leases with other carriers for collocation.
 - b. Landowner is responsible for the removal of the WCF in the event the tenant fails to remove it upon abandonment.
- F. Require specific on site or off site public facilities or services.
- G. Require more restrictive standards than those generally required in this title:
 - 1. Prior to the issuance of a building permit, and once a year every year thereafter, the applicant(s) shall provide a registry of the WCF that includes at least the following information:
 - a. Name, mailing address and phone numbers of the property owner, owner of the mount, licensed and unlicensed service provider(s), and agents.
 - b. Location by latitude and longitude, addresses and parcel numbers.
 - c. Collocation status and capability (including if a former collocation has been removed).
 - d. Last date at which site was modified and the nature of the modification.
 - e. A list of toxic/hazardous materials at the WCF (including in the equipment shelter).
 - f. Instructions for emergency personnel on the approach action to be taken in case of an emergency involving any toxic/hazardous substances.
 - g. The name and telephone number of a representative of the carrier to be contacted in the event of any emergency at the WCF site. The contact representative is to be available on a twenty four (24) hour a day, seven (7) day a week basis.
 - h. A site monitoring schedule indicating how often the site is inspected and monitored by the carrier.
 - i. A ground maintenance schedule indicating how often the grounds are maintained and the name and telephone number of a representative of the carrier to be contacted in the event the grounds require service before the next scheduled maintenance.
 - 2. The permit holder(s) shall promptly notify the administrator of any change in ownership of the subject property, the mount or the licensed carrier or service provider.
 - 3. WCFs shall meet all applicable regulations including, but not limited to, compliance to the uniform building and fire codes as adopted by the county.
 - 4. The owner or operator of the WCF shall provide for and conduct an inspection of mounts by a licensed structural engineer at least once every five (5) years. The written results of said inspection shall be provided to the administrator verifying structural integrity, equipment and tenants on the mounts.
 - 5. The applicant(s) shall provide the administrator a copy of form 600 on file with the FCC or the FCC license (radio authorization form).
- H. Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. (Ord. 2001-09, 10-1-2001)

Chapter 3A UTILITIES FACILITIES

9-3A-1: PURPOSE AND INTENT:

The purpose and intent of this chapter is to promote safe, effective use of residential wind energy facilities installed to reduce the on site consumption of utility

supplied electricity and to provide a regulatory scheme for the construction and operation of wind energy facilities in the county, subject to reasonable restrictions, which will preserve scenic assets and protect the public health, safety, and welfare. (Ord. 2010-02, 1-19-2010)

9-3A-2: DEFINITIONS:

ROOFTOP WIND ENERGY FACILITY: A wind energy facility mounted to the top of a structure to which it is an accessory. Overall height is measured from grade to highest point on the WEF.

WIND ENERGY FACILITY (WEF): A wind energy conversion system consisting of a turbine or generator and typically blades and a tower and associated control or conversion electronics which provides electrical power intended for residential or farm and associated outbuildings and on site uses.

WIND ENERGY FACILITY HUB HEIGHT: The height above grade to the centerline of the turbine rotor on a horizontal axis wind turbine.

WIND ENERGY FACILITY TIP HEIGHT: The height above grade of the fixed portion of the tower plus the blade radius at its highest point. (Ord. 2010-02, 1-19-2010)

9-3A-3: ZONING REGULATIONS:

The placement, use or modification of a WEF as allowed by law within unincorporated Blaine County by a permittee, is subject to the provisions of this title.

A. Rooftop Wind Energy Facilities:

- 1. One or more rooftop WEF up to an overall height of forty feet (40') is a conditional use on less than five (5) acres subject to section <u>9-3A-6</u>, "Conditional Use Permit Procedure", of this chapter in all zones.
- 2. A rooftop WEF up to an overall height of forty feet (40') on five (5) acres or more is subject to section <u>9-3A-5</u>, "Categorical Exclusion", of this chapter in all zones. Multiple rooftop WEF may be requested through section <u>9-3A-6</u>, "Conditional Use Permit Procedure", of this chapter.
- 3. No rooftop WEF shall be permitted within the mountain overlay district or the scenic corridor.

B. Freestanding Wind Energy Facilities:

- 1. A freestanding WEF up to forty foot (40') tip height is a conditional use subject to section <u>9-3A-6</u>, "Conditional Use Permit Procedure", of this chapter in the following zoning districts: SCR-4, R-4, R-1, R-2, and R-2¹/₂ on a minimum of two and a half (2.5) acres; and R-5 on a minimum of five (5) acres.
- 2. A freestanding WEF up to forty foot (40') hub height is subject to section <u>9-3A-5</u>, "Categorical Exclusion", of this chapter in the following zoning districts: R-10, A-20, A-40, and RR-40 on a minimum of ten (10) acres. On parcels of five (5) acres up to ten (10) acres in these zones, a freestanding WEF up to forty foot (40') hub height is a conditional use subject to section <u>9-3A-6</u>, "Conditional Use Permit Procedure", of this chapter.
- 3. A freestanding WEF with a hub height no taller than eighty feet (80') is a conditional use on a minimum of ten (10) acres subject to section 9-3A-6, "Conditional Use Permit Procedure", of this chapter in the R-10 zoning district.
- 4. A freestanding WEF with a hub height no taller than one hundred twenty feet (120') is subject to section <u>9-3A-5</u>, "Categorical Exclusion", of this chapter in the following zoning districts: A-20, A-40, RR-40 on a minimum of twenty (20) acres.
- 5. No freestanding WEF shall be permitted within the mountain overlay district or the scenic corridor. (Ord. 2010-02, 1-19-2010)

9-3A-4: PERMITTED USES:

- A. Installation of an anemometer, or related devices, for not less than twelve (12) months for the purpose of determining feasibility of a wind energy generating site. The anemometer may not be installed at a WEF height greater than permissible for that zoning district.
- B. General repair, maintenance, replacement or upgrade of equipment of an existing WEF provided that any equipment replaced does not violate the conditions of administrative or conditional use permit approval. (Ord. 2010-02, 1-19-2010)

9-3A-5: CATEGORICAL EXCLUSION:

Unless the intent is to circumvent the purposes of this chapter, a landowner or his/her authorized agent may be categorically excluded from the CUP requirements of this chapter if before commencing construction of a single WEF, the landowner or agent first obtains a written decision from the administrator, in consultation with the county engineer or his/her designated representative, that the WEF construction falls within and meets the following criteria:

- A. Rooftop WEF is an accessory fixture to the residence or agricultural building upon which it is mounted.
- B. Rooftop WEF does not exceed a five foot (5') diameter.
- C. Rooftop WEF noise emission does not exceed thirty five (35) decibels as measured from the nearest property line.
- D. Complies with all administrative standards in subsection 9-3A-7A of this chapter. (Ord. 2010-02, 1-19-2010)

9-3A-6: CONDITIONAL USE PERMIT PROCEDURE:

- A. Application Form And Fees: Application for a conditional use permit shall be made on a form furnished by the administrator and shall be filed by the applicant(s). The application fee established by the resolution board shall accompany each application. Fees resulting from the technical review by the county engineer or other qualified person as designated by the county are the responsibility of the applicant, and shall be paid prior to public hearing. No application shall be certified as complete unless it includes the following minimum information in sufficient detail for the commission or hearing examiner to determine compliance with the standards of evaluation as set forth in section 9-3A-7 of this chapter. Based upon site specific circumstances, and upon appropriate findings, the commission or hearing examiner may require additional information in order to render a decision on an application. Further, the administrator may waive certain submittal requirements based upon site specific condition and appropriate findings.
- B. Application: The application shall include at a minimum:
 - 1. Name, address and telephone number of the applicant as well as any agents for the applicant.
 - 2. Original signature for the applicant applying for the conditional use permit. If the applicant is represented by an agent, original signature authorizing the agent to represent the applicant is required.
 - 3. A complete legal description of the subject property. A vicinity map shall be included.
 - 4. Zoning designation of subject property including any overlay districts.
 - 5. Comment from Idaho department of fish and game and the applicable fire district.
 - 6. A parcel map drawn to scale showing the subject property, and all properties within one thousand feet (1,000') of the external boundaries of the land being considered.
 - 7. A list of the names and addresses of all property owners and residents within three hundred feet (300') of the external boundaries of the land being considered. Names and addresses shall also be provided on mailing labels.
 - 8. Wind resource data collected continuously by an anemometer on site for no less than one year for a freestanding WEF.
- C. Site Plan: Site plan drawn to scale of no less than one inch equals twenty feet (1" = 20'), specify the following:
 - 1. Standard drawings of the WEF structure, including design and dimensions of tower, base, footings, and guywire anchors. Overall height from natural grade to tip of extended blade, location of substation(s), electrical cabling from WEF to the substation(s), ancillary equipment, buildings, and structures shall be included.
 - 2. Depiction and explanation of land use on subject property and adjacent property including location and height of surrounding structures, power transmission lines, and trees. (Ord. 2010-02, 1-19-2010)

9-3A-7: STANDARDS OF EVALUATION:

The applicant has the burden of demonstrating compliance with each of the standards of evaluation as set forth in this section. The commission or hearing examiner shall review the application and determine if there is substantial evidence in the record to make a finding that either the proposal complies with each of the following standards of evaluation, or the specific standard is not applicable to the application:

A. Administrative Standards:

1. Compliance With International Building Code: WEF applications shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, footings, and guywire anchors. An engineering analysis of the tower showing compliance with the international building code, certified by a licensed professional engineer and wet stamp shall also be submitted. This analysis is frequently supplied by the manufacturer.

- 2. Compliance With National Electric Code: Applications for WEF shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the national electrical code.
- 3. Utility Notification: No wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer owned generator. Off grid systems shall be exempt from this requirement.
- 4. Approved Wind Energy Facilities: WEF equipment must be approved under an emerging technology program such as the California energy commission, international electrotechnical commission or any other small wind certification program recognized by the American Wind Energy Association (AWEA) or the U.S. department of energy.
- 5. Federal Aviation Administration (FAA): WEF must comply with applicable FAA regulations and shall not be permitted within the airport vicinity overlay.
- 6. Siting Requirements: All parts of a WEF, including guywire anchors, are subject to zoning setbacks. Freestanding WEF shall be located a minimum of 1.1 times the overall height of the WEF from all inhabited structures on subject property, property lines, and roads. No WEF shall be sited closer to a neighboring residence or neighboring building envelope than it is to the subject property's residence. Wind energy facility blades shall be higher than twenty feet (20') above the ground. No blades may extend over parking areas, playgrounds, driveways or sidewalks.
- 7. Noise Requirements: Noise emitted from the WEF shall not exceed sixty (60) decibels as measured from the nearest adjacent property line.

B. Design Standards:

- 1. Wind energy facilities shall be a nonobtrusive color.
- 2. Wind energy facilities shall not be artificially lit.
- 3. On site transmission and power lines between WEFs shall, to the maximum extent practicable, be placed underground.
- 4. A clearly visible warning sign concerning voltage shall be placed at the base of all pad mounted transformers and substations.
- 5. Wind energy facilities shall not be used for displaying advertising.
- 6. Wind energy facility conditional use permit applications are subject to applicable standards of evaluation in subsection 9-25-3A of this title.
- 7. If the applicant or landowner with respect to an application for a conditional use permit under this section is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code 67-6528. (Ord. 2010-02, 1-19-2010)

9-3A-8: ADMINISTRATIVE REVIEW OF APPLICATION:

The administrator shall review the application submittal for compliance to the submittal requirements set forth herein. Once it has been determined by the administrator that the submittal requirements have been satisfied, the administrator shall certify the application as complete and place the application on the agenda of the next available regular meeting of the commission or hearing examiner wherein legal notice requirements can be satisfied. No application shall be certified as complete unless it includes information in sufficient detail for the commission or hearing examiner to determine compliance with the standards of evaluation as set forth in section 9-3A-7 of this chapter. In the event the application is not complete, the administrator shall advise the applicant of the corrective action needed. In the event the data required for the administrator to certify the application as complete is not filed within one hundred eighty (180) days from the date the application as complete is not filed with the Blaine County planning office, the application shall be null and void. One time only, the administrator, at his/her discretion, may approve one extension of time within which materials may be submitted upon receipt of a written request by the applicant giving in detail the reason additional time is required to file said materials under this section, said approval shall be in writing and for a specific period of time not to exceed forty five (45) days. (Ord. 2010-02, 1-19-2010)

9-3A-9: PUBLIC HEARING AND NOTICE REQUIREMENTS:

Notice requirements for a conditional use permit application for a WEF shall be satisfied as set forth in section 9-25-4 of this title. (Ord. 2010-02, 1-19-2010)

9-3A-10: COMMISSION OR HEARING EXAMINER REVIEW AND ACTION:

Decisions shall be based on the standards of evaluation as set forth in section 9-3A-7 of this chapter. The standards of evaluation contained in section 9-25-3 of this title are applicable to WEFs. Review of the application and receipt of public input shall be conducted at a duly noticed public hearing as set forth in section 9-25-4 of this title. The commission or hearing examiner may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required, other than that requested by the commission or hearing examiner. Continuation beyond thirty one (31) days shall require further published notice, according to section 9-25-4 of this title. The commission or hearing examiner shall approve, approve with conditions, or deny said application, making appropriate findings to support the decision. The commission or hearing examiner shall enter an order or adopt its written findings of fact and decision within thirty one (31) days after the action is taken by the commission or hearing examiner. The granting of the 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. (Ord. 2010-02, 1-19-2010)

9-3A-11: ABANDONMENT:

- A. A WEF that is out of service for a continuous one year period will be deemed to have been abandoned. The administrator may issue a notice of abandonment to the owner of a WEF that is deemed to have been abandoned. The owner shall have the right to respond in writing to the notice of abandonment setting forth the reasons for operational difficulty and providing a timetable for corrective action, within thirty (30) days from the date of the notice. The administrator shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned.
- B. If the WEF is determined to be abandoned, the owner shall remove the WEF at the owner's sole expense within three (3) months of the date of the notice of abandonment. If the owner fails to remove the WEF, the administrator may pursue a legal action to have the wind generator removed at the owner's expense. (Ord. 2010-02, 1-19-2010)

Chapter 3B UTILITIES FACILITIES: SOLAR

9-3B-1: PURPOSE AND INTENT:

It is Blaine County's intent to encourage the use of active solar systems for heating air and water and producing electricity in homes and businesses, as long as disruption to the site specific natural topography, riparian areas, wetlands, and hazard areas are mitigated or avoided and these areas are preserved. (Ord. 2010-11, 12-7-2010)

9-3B-2: DEFINITIONS:

CERTIFIED ENERGY AUDITOR: Residential energy auditor accredited by the Building Performance Institute (BPI) or the Residential Energy Services Network (RESNET).

ENERGY AUDIT: An evaluation of the energy efficiency of a residential structure by a certified energy auditor using professional testing including, but not limited to, a blower door and duct leakage test. The audit shall include at minimum the following: a) an assessment of the various characteristics of the building envelope including, but not limited to, the walls, ceilings, floors, doors, windows, and skylights b) lighting analysis c) appliance analysis d) prioritized list of energy improvements with estimated simple paybacks.

RESIDENTIAL SOLAR COLLECTOR SYSTEM: A net metered solar collector system, as defined in this chapter, that produces no more than twenty five (25) kW.

SOLAR COLLECTOR MOUNTS: Mounting arrangements that hold various devices for the absorption of solar radiation for the heating of water or buildings or the production of electricity.

Building Integrated Photovoltaics (BIPV) Mount: A solar collector system that is integrated into the structure of a building. Common BIPV applications include carports, awnings, and curtain walls.

Ground Mount: A solar collector system where an array is mounted onto the ground. The most common type of ground mount is a wedge structure constructed from steel supports anchored in concrete footings. The remainder of the structure is built from aluminum or galvanized steel.

Pole Mount: A solar collector system that consists of an array that is mounted on top of a single steel pole, which is ground mounted. This type of installation can be manually adjustable, so that the pitch of the array at different times of the year can be changed.

Roof Mount: A solar collector system with an array of solar panels located on the roof of a structure. In most cases this array will be attached directly to the structural members of the building.

SOLAR COLLECTOR SYSTEM: A system that is comprised of photovoltaic collectors designed to convert solar energy into electric energy or plate type

collectors designed to use solar energy to heat air, water, or other fluids for use in hot water or space heating or other applications. A solar collector system's primary purpose shall be limited to supplying or offsetting energy needs of residences and businesses and shall not exceed the residential peak production capabilities as defined by Idaho Power. (Ord. 2010-11, 12-7-2010)

9-3B-3: ZONING REGULATIONS:

The placement, use or modification of a solar collector system shall be an allowed use in all zoning districts, provided the system meets zoning standards set out in subsections A through H of this section and section 9-3B-4 of this chapter. To lawfully install a solar collector system a solar permit shall be required. Repair, maintenance, replacement or upgrade of equipment to an existing solar collecting system installed prior to adoption of this chapter shall not be required to obtain a solar collector permit. The following shall be found to be true prior to issuance of a solar collector permit:

- A. Photovoltaic solar collector panels are certified by the Solar Collector And Certification Corporation (SRCC);
- B. Collector system panels and mounts are installed per manufacturer's specifications;
- C. Solar panels mount systems located on roofs are installed to meet the international building code standards for wind loads. If panels do not contain wind load specification or circumstances require a modification to installation per the manufacturer's specifications an engineer shall review and certify that the modifications meet wind load standards as outlined in international building code and as amended Blaine County building code;
- D. The building official has reviewed mounting plans to ensure the roof's structural integrity is maintained;
- E. BIPV and roof collector mounted panels do not exceed five feet (5') from the top of a residential structure or forty feet (40') from natural grade;
- F. Barn roof mounted systems meet the height standards outlined in the A-20 and A-40 zoning districts;
- G. Ground and pole mounted solar collectors are firmly anchored and:
 - 1. Do not exceed fifteen feet (15') above grade 1; or
 - 2. Collector panels located on isolated slopes, not within the MOD, do not exceed twenty feet (20') above grade;
- H. Solar collector system is located in a building envelope or solar collector system is located outside the building envelope and is not located within an overlay district, or has been found to comply with the standards set out in section <u>9-3B-4</u> of this chapter;
- I. Collector systems located in the MOD have been categorically excluded or have received a site alteration permit. (Ord. 2010-11, 12-7-2010)

9-3B-4: OVERLAY DISTRICTS STANDARDS:

Solar permit applications located in an overlay district have the burden of demonstrating compliance with each of the standards of evaluation as set forth in this section.

- A. Mountain Overlay District: Solar collector systems visible from a reference road shall be required to receive a site alteration permit per the standards, notice, and hearing requirements set out in chapter 21 of this title. The following standards, as outlined below, shall also be incorporated into site alteration review of solar collector systems which are visible from a reference road:
 - 1. No location with solar potential equal to the proposed MOD location exists on the lot outside of the MOD for a solar system.
 - 2. A reflection analysis from a qualified professional shall demonstrate the angle of the collector panels do not create line of sight reflection as viewed from a reference road.
 - 3. Solar thermal collector panel glazing shall be tempered, low or no iron glass with transmittance greater than ninety percent (90%) or of an equivalent

measure and outcome.

4. Solar thermal collector panel absorber coating shall have absorptivity greater than ninety five percent (95%) and emissivity less than ten percent (10%) or of an equivalent measure and outcome.

B. Scenic Highway Overlay District:

- 1. Collector systems located within one hundred feet (100') of Idaho State Highway 75 right of way, excluding lands within the jurisdiction of an incorporated city, are subject to the scenic highway overlay district (SHO) standards, notice, and hearing requirements as set out in chapter 21A of this title.
- C. FEMA Mapped Floodplain And Floodway: The placement of the collector systems within the floodplain or riparian overlay district may be permitted if the collector system does not cause increased flood heights or velocities and the following are found to be true:
 - 1. No location with solar potential equal to the proposed FEMA floodway or floodplain location exists on the lot outside of the mapped FEMA floodway or floodplain for a solar system.
 - 2. Collector systems panels located in the designated floodplain are two feet (2') above base flood elevation.
 - 3. Collector systems located in the designated floodplain are securely anchored and will stay in place during a 100-year flood event.
 - 4. Placement of the collector system will result in no net loss or destruction of established native riparian vegetation located within the riparian setback.
- D. Wetland And Riparian Overlay Districts: Placement of solar panels in a wetland may be permitted if the collector system does not impede wetlands function and the following are found to be true:
 - 1. No location with solar potential equal to the proposed wetland or riparian location exists on the lot outside of wetlands or riparian setback for a solar system.
 - 2. Placement of the collector system will result in no net loss or destruction of established native riparian vegetation.
 - 3. No fill or excavation is required to install the collector system other than the minimum fill for pole or ground solar collector mounted systems' footings. (Ord. 2010-11, 12-7-2010)

9-3B-5: EXCEPTION TO LOT LINE SETBACK REQUIREMENTS FOR GROUND OR POLE MOUNTED SOLAR ENERGY COLLECTING SYSTEMS:

Exceptions to the minimum front, side and rear yard setbacks for single-family detached residences, duplexes, and manufactured homes may be allowed when the following is found to be true:

- A. Pole and ground mounted systems shall be located at minimum 1.1 times the distance of vertical height of the solar collector system from property lines, residential structures and roads on subject property.
- B. Landowners directly adjacent to the requested setback waiver are notified of the issuance of a solar permit within five (5) business days of its issuance. (Ord. 2010-11, 12-7-2010)

9-3B-6: ADMINISTRATIVE REVIEW APPLICATION:

The administrator shall review the solar permit application submittal for compliance to the submittal requirements set forth herein. Once it has been determined by the administrator that the submittal requirements have been satisfied, the administrator shall certify the application as complete and have twelve (12) business days to issue the administrative determination.

A. Application Process: Application for a solar collector permit shall be made on a form furnished by the administrator and shall be filed by the applicant(s). The application fee, established by a resolution of Blaine County, shall accompany each application. Additional fees resulting from the technical review by the county engineer or other qualified person as designated by the county are the responsibility of the applicant, and shall be paid prior to permit issuance. No application shall be certified as complete unless it includes the following minimum information in sufficient detail for the administrator to determine compliance with the standards of evaluation as set forth in this chapter. Based upon site specific circumstances, and upon appropriate findings, the administrator may require additional information in order to render a decision on an application. Further, the administrator may waive certain submittal requirements based upon site specific conditions and appropriate findings.

- B. Application Requirements: The application for solar collector system shall include at a minimum the following items:
 - 1. Name, address and telephone number of the applicant as well as any agents for the applicant.
 - 2. Original signature for the applicant applying for the solar permit. If the applicant is represented by an agent, original signature authorizing the agent to represent the applicant is required.
 - 3. A complete legal description of the subject property. A vicinity map shall be included.
 - 4. Zoning designation of subject property including any overlay districts.
 - 5. Standard drawings of the solar collector system, including design and dimensions of panels, base, mounting poles, footings, anchors that display the overall height from natural grade to tip of upmost panel and the square footage of the solar panels.
 - 6. Projected amount of energy created or offset by solar collector system.
 - 7. If applicable base flood elevations for project site.
 - 8. If the system is located in an overlay zone or in a front, rear, or side yard setback an "energy audit", as defined in this chapter, conducted by a RESNET or BPI certified energy auditor.
 - 9. Provide manufacturer's specification sheets on all components including, but not limited to, inverters and panels, which include the make, model, listing, size, weight, snow and wind loads if available.
 - 10. A reflection analysis from a qualified professional when a collector system is located in the MOD and is visible from a reference road.
 - 11. If applicable a jurisdictional wetlands determination from army corps of engineers.
- C. Site Plan: The application for a solar collector system shall include at a minimum a plan drawn to scale of no less than one inch equals twenty feet (1"= 20"), specifying the following:
 - A scaled layout of the solar collector systems as proposed on the property or building. Site plans for ground or pole mounted systems should include building envelope, base flood elevations (if applicable), overlay district boundaries and the location and footprints of structures, adjacent roads, and property lines.
 - 2. The location(s) of the panel installations, the main service location, and the locations of all equipment and disconnects (i.e., located on exterior face of west wall of house and clarify any interior locations of equipment). (Ord. 2010-11, 12-7-2010)

Chapter 4 ZONING DISTRICTS AND THEIR BASE DENSITIES, OVERLAY DISTRICTS AND BOUNDARIES

9-4-1: INTENT:

The following zoning districts are hereby established. These designations have been made to realize the general purposes stated in the Blaine County comprehensive plan. The specific purposes of each zoning district are stated in the chapters which follow. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-4-2: ZONING DISTRICTS AND THEIR BASE DENSITIES:

The following districts are created, and their base densities indicated where appropriate:

A.	Agricultural	ultural and rural districts:		
	(A-20)	Productive agricultural, one unit per twenty (20) acres.		
	(A-40)	Productive agricultural, one unit per forty (40) acres.		
	(R-10)	Rural residential, one unit per ten (10) acres.		

	(RR-40)	Rural remote, one unit per forty (40) acres.					
	(RC-160)	Resource conservation.					
		JI.					
B.	Residentia	Residential districts:					
	(R-5)	Residential/agricultural, one unit per five (5) acres.					
	(R-21/ ₂)	Rural residential, one unit per two and one-half (21/2) acres.					
	(R-2)	Planned residential development district, one unit per two (2) acres.					
	(R-1) Low density residential, one unit per one acre.						
	(R4)	Medium density, one unit per four-tenths (0.4) of an acre.					
	(R-1/ ₄)	High density, one unit per one-fourth (1/4) of an acre.					
	4'	4					
	(SCR4)	Sawtooth City medium density residential					
	(3CH4)	Sawtooth City medium density residential.					
C.	(RD)	Recreation development district.					
0.	(110)	necreation development district.					
D.	(C)	Commercial district.					
<u> </u>	(0)	Commercial district.					
E.	(SCC)	Sawtooth City commercial.					
<u> </u>	(000)	dawtour ony commercial.					
F.	(LI)	Light industrial use district, no residential density.					
Ë	(=1)	Light industrial decidents, no residential density.					
G.	(HI)	Heavy industrial use district, no residential density.					
<u>u.</u>	(111)	Treavy modernal use district, no residential density.					
Н.	(R)	Riparian setback district.					
<u> </u>	(11)	Tiparian solbasic district.					
I.	Special use	e overlay districts:					
Ë	Special use overlay districts:						
	(FP)	Floodplain.					
	(AV)	Airport vicinity.					
	(WE)	Wetlands.					
	(W)	Wildlife.					
	(M)	Mountain.					
_	(SHO)	Scenic highway overlay.					
	(A)	Avalanche.					
<u> </u>	(~)	/ Walandio.					

	(SU)	Seasonal use.	
ı	(CH)	Community housing.	

(Ord. 2013-01, 3-19-2013; Ord. 2011-01, 1-18-2011; Ord. 2009-08, 11-3-2009; Ord. 2006-17, 11-2-2006; Ord. 2006-08, 6-29-2006; Ord. 2004-01, 5-3-2004; Ord. 99-5, 10-12-1999; 1996 Code; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-4-3: ZONE BOUNDARIES:

- A. Unless otherwise defined on the zoning maps, district boundaries shall be lot lines, the centerlines of streets and alleys, highway right of way lines, the centerline between the two (2) main tracks of any railroad line, extended quarter section, half section or section lines, contour lines, municipal corporate boundaries, centerlines or banks of streambeds or other bodies of water or noticeable points of change in natural landforms.
- B. Where district boundaries appear approximately parallel to the centerlines or street lines of streets, or parallel to the centerlines or rights of way of highways, such lines shall in fact constitute the boundaries on the official zoning map. If no distance is indicated, the boundary shall be determined by the use of the scale shown on the official zoning map.
- C. Where district boundaries appear to follow lot lines, such lot lines shall constitute boundaries.
- D. The boundary determination for the floodplain overlay district is explained in chapter 17 of this title. The determination of that zoning district shall be made by the administrator, pursuant to section 9-4-4 of this chapter. (Ord. 2011-01, 1-18-2011; Ord. 2000-3, 3-20-2000; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-4-4: INTERPRETATION OF BOUNDARIES:

The administrator, in consultation with the county engineer or his/her designated representative, shall have the authority to interpret zoning and overlay district boundaries in accordance with this title. Interpretation by the administrator may be appealed to the board according to the procedures and time requirements of section 9-32-3 of this title. (Ord. 98-1, 1-7-1998; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-4-5: CLASSIFICATION OF VACATED STREETS OR ALLEYS:

Whenever a street is vacated and that street has not been given a zone classification, the land of the vacated street shall have the same zone classification as the land adjacent or abutting land owned or on the same side of the centerline of former street to whom such land reverts or in whom said land becomes vested by operation of law. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-4-6: OVERLAY DISTRICTS:

- A. The overlay districts described in this title are superimposed over the underlying districts.
- B. Within the area thereby defined, the provisions of each particular overlay district shall prevail over those pertaining to the underlying district. Unless otherwise stated, the uses permitted within each overlay district are identical to those specified for the underlying district. Unless otherwise stated, the base density and the possible planned unit development bonus established for the underlying district shall apply also within each overlay district. (Ord. 2012-04, 4-30-2012; Ord. 2010-12, 12-7-2010; Ord. 2006-15, 10-26-2006; Ord. 98-1, 1-7-1998; 1996 Code; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-4-7: **ZONING MAPS**:

A. Official Zoning Maps: The boundaries of the zoning districts described in this chapter are hereby established as shown on the official zoning maps of the unincorporated territory of Blaine County, Idaho. These official zoning maps, approximately twenty four inches by thirty six inches (24" x 36") in size, are

located in the administrator's office in the Blaine County Courthouse, Hailey, Idaho, and are hereby adopted by reference thereto.

- 1. Upon adoption of Blaine County ordinance 97-1 wherein the revised flood insurance study and flood insurance rate maps effective date March 17, 1997, are duly adopted by the county, the zoning classification boundary for the floodplain overlay district shall shift with the boundary of the 100-year floodplain as depicted on the FIRMs described herein. Land located outside the floodplain management district boundary shall be zoned as shown on the official zoning maps of Blaine County.
- 2. Upon adoption of Blaine County ordinance 97-1 wherein the revised flood insurance study and flood insurance rate maps effective date March 17, 1997, are duly adopted by the county, lands that are located west of the corporate limits of the city of Hailey and east of the Big Wood River in section 9, T2N R18E B.M. shall be zoned as follows:
 - a. That portion of section 9, T2N R18E B.M. which lies north of Empty Saddle Trail, west of the corporate limits of the city of Hailey and east of the Big Wood River shall be zoned R-1 (low density residential district). The affected area includes all lots in the Mountain View Subdivision and tax lot 4471.
 - b. That portion of section 9, T2N R18E B.M. which lies south of Empty Saddle Trail, west of the corporate limits of the city of Hailey and east of the Big Wood River shall be zoned R-.4 (medium density residential district). The affected areas include subdivision lots located within the county and contained within the Trails End Subdivision, first addition Trails End Subdivision and Little Indio forced plat and tax lots 7273 and 6430.

Exception: Where the lots or portion thereof described hereinabove are located within the 100-year floodplain or regulatory floodway as depicted on the revised FIS and FIRMs, those areas shall be zoned FP (floodplain overlay district).

- B. Copies: Copies of the official zoning maps, scaled down to eighteen inches by twenty four inches (18" x 24") in size, are available at the office of the administrator in the Blaine County Courthouse, Hailey, Idaho.
- C. Boundaries: The boundaries of the zoning districts described in section 9-4-2 of this chapter are hereby revised as shown on the official zoning maps entitled "Lower Wood River Valley", "Gannett Area" and "Picabo-Carey Area". These maps, located in the planning office in the Blaine County Courthouse, Hailey, Idaho, are hereby adopted by reference thereto. (Ord. 2012-10, 11-27-2012; Ord. 2012-02, 4-3-2012; Ord. 2011-01, 1-18-2011; Ord. 2010-08, 11-16-2010; Ord. 2010-07, 8-3-2010; Ord. 2008-12, 10-7-2008; Ord. 2008-11, 10-7-2008; Ord. 2006-05, 6-29-2006; Ord. 2006-04, 6-29-2006; Ord. 2001-07, 8-13-2001; Ord. 2001-05, 7-2-2001; Ord. 2000-3, 3-20-2000; Ord. 99-3, 7-19-1999; Ord. 98-7, 9-21-1998; Ord. 97-2, 3-3-1997; Ord. 96-13, 12-9-1996; 1996 Code; Ord. 77-5 as amended; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 5 PRODUCTIVE AGRICULTURAL DISTRICT (A-20)

9-5-1: PURPOSE:

The A-20 district is established to: a) preserve those lands either presently in agricultural use or having potential for agricultural use. Criteria for determining agricultural potential include soil characteristics, topography, microclimate, the availability of water, the cost of applying adequate water for irrigation and distance from incorporated cities; b) encourage agricultural activities, thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the county; c) preserve natural features and the rural landscape, while allowing low density, clustered residential development; and d) respect existing features of the rural landscape.

The preferred land use in the A-20 district is agriculture. The district is intended to permit a range of uses related to agriculture, to encourage the preservation of large blocks of farmland, and to permanently protect from development the tracts of land which remain after permitted residential development has occurred. Residential development shall be permitted only when it is located and designed to minimize its impact on agricultural land, farming operations, and sensitive environmental features and when it is found that the cumulative effect of residential development in the vicinity does not change the character of agriculturally used lands. (Ord. 96-10, 9-16-1996; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-5-2: LOCATION/APPLICABILITY:

This A-20 district shall only apply to lands in the A-20 district effective prior to July 5, 2006, and that meet the following criteria:

- A. Location within an urban influence boundary, as defined by the following criteria:
 - 1. Within three (3) miles from the incorporated boundaries of Ketchum, Hailey, or Bellevue; or
 - 2. Within one mile from the incorporated boundaries of Carey or Sun Valley; or
 - 3. Within three-fourths $(^{3}/_{4})$ of a mile from the boundary of the platted townsites of Picabo or Gannett; or

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B. Location within one-half (1/2) mile from the R-5 zoning district; or	
C. Location within township one north and ranges 18 and 19 (excluding section 35) east, Boise meridian. (Ord. 2006-05, 6-29-2006)	
9-5-3: DEVELOPABLE DENSITY AND LOT AREA:	
A. Minimum Lot Area: The minimum lot area in a subdivision shall be twenty (20) acres, except:	
1. Within an A-20 cluster development when authorized pursuant to Blaine County ordinance 77-6, as amended (subdivision ordinance)	ce).
2. Within an A-20 TDR receiving area where the minimum lot area shall be one acre.	
B. PUDs: For the purposes of a PUD that includes land zoned A-20, the base density may be transferred within contiguous parcels of lar ownership from the A-20 district to the R-5 or R-10 district.	nd under the same
C. Maximum Base Density: The maximum base density shall be one dwelling unit per twenty (20) acres.	
D. Density Bonus In A CD: One primary residential dwelling unit (and any accessory employee housing as otherwise permitted) shall be parent tract of an A-20 CD in addition to the base density. (Ord. 2008-10, 7-8-2008; Ord. 2006-05, 6-29-2006; Ord. 96-10, 9-16-1996; eff. 4-7-1977)	
9-5-4: PERMITTED USES:	
Permitted uses for this A-20 district are limited to the following:	
A. Use of land for agricultural purposes.	
B. Open space recreation uses.	
C. Wildlife reserves.	
D. Single-family residences. (Ord. 2006-05, 6-29-2006; Ord. 96-10, 9-16-1996; Ord. 77-5, 3-28-1977, eff. 4-7-1977)	
9-5-5: ACCESSORY USES:	
The accessory uses for this A-20 district are limited to the following:	
A. Living quarters for persons employed on the premises; provided, however, that mobile homes shall be set back at least fifty feet (50') (100 feet from Highway 75). Living quarters for employees shall be limited to parcels in the A-20 district twenty (20) acres or greater i units per twenty (20) acres.	
B. Recreation facilities for private use.	
C. Accessory dwelling unit (see section <u>9-3-11</u> of this title).	
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Sterling Codifiers, Inc. 4/20/15, 11:34 AM D. Agricultural related structures and buildings. E. Temporary roadside stands for the sale of agricultural products grown on the premises or as part of an integrated agricultural operation under common management with administrative approval. (Ord. 2012-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2006-05, 6-29-2006; Ord. 96-10, 9-16-1996; Ord. 95-5, 4-3-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-5-6: CONDITIONAL USES: Conditional uses for this A-20 district are limited to the following: A. Public or private airfields. B. Animal hospitals. C. Feedlots. D. Public utility installations, not including business offices, repair or storage facilities. E. Temporary use of a mobile home during construction of a permanent dwelling for a period not to exceed one year. If construction is clearly underway within this first year, this period may be extended for a second year. F. Public campgrounds, when screened or hidden from view from public highways. G. Home occupations H. Permanent use of a mobile home as a primary residence on a parcel of land at least forty (40) acres lying within the district; provided, that the mobile home be certified by the builder to meet current building standards in effect for the county. I. Agricultural businesses. In determining whether to grant the conditional use and in deciding whether to limit aspects of operation including, but not limited to, hours of operation, size, number of employees, size of sign and other limits as allowed in chapter 25 of this title, agricultural businesses are to be evaluated in terms of their relevance to and need by local agricultural operations; impacts on adjacent agricultural lands in terms of traffic flow, visual and noise pollution, odors and other effects; availability of nearby land already zoned for the proposed business as a permitted use; and other factors listed in chapter 25 of this title. J. Accessory dwelling unit (see section 9-3-11 of this title). K. Group daycare facilities. L. Public works gravel or shale pits and public works asphalt plants. M. Wireless communication facilities (see section 9-3-16 of this title). (Ord. 2012-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2006-05, 6-29-2006; Ord. 2001-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2006-05, 6-29-2006; Ord. 2001-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2006-05, 6-29-2006; Ord. 2001-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2006-05, 6-29-2006; Ord. 2001-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2006-05, 6-29-2006; Ord. 2001-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2001-06, 7-10-2012; Ord 10, 10-1-2001; Ord. 96-10, 9-16-1996; Ord. 95-5, 4-3-1995; Ord. 92-5, 9-14-1992; Ord. 90-4, 6-11-1990; Ord. 88-5, 1-12-1989; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-5-7: DIMENSIONAL STANDARDS:

Dimensional standards for this district are the following, except that dimensional standards may be modified in a CD as authorized pursuant to subdivision ordinance 77-6, as amended:

- A. Maximum Building Height: Thirty five feet (35'), except barns, silos, and windmills.
- B. Minimum Front Yard Setback: One hundred feet (100') on State Highway 75, fifty feet (50') for other major roads and twenty five feet (25') for minor roads.
- C. Minimum Side And Rear Yard Setback: Twenty five feet (25').
- D. Minimum Lot Width: Four hundred feet (400').
- E. Minimum Setback From Wetlands: Within the A-20 district, the minimum setback from all "wetlands" as defined in chapter 19 of this title shall be one hundred feet (100'). There shall be no disturbance within such setback area except for agricultural purposes (see definition). Buildings existing as of July 5, 2006, that do not comply with the wetlands setback may be allowed to expand if they do not extend farther into the wetlands than the existing structure. Any other disturbance to wetlands or within the wetlands setback, including driveway crossing or installation of utilities leading to a building site, shall comply with the requirements of chapter 19 of this title and all other county, state and federal requirements. (Ord. 2006-05, 6-29-2006; Ord. 96-10, 9-16-1996; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-5-8: TRANSFERABLE DEVELOPMENT RIGHT (TDR) SENDING AREA:

- A. Voluntary Development Rights Transfer: If a property is located within the TDR sending area or other designated A-20 TDR sending area, the property owner shall have the option to voluntarily transfer all or a portion of the maximum permissible density to a designated TDR receiving area pursuant to the provisions of title 10, chapter 10 of this code.
- B. Minimum Area: The minimum area of a parcel that may be designated for transfer of development rights shall be one hundred sixty (160) acres except for smaller legal parcels in existence on July 5, 2006, for which the minimum size for a transferring parcel shall be forty (40) acres.
- C. Maximum Base Density Prior To Transfer: The base density within the TDR sending area shall be one dwelling unit per twenty (20) acres for purposes of calculating the maximum number of development rights to be transferred. The area of all delineated wetlands and wetland setback areas within a sending parcel may be included in calculating maximum base density for purposes of a TDR transfer.
- D. Site Density After TDR Transfer: After transfer of development rights, the remaining maximum allowable density on the sending parcel shall be one dwelling unit per one hundred sixty (160) acres or fraction thereof. (All fractions below ¹/₂ shall be rounded down for purposes of calculating maximum number of allowable units on the sending parcel.) For sending parcels less than one hundred sixty (160) acres, the maximum allowable density after transfer shall be one unit, regardless of the size of the parcel. An existing dwelling unit on a sending parcel shall be counted against this maximum allowable density. (Ord. 2006-05, 6-29-2006)

9-5-9: TRANSFERABLE DEVELOPMENT RIGHT (TDR) RECEIVING AREA:

- A. Minimum Lot Area: The minimum lot area within a designated TDR receiving area to be considered eligible for the purposes of this section shall be ten (10) acres.
- B. Maximum Density: If a parcel is located within a designated A-20 TDR receiving area, the maximum base density may be increased from one dwelling unit per twenty (20) acres to one dwelling unit per two and one-half (2.5) acres as set forth below through the voluntary purchase or transfer of development rights from a parcel in a designated TDR sending area.

C. Base Density Increase Calculation: For each development right purchased or transferred, the density in an A-20 receiving area may be increased according to the following schedule:

Number Of <u>Development Rights</u>	Maximum Density On 20 Acre Parcel
1	2 units on 20 acres
2	3 units on 20 acres
3	4 units on 20 acres
6	8 units on 20 acres
Every development right thereafter	An additional unit for each additional 2.5 acres

- D. Minimum Lot Area: One acre.
- E. Minimum Open Space Within A TDR Receiving Area Cluster: At least fifty percent (50%) of the receiving parcel shall be set aside as public or private open space.
- F. Minimum Setback From Heavy Industrial District: The minimum setback from the HI district for a building envelope in a receiving parcel shall be one thousand two hundred feet (1,200'). (Ord. 2006-05, 6-29-2006)

9-5-10: PLANNED UNIT DEVELOPMENTS AND CLUSTER DEVELOPMENTS:

- A. Planned Unit Developments (PUDs): PUDs shall not be allowed in the A-20 district, except:
 - 1. In a designated A-20 TDR receiving area if, as part of a PUD, development rights are being transferred to the site from a TDR sending area to increase the maximum allowable density in the TDR receiving area, or
 - 2. When land zoned A-20 is contiguous to land in the same ownership that is zoned R-5 or R-10. The base density of the A-20 parcel may be transferred to the contiguous R-5 or R-10 zoned land.
- B. Cluster Developments:
 - Cluster developments (CDs) shall be allowed in the A-20 district if the parent tract is located within one mile of a paved state, federal, or county road or a
 paved road constructed to county standards in existence as of July 5, 2006, and if they meet the criteria set forth in section <u>10-9-6</u>, "Density, Lot, And
 Development Standards", of this code.
 - 2. Minimum Lot Area: The minimum lot area in an A-20 CD shall be two and one-half (2¹/₂) acres except in a TDR receiving area where the minimum lot area shall be one acre.
 - 3. Maximum Number Of Lots In A Cluster Tract: The maximum number of lots in an A-20 CD cluster tract shall be five (5) except if the standards set forth in subsection 10-9-6D4 of this code are met. (Ord. 2006-05, 6-29-2006)

Chapter 5A PRODUCTIVE AGRICULTURAL DISTRICT (A-40)

9-5A-1: PURPOSE:

The A-40 district is established to: a) preserve those lands either presently in agricultural use or having potential for agricultural use (based on soil characteristics, topography, microclimate, the availability of water, the cost of applying adequate water for irrigation and distance from incorporated cities); b) encourage agricultural activities, thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the county; c) preserve natural features and the rural landscape, while allowing very low density, clustered residential development; and d) respect existing features of the rural landscape.

The preferred land use in the A-40 district is agriculture. The district is intended to permit a range of uses related to agriculture, to encourage the preservation of large blocks of farmland, and to permanently conserve tracts of land which remain after permitted residential development has occurred. Residential development shall be permitted only when it is located and designed to minimize its impact on agricultural land, farming operations, and sensitive environmental features and when it is found that the cumulative effect of residential development in the vicinity does not change the character of agriculturally used lands. (Ord. 2006-05, 6-29-2006)

9-5A-2: LOCATION/APPLICABILITY:

This A-40 district shall only apply to lands designated A-20 prior to July 5, 2006, and that are outside of the urban influence boundaries, as defined in section 9-5-2 of this title, and that are outside of township one north and ranges 18 and 19 (including section 35) east, Boise meridian. (Ord. 2006-05, 6-29-2006)

9-5A-3: DEVELOPABLE DENSITY AND LOT AREA:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be forty (40) acres, except within an A-40 cluster development when authorized pursuant to Blaine County ordinance 77-6, as amended (subdivision ordinance). The minimum lot area in an A-40 cluster development shall be two and one-half (2¹/₂) acres.
- B. Maximum Base Density: The maximum base density shall be one dwelling unit per forty (40) acres.
- C. On A Lot Of Record Between Forty And One Hundred Sixty Acres In Size:
 - 1. An additional lot and unit of base density may be permitted in a subdivision.
 - 2. The minimum area of any lot shall be twenty (20) acres except as allowed within an A-40 cluster development when authorized pursuant to title 10, chapter 9 of this code.
 - 3. The maximum base density shall be one dwelling unit per twenty (20) acres. (Ord. 2006-14, 11-21-2006; Ord. 2006-05, 6-29-2006)

9-5A-4: PERMITTED USES:

Permitted uses for this A-40 district are limited to the following:

- A. Use of land for agricultural purposes.
- B. Open space recreation uses.
- C. Wildlife reserves.
- D. Single-family residences. (Ord. 2006-05, 6-29-2006)

9-5A-5: ACCESSORY USES:

The accessory uses for this A-40 district are limited to the following:

A. Living quarters for persons employed on the premises; provided, however, that mobile homes shall be set back at least fifty feet (50') from any property line (100 feet from Highway 75). Living quarters for employees shall be limited to parcels in the A-40 district forty (40) acres or greater in size, up to two (2) units per twenty (20) acres.

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B. Recreation facilities for private use.	
C. Accessory dwelling unit (see section <u>9-3-11</u> of this title).	
D. Agricultural related structures and buildings.	
E. Temporary roadside stands for the sale of agricultural products grown on the premises or as management with administrative approval. (Ord. 2012-06, 7-10-2012; Ord. 2012-05, 6-5-201	
9-5A-6: CONDITIONAL USES:	
Conditional uses for this A-40 district are limited to the following:	
A. Public or private airfields.	
B. Animal hospitals.	
C. Feedlots.	
D. Public utility installations, not including business offices, repair or storage facilities.	
E. Temporary use of a mobile home during construction of a permanent dwelling for a period no this first year, this period may be extended for a second year.	t to exceed one year. If construction is clearly underway within
F. Public campgrounds, when screened or hidden from view from public highways.	
G. Home occupations.	
H. Permanent use of a mobile home as a primary residence on a parcel of land at least forty (40 be certified by the builder to meet current building standards in effect for the county.	0) acres lying within the district; provided, that the mobile home
I. Agricultural businesses. In determining whether to grant the conditional use and in deciding w hours of operation, size, number of employees, size of sign and other limits as allowed in ch in terms of their relevance to and need by local agricultural operations; impacts on adjacent pollution, odors and other effects; availability of nearby land already zoned for the proposed 25 of this title.	apter 25 of this title, agricultural businesses are to be evaluated agricultural lands in terms of traffic flow, visual and noise
J. Accessory dwelling unit (see section <u>9-3-11</u> of this title).	
K. Group daycare facilities.	
L. Public works gravel or shale pits and public works asphalt plants.	

- M. Wireless communication facilities (see section <u>9-3-16</u> of this title).
- N. Outdoor recreational facilities. (Ord. 2012-06, 7-10-2012; Ord. 2012-05, 6-5-2012; Ord. 2012-01, 4-17-2012; Ord. 2006-05, 6-29-2006)

9-5A-7: DIMENSIONAL STANDARDS:

Dimensional standards for this A-40 district are the following, except that dimensional standards may be modified in a CD as authorized pursuant to subdivision ordinance 77-6, as amended:

- A. Maximum Building Height: Thirty five feet (35'), except barns, silos, and windmills.
- B. Minimum Front Yard Setback: One hundred feet (100') on State Highway 75, fifty feet (50') for other major roads and twenty five feet (25') for minor roads.
- C. Minimum Side And Rear Yard Setback: Twenty five feet (25').
- D. Minimum Lot Width: Four hundred feet (400').
- E. Minimum Setback From Wetlands: Within the A-40 district, the minimum setback from all "wetlands" as defined in chapter 19 of this title shall be one hundred feet (100'). There shall be no disturbance within such setback area except for agricultural purposes (see definition). Buildings existing as of July 5, 2006, that do not comply with the wetlands setback may be allowed to expand if they do not extend farther into the wetlands setback than the existing structure. Any other disturbance to wetlands or within the wetlands setback, including driveway crossing or installation of utilities leading to a building site, shall comply with the requirements of chapter 19 of this title and all other county, state and federal requirements. (Ord. 2006-05, 6-29-2006)

9-5A-8: TRANSFERABLE DEVELOPMENT RIGHT (TDR) SENDING AREA:

- A. Voluntary Development Rights Transfer: If a property is located within the TDR sending area or other designated A-40 TDR sending area, the property owner shall have the option to voluntarily transfer all or a portion of the maximum permissible density to a designated TDR receiving area pursuant to the provisions of title 10, chapter 10 of this code.
- B. Minimum Area: The minimum area of a parcel that may be designated for transfer of development rights shall be one hundred sixty (160) acres except for smaller legal parcels in existence on July 5, 2006, for which the minimum size for a transferring parcel shall be forty (40) acres.
- C. Maximum Base Density Prior To Transfer: The base density within the TDR sending area shall be one dwelling unit per twenty (20) acres for purposes of calculating the maximum number of development rights to be transferred. The area of all delineated wetlands and wetland setback areas within a sending parcel may be included in calculating maximum base density for purposes of a TDR transfer.
- D. Site Density After TDR Transfer: After transfer of development rights, the remaining maximum allowable density on the sending parcel shall be one dwelling unit per one hundred sixty (160) acres or fraction thereof. (All fractions below ¹/₂ shall be rounded down for purposes of calculating maximum number of allowable units on the sending parcel.) For sending parcels less than one hundred sixty (160) acres, the maximum allowable density after transfer shall be one unit regardless of the size of the parcel. An existing dwelling unit on a sending parcel shall be counted against this maximum allowable density. (Ord. 2006-05, 6-29-2006)

9-5A-9: CLUSTER DEVELOPMENTS:

A. Criteria: Cluster developments (CDs) shall be allowed in the A-40 district if the parent tract is located within one mile of a paved state, federal, or county road or a paved road constructed to county standards in existence as of July 5, 2006; and if they meet the criteria set forth in section 10-9-6, "Density, Lot, And Development Standards", of this code.

- B. Minimum Lot Area: The minimum lot area in an A-40 CD shall be two and one-half $(2^{1}/_{2})$ acres.
- C. Maximum Number Of Lots In A Cluster Tract: The maximum number of lots in an A-40 CD cluster tract shall be five (5) except if the standards set forth in subsection 10-9-6D4 of this code are met.
- D. Density Bonus In A CD: One primary residential dwelling unit (and any accessory employee housing as otherwise permitted) shall be allowed within any parent tract of an A-40 CD in addition to the base density. (Ord. 2006-05, 6-29-2006)

Chapter 6 RURAL RESIDENTIAL DISTRICT (R-10)¹

9-6-1: PURPOSE:

This district permits limited development of those lands that are not well suited for long term intensive agricultural production due to such factors as soil characteristics, topography, water availability, the cost of applying water and microclimate, and which, in addition, are not well suited for residential use except for very low density due to such factors as access problems, slope, soil characteristics and presence of sensitive natural resources. (Ord. 2006-04, 6-29-2006)

9-6-2: LOCATION/APPLICABILITY:

This R-10 district shall only apply to lands designated A-10 prior to July 5, 2006, and that meet the following criteria:

- A. Location within an urban influence boundary, as defined by the following criteria:
 - 1. Within three (3) miles from the incorporated boundaries of Ketchum, Hailey, or Bellevue; or
 - 2. Within one mile from the incorporated boundaries of Carey or Sun Valley, or
 - 3. Within three-fourths $(^{3}/_{4})$ of a mile from the boundary of the platted townsites of Picabo or Gannett; or
- B. Location within one-half (1/2) mile from the R-5 zoning district. (Ord. 2006-04, 6-29-2006)

9-6-3: DEVELOPABLE DENSITY AND LOT SIZE:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be ten (10) acres, except:
 - 1. Within an R-10 cluster development when authorized pursuant to Blaine County ordinance 77-6, as amended (subdivision ordinance).
 - 2. Within a TDR receiving area.
- B. Base Density: The base density for PUDs shall be one unit per ten (10) acres. (Ord. 2006-04, 6-29-2006)

9-6-4: PERMITTED USES:

Permitted uses for this district are limited to the following:

Sterling Codifiers, Inc. 4/20/15, 11:34 AM A. Timber production, mining, grazing and other agricultural purposes, except as provided in subsection 9-6-6M of this chapter. B. Open space recreational use. C. Wildlife reserves. D. Single-family residential use. (Ord. 2006-04, 6-29-2006) 9-6-5: ACCESSORY USES: The accessory uses in this district shall include, but not be limited to, those specified for the A-20 district. (Ord. 2006-04, 6-29-2006) 9-6-6: CONDITIONAL USES: Conditional uses for this district are limited to the following: A. Public outdoor recreational facilities. B. Sanitary landfills. C. Public or private airfields. D. Public utility installations, not including business offices, repair or storage facilities. E. Temporary use of a mobile home during construction of a permanent dwelling for a period not to exceed one year. F. Mills for refining mining ore. G. Public campgrounds when screened or hidden from view from public highways. H. Gravel or shale pits, and asphalt batch plants. I. Retreats. J. Mobile homes and trailers on patented mining or mill site claims. Mobile homes or trailers will be allowed for purposes of a shop, office or for housing for a caretaker or watchman. The number of mobile homes and trailers to be allowed shall be determined by those considerations which include, but are not limited to: 1. The size of the mining operation. 2. The number of employees required by the mining operation. 3. The need for twenty four (24) hour protection or monitoring of the mining operation.

A conditional use permit will be issued on a year to year basis, renewable if the mining or mill site claim on which the structures are located is still under

development or extraction is occurring. All South Central health department requirements must be met.

Upon expiration of the conditional use permit, all mobile homes and trailers allowed under this provision must be removed. Their removal and any required reclamation will be guaranteed through posting a performance bond, cash deposit, certified check, negotiable bond or other acceptable financial guarantee with the board of county commissioners.

- K. Group daycare facilities.
- L. Public works gravel or shale pits and public works asphalt plants.
- M. Mining activity on private property within the mountain overlay district is subject to a mountain overlay district (chapter 21 of this title) site alteration permit.
- N. Accessory dwelling unit (see section 9-3-11 of this title).
- O. Wireless communication facilities (see section 9-3-16 of this title).
- P. Animal shelter. (Ord. 2009-07, 9-8-2009; Ord. 2006-04, 6-29-2006)

9-6-7: DIMENSIONAL STANDARDS:

The dimensional standards for this district are the same as those specified for the A-20 district. (Ord. 2006-04, 6-29-2006)

9-6-8: CLUSTER DEVELOPMENTS:

- A. Criteria: Cluster developments (CDs) shall be allowed in the R-10 district if the parent tract is located within one mile of a paved state, federal, or county road or a paved road constructed to county standards in existence as of July 5, 2006; and if they meet the criteria set forth in section 10-9-6, "Density, Lot, And Development Standards", of this code.
- B. Minimum Lot Size: The minimum lot size for a CD shall be two and one-half (21/2) acres except in a TDR receiving area.
- C. Maximum Number Of Lots In Cluster Tract: The maximum number of lots in a CD cluster tract shall be five (5) except if the standards set forth in subsection 10-9-6D4 of this code are met. (Ord. 2006-04, 6-29-2006)

Chapter 6A RURAL REMOTE DISTRICT (RR-40)

9-6A-1: PURPOSE:

This district permits limited development of those lands which are not well suited for long term intensive agricultural production due to such factors as soil characteristics, topography, water availability, the cost of applying water and microclimate, and which, in addition, are not well suited for residential use except for very low density due to such factors as access problems, slope, soil characteristics, distance from and ability to provide services at reasonable cost, and presence of sensitive natural resources. (Ord. 2006-04, 6-29-2006)

9-6A-2: LOCATION/APPLICABILITY:

This RR-40 district shall only apply to lands designated as A-10 prior to July 5, 2006, and that are outside of the urban influence boundary and beyond one-half $\binom{1}{2}$ mile from the R-5 zoning district, as defined in subsections $\frac{9-6-2}{2}$ A and B of this title. (Ord. 2006-04, 6-29-2006)

9-6A-3: DEVELOPABLE DENSITY AND LOT SIZE:

9-0A-3: DEVELOPABLE DENSITY AND LOT SIZE:
A. Minimum Lot Area: The minimum lot area in a subdivision shall be forty (40) acres, except within an RR-40 cluster development when authorized pursuant to Blaine County ordinance 77-6, as amended (subdivision ordinance). (Ord. 2006-04, 6-29-2006)
9-6A-4: PERMITTED USES:
Permitted uses for this district are limited to the following:
A. Timber production, mining, grazing and other agricultural purposes, except as provided in subsection <u>9-6A-6</u> M of this chapter.
B. Open space recreational use.
C. Wildlife reserves.
D. Single-family residential use. (Ord. 2006-04, 6-29-2006)
9-6A-5: ACCESSORY USES:
The accessory uses for this district shall include, but not be limited to, those specified for the A-40 district. (Ord. 2012-05, 6-5-2012)
9-6A-6: CONDITIONAL USES:
Conditional uses for this district are limited to the following:
A. Public outdoor recreational facilities.
B. Sanitary landfills.
C. Public or private airfields.
D. Public utility installations, not including business offices, repair or storage facilities.
E. Temporary use of a mobile home during construction of a permanent dwelling for a period not to exceed one year.

F. Mills for refining mining ore.

Sterling Codifiers, Inc. 4/20/15, 11:34 AM G. Public campgrounds when screened or hidden from view from public highways. H. Gravel or shale pits, and asphalt batch plants. I. Retreats. J. Mobile homes and trailers on patented mining or mill site claims. Mobile homes or trailers will be allowed for purposes of a shop, office, or for housing for a caretaker or watchman. The number of mobile homes and trailers to be allowed shall be determined by those considerations which include, but are not limited to: 1. The size of the mining operation. 2. The number of employees required by the mining operation. 3. The need for twenty four (24) hour protection or monitoring of the mining operation. A conditional use permit will be issued on a year to year basis, renewable if the mining or mill site claim on which the structures are located is still under development or extraction is occurring. All South Central health department requirements must be met. Upon expiration of the conditional use permit, all mobile homes and trailers allowed under this provision must be removed. Their removal and any required reclamation will be guaranteed through posting a performance bond, cash deposit, certified check, negotiable bond or other acceptable financial guarantee with the board of county commissioners. K. Group daycare facilities. L. Public works gravel or shale pits and public works asphalt plants. M. Mining activity on private property within the mountain overlay district is subject to a mountain overlay district (chapter 21 of this title) site alteration permit. N. Accessory dwelling unit. (See section 9-3-11 of this title.) O. Wireless communication facilities. (See section 9-3-16 of this title.) (Ord. 2006-04, 6-29-2006) 9-6A-7: DIMENSIONAL STANDARDS: The dimensional standards for this district are the same as those specified for the A-20 district in section 9-5-7 of this title, except that the minimum lot width shall be five hundred feet (500'). (Ord. 2006-04, 6-29-2006) 9-6A-8: CLUSTER DEVELOPMENTS: A. Criteria: Cluster developments (CDs) shall be allowed in RR-40 district if the parent tract is located within one mile of a paved state, federal, or county road or a paved road constructed to county standards in existence as of July 5, 2006; and if they meet the criteria set forth in section 10-9-6, "Density, Lot, And Development Standards", of this code. B. Minimum Lot Size: The minimum lot size shall be two and one-half $(2^{1}/_{2})$ acres. C. Maximum Number Of Lots In Cluster Tract: The maximum number of lots in a CD cluster tract shall be five (5) except if the standards set forth in subsection 10-9-6D4 of this code are met. (Ord. 2006-04, 6-29-2006)

Chapter 6B RESOURCE CONSERVATION DISTRICT (RC-160)

9-6B-1: PURPOSE:

The resource conservation district (RC district) is established to: a) maintain the present and future use of lands currently owned by the federal, state, or local governments and currently used for nondevelopment purposes; b) avoid inappropriate development of such lands in the event they are sold, exchanged, or otherwise made available (i.e., by long term lease) for use by an entity other than the federal, state, or local government excepting state of Idaho school endowment lands; and c) protect resources such as wildlife habitat. The RC district is intended to allow governmental uses and government permitted or approved activities while in federal, state, or local government ownership and direct control. It is further intended to allow only very low intensity resource related uses on such lands.

The resource conservation district (RC district) is intended to protect the valuable resources such as wildlife habitat, watersheds and recreational lands of Blaine County. Much of Blaine County's precious resources are currently owned by public entities and in some cases located far from existing services, thus the RC district is established to control the future use of lands currently owned by public entities in the R-10, RR-40, A-20 and A-40 zoning districts, in the event such lands are sold, exchanged or otherwise made available (i.e., by long term lease) for use by a private entity after November 8, 2006, as exhibited in attachment A, the resource conservation district map (November 8, 2006), attached to the ordinance codified herein. (Ord. 2006-17, 11-2-2006)

9-6B-2: DEVELOPABLE DENSITY AND LOT SIZE:

A. Minimum lot area for federal and state properties excepting state of Idaho school endowment lands: The minimum lot area for residential development shall be one hundred sixty (160) acres. (Ord. 2006-17, 11-2-2006)

9-6B-3: PERMITTED AND ACCESSORY USES:

Permitted and accessory uses for the RC district are limited to the following:

- A. Federal, state, or local government approved uses, services and facilities, including residential, mining and forestry grazing, public utilities, and other necessary uses, services and facilities related to a valid government permit or activity.
- B. Use of land for very low intensity resource conservation purposes.
- C. Open space recreational use.
- D. Wildlife reserves. (Ord. 2006-17, 11-2-2006)

9-6B-4: CONDITIONAL USES:

Conditional uses for the RC district are limited to the following:

- A. Outdoor recreation facilities.
- B. Campgrounds, when screened or hidden from view from public roads.
- C. Wireless communication facilities. (See section 9-3-16 of this title.) (Ord. 2006-17, 11-2-2006)

9-6B-5: DIMENSIONAL STANDARDS:

The dimensional standards for this district are the same as those specified for the A-20 district in section 9-5-7 of this title, except that the minimum lot width shall be one thousand feet (1,000'). (Ord. 2006-17, 11-2-2006)

9-6B-6: STATE NEEDS:

If the applicant or landowner with respect to an application under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528. (Ord. 2006-17, 11-2-2006)

Chapter 7 RESIDENTIAL/AGRICULTURAL DISTRICT (R-5)

9-7-1: PURPOSE:

It is recognized that limited residential use has begun, or is anticipated to begin, on lands primarily in agricultural use due to their proximity to incorporated areas, the availability of services and prior zoning. The purpose of this district is to ensure that residential uses are located in an optimally compatible manner with respect to agricultural uses, to preserve the county's rural character and to protect the scenic value of open space. The use of PUDs to achieve these goals is encouraged. (Ord. 2014-06, 12-2-2014)

9-7-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be five (5) acres.
- B. Base Density: The base density for PUDs shall be one unit per five (5) acres.
- C. Maximum PUD Density Bonuses: Maximum PUD density bonuses shall be thirty percent (30%). (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-7-3: PERMITTED USES:

Permitted uses in this district are limited to the following:

- A. Agricultural uses.
- B. Single-family residential use.
- C. Duplexes on double lots. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-7-4: ACCESSORY USES:

The accessory uses for this R-5 district include, but are not limited to, the following:

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A. Storage of boats, campers and travel trailers by residents.	
B. Farm and garden buildings.	
C. Keeping of riding horses; provided, that at least one-third (1/3) acre is available for each horse.	
D. Livestock enclosures (animal runs, barns, pens for fowl), no closer than fifty feet (50') to any neighboring residence, and in compliance regulations.	with health department
E. Accessory dwelling unit (see section <u>9-3-11</u> of this title). (Ord. 95-5, 4-3-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)	
9-7-5: CONDITIONAL USES:	
Conditional uses for this district are limited to the following:	
A. Temporary use of a mobile home during construction of a dwelling, for a period not to exceed twelve (12) months.	
B. Outdoor recreational facilities.	
C. Public utility or public service facilities, not including business offices, repair, or vehicle or structural storage facilities.	
D. Home occupations.	
E. Commercial riding stables when set back at least one hundred feet (100') from all property lines.	
F. Public campgrounds when screened or hidden from view from public highways.	
G. Public facilities.	
H. Accessory dwelling unit (see section <u>9-3-11</u> of this title).	
I. Retreat (in the R-5 district only).	
J. Group daycare facilities.	
K. Public works gravel or shale pits and public works asphalt plants.	
L. Wireless communication facilities (see section <u>9-3-16</u> of this title).	
M. Animal shelter. (Ord. 2014-06, 12-2-2014; Ord. 2009-07, 9-8-2009; Ord. 2001-10, 10-1-2001; Ord. 95-5, 4-3-1995; Ord. 92-5, 9-14-1990; Ord. 88-5, 1-12-1989; Ord. 79-4, 9-11-1979; Ord. 77-5, 3-28-1977, eff. 4-7-1977)	92; Ord. 90-4, 6-11-

9-7-6: DIMENSIONAL STANDARDS:

The dimensional standards for this district are the same as those specified for the A-20 district. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 8 RURAL RESIDENTIAL DISTRICT (R-2¹/₂)

9-8-1: PURPOSE:

The purpose of this district is to provide for residential development at a low density while preserving the rural character of the land. The minimum lot areas under ordinance 77-5 are maintained in order to achieve this goal. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-8-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be two and one-half $(2^{1}/_{2})$ acres.
- B. Base Density: The base density for PUDs shall be one unit per two and one-half $(2^{1}/_{2})$ acres.
- C. Maximum PUD Density Bonus: The maximum PUD density bonus shall be twenty percent (20%). (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-8-3: PERMITTED USES:

Permitted uses in this district are limited to the following:

- A. Agricultural uses.
- B. Single-family residential use.
- C. Duplexes on double lots. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-8-4: ACCESSORY USES:

The accessory uses in this district shall be the same as those specified for the R-5 district. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-8-5: CONDITIONAL USES:

Conditional uses in this district are limited to the following:

A. All uses conditionally permitted in R-5.

B. Public facilities. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-8-6: DIMENSIONAL STANDARDS:

Dimensional standards for this district are the following:

- A. Side and rear yards: Twenty five feet (25').
- B. Minimum front yards: One hundred feet (100') on U.S. Highway 75, fifty feet (50') for other major roads, twenty five feet (25') for minor roads.
- C. Maximum building height: Thirty five feet (35').
- D. Minimum lot width: One hundred fifty feet (150'). (Ord. 2009-09, 12-22-2009; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 9 PLANNED RESIDENTIAL DEVELOPMENT DISTRICT (R-2)

9-9-1: PURPOSE:

The purpose of the R-2 District is to permit residential development which will at the same time preserve the scenic, aesthetic and environmental values of open space and agricultural uses. The use of PUDs to achieve these goals is encouraged. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-9-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be two (2) acres.
- B. Base Density: The base density for PUDs shall be one unit per two (2) acres.
- C. Maximum PUD Density Bonus: Maximum PUD density bonus shall be fifty percent (50%). (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-9-3: PERMITTED USES:

Permitted uses for this District are limited to the following:

- A. Agricultural uses.
- B. Single-family residential use.
- C. Duplexes on double lots. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-9-4: ACCESSORY USES:

The accessory ases in this district shall include, but not be innited to, those specified for the H.S. district. (Ord. 11.5, 0.20.11, cli. 4.1.5)	The accessory uses in this District shall include	e, but not be limited to, those s	pecified for the R-5 District.	(Ord. 77-5, 3-28-77, eff. 4-7-7
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9-9-5: CONDITIONAL USES:

Conditional uses for this District are limited to thefollowing:

- A. All uses conditionally permitted in R-5.
- B. Public facilities.
- C. Churches: The building density of a church shall correspond with the allowable density of residential uses. (Ord. 77-5 as amd.)

9-9-6: DIMENSIONAL STANDARDS:

Dimensional standards for this District are the same as those specified for the R-2¹/₂ District. (Ord. 77-5, 3-28-77, eff. 4-7-77)

Chapter 10 LOW DENSITY RESIDENTIAL DISTRICT (R-1)

9-10-1: PURPOSE:

The purpose of this district is to permit residential development at a medium low density. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-10-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be one acre.
- B. Base Density: The base density for PUDs shall be one unit per one acre.
- C. Maximum PUD Density Bonus: Maximum PUD density bonus shall be twenty percent (20%). (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-10-3: PERMITTED USES:

Permitted uses for this district are limited to the following:

- A. Agricultural uses.
- B. Single-family residential use.

Sterling Codifiers, Inc. 4/20/15, 11:34 AM C. Duplexes on double lots. (Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-10-4: ACCESSORY USES: The accessory uses for the R-1 district include, but are not limited to, the following: A. Storage of boats, campers or travel trailers by resident owners. B. Farm and garden buildings. C. Riding horses for use of the residents; provided, that at least one-third $\binom{1}{3}$ acre is available for each horse. D. Accessory dwelling unit (see section 9-3-11 of this title). (Ord. 95-5, 4-3-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-10-5: CONDITIONAL USES: Conditional uses for this R-1 district are limited to the following: A. Public facilities. B. Home occupations. C. Outdoor recreational facilities, except public campgrounds. D. Temporary use of a mobile home during construction of a dwelling for a period not to exceed twelve (12) months. E. Public utility installation, not including business offices, repair or storage facilities. F. Group daycare facilities. G. Mobile/manufactured home subdivisions, mobile/manufactured home parks, and mobile/manufactured home PUDs. H. Accessory dwelling unit (see section 9-3-11 of this title). I. Churches; the building density of a church shall correspond with the allowable density of residential uses. J. Wireless communication facilities (see section 9-3-16 of this title). (Ord. 2012-05, 6-5-2012; Ord. 2001-10, 10-1-2001; Ord. 95-5, 4-3-1995; Ord. 88-5, 1-12-1989; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-10-6: DIMENSIONAL STANDARDS:

Dimensional standards for this district are the following:

- A. Minimum lot width: One hundred feet (100').
- B. Side and rear yard setback: Ten feet (10') for the first ten feet (10') of building height and one foot (1') for each additional two feet (2') of building height.
- C. Minimum front yard setbacks: One hundred feet (100') on U.S. Highway 75, fifty feet (50') for other major roads and twenty five feet (25') for minor roads.
- D. Maximum building height: Thirty five feet (35'). (Ord. 2009-09, 12-22-2009; Ord. 94-4, 3-20-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 11 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-.4)

9-11-1: PURPOSE:

The purpose of this district is to provide residential tracts close to the urban areas with lot sizes sufficient for individual sewage disposal. This district is hereby declared to be inactive. It shall continue to apply to property zoned R-.4 as of the date hereof, but after November 8, 2006, it shall be unavailable for any zoning or reclassification pursuant to chapter 26 of this title. (Ord. 2006-15, 10-26-2006; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-11-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be four-tenths (0.4) of an acre.
- B. Base Density: The base density for PUDs shall be one unit per four-tenths (0.4) of an acre.
- C. Maximum PUD Density Bonus: Maximum PUD density bonus shall be twenty percent (20%). (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-11-3: PERMITTED USES:

Permitted uses in this district are limited to the following:

- A. Agricultural uses.
- B. Single-family residential use.
- C. Duplexes on double lots. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-11-4: ACCESSORY USES:

The accessory uses for the R-.4 district include, but are not limited to, the following: A. Storage of boats, campers and travel trailers by resident owners. B. Farm and garden buildings. C. Accessory dwelling unit (see section 9-3-11 of this title). (Ord. 95-5, 4-3-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-11-5: CONDITIONAL USES: Conditional uses in this R-.4 district are limited to the following: A. Single permanent mobile homes, when placed on a suitable foundation of concrete or block, skirted and screened from adjacent area by acceptable fences, walls and/or planted areas. B. Public facilities. C. Home occupations. D. Public utility installations, not including business offices, repair or storage facilities. E. Temporary use of a mobile home during construction of a dwelling, for a period not to exceed twelve (12) months. F. Group daycare facilities. G. Mobile/manufactured home subdivisions, mobile/manufactured home parks, and mobile/manufactured home PUDs. H. Multi-family dwellings at one unit per four-tenths (0.4) acre. I. Outdoor recreational facilities, except public campgrounds. J. Accessory dwelling unit (see section 9-3-11 of this title). K. Wireless communication facilities (see section 9-3-16 of this title). (Ord. 2012-05, 6-5-2012; Ord. 2001-10, 10-1-2001; Ord. 95-5, 4-3-1995; Ord. 88-5, 1-2-1989; Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-11-6: DIMENSIONAL STANDARDS: Dimensional standards for this district are the following: A. Side And Rear Yard Setback: One foot (1') per two feet (2') of a building height or minimum ten feet (10').

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- B. Minimum Lot Width: Seventy five feet (75').
- C. Maximum Building Height: Thirty five feet (35').
- D. Front Yard Setback: One hundred feet (100') on State Highway 75, fifty feet (50') for other major roads, twenty five feet (25') for minor roads.
- E. Corner Lot Setback: Fifty feet (50') from corner.
- F. Churches: The building density of a church shall correspond with the allowable density of residential uses. (Ord. 77-5 as amended)

Chapter 12 HIGH DENSITY RESIDENTIAL DISTRICT (R-1/4)

9-12-1: PURPOSE:

The purpose of this district is to allow higher residential densities when central water and public sewer become available adjacent to incorporated cities. This district is hereby declared to be inactive. It shall continue to apply to property zoned R-1/4 as of the date hereof, but after November 8, 2006, it shall be unavailable for any zoning or reclassification pursuant to chapter 26 of this title. (Ord. 2006-15, 10-26-2006; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-12-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a subdivision shall be one-fourth $\binom{1}{4}$ acre.
- B. Base Density: The base density shall be four (4) dwelling units per acre for a PUD.
- C. Maximum PUD Density Bonus: The maximum PUD density bonus shall be twenty percent (20%). (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-12-3: PERMITTED USES:

Permitted uses in this district are the same as those permitted in the R-.4 district. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-12-4: ACCESSORY USES:

The accessory uses for this district shall be the same as those specified for the R-.4 district. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-12-5: CONDITIONAL USES:

Conditional uses in this district are the same as thosespecified for the R-.4 district. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-12-6: DIMENSIONAL STANDARDS:

Dimensional standards for this district are the same as those specified for the R-.4 district. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 13 RECREATION DEVELOPMENT DISTRICT (RD)

9-13-1: PURPOSE:

The recreation development district is a special use district designated to guide recreation development adjacent to specific recreational access points and to provide for public facilities when located adjacent to residentially zoned lands. (Ord. 98-6, 7-7-1998; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-2: **DEFINITIONS**:

The following terms are defined:

PRIMARY RECREATION DEVELOPMENT: Those facilities and structures directly related to use of the specific recreational resource.

RECREATION DEVELOPMENT PLAN: A master plan consisting of both a short term plan and a long term plan.

Long Term Plan: The long term plan shall present nondetailed plans of logical maximum development within the district.

Short Term Plan: A short term plan must specify all development planned within the following three (3) years.

SECONDARY RECREATION DEVELOPMENT: Those facilities or structures not vital to use of the specified recreational resource, but justified by their relation to the recreational resource itself and primary recreational development. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-3: DEVELOPABLE DENSITY:

There is no base density assigned for this district. The board may, after considering the recommendation of the commission, allow whatever developable density it deems justifiable inrelation to the recreation resource and primary recreational development; provided, however, that the total developable density within this district shall never exceed one unit for one-fourth $\binom{1}{4}$ acre. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-4: SUBMISSION AND CONTENTS OF A PLAN:

- A. Recreation Development Plan:
 - 1. Description Of Plan: The developer(s) shall describe the recreation resource itself, together with present and potential utilization. The recreation development plan shall include a short term plan and a long term plan and distinguish between anticipated primary and secondary recreational development.
 - 2. Review By Administrator: The administrator shall review all recreation development plan applications for conformance to this title, as amended, and the county comprehensive plan. The administrator may refer recreation development plan applications to the county engineer for technical review and local, state or federal agencies as deemed appropriate by the administrator, based upon the proposed use and the potential impact on ground water, potable water sources, infrastructure, and agencies' ability to provide public services. Such review shall be at the applicant's expense and shall be paid by the applicant prior to public hearing.
- B. Public Facility: A conditional use permit shall be required for a public facility. The submittal requirements for a conditional use permit application shall be as specified in subsections 9-25-2A and F of this title.
- C. Wireless Communication Facilities: A conditional use permit shall be required for wireless communication facilities (see section 9-3-16 of this title). (Ord. 2006-13, 10-26-2006; Ord. 2001-10, 10-1-2001; Ord. 98-6, 7-7-1998; Ord. 93-6, 7-19-1993; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-5: CERTIFICATION; PUBLIC HEARING AND NOTIFICATION:

- A. Certification Of Application: Upon receipt of the plan and all other required data, the administrator shall certify the application as complete and affix the date of application acceptance thereon.
- B. Hearing Scheduled: Allowing sufficient time to conduct a site visit and write staff reports, the administrator shall then schedule the plan for the commission's next available hearing time wherein the legal notice requirements can be met. If no regular meeting time is available within one hundred eighty (180) days of certification, the administrator shall call a special commission meeting to be held not more than three (3) weeks after the end of the one hundred eighty (180)days, to hear the application.
- C. Notice Of Hearing: Notice of the time, date and place of hearing shall be as set forth in subsection 9-25-4C of this title. (Ord. 98-6, 7-7-1998; Ord. 95-2, 3-6-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-6: ACTION BY COMMISSION:

- A. Recreation Development Plan: The commission shall consider the development plan and take public input at a duly noticed public hearing as set forth hereinabove. The commission shall recommend approval, conditional approval or disapproval, making appropriate findings to support its decision.
- B. Public Facility Conditional Use Permit Application: Action by the commission shall be as specified in section 9-25-5 of this title.
- C. Continuance Of Hearing: The commission may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required other than that requested by the commission. Continuation beyond thirty one (31) days shall require further published notice, according to section <u>9-13-5</u> of this chapter. The commission shall adopt its written findings of fact and recommendation on a recreation development plan or its written findings of fact and decision on a public facility conditional use permit application within thirty one (31) days after the decision by the commission.

D. Factors To Be Considered:

- 1. For a recreation development plan: The commission shall include any conditions of approval, recommendations for change of the plan or reasons used in coming to its decision. Factors that must be addressed by the commission and board in evaluating a proposed plan include:
 - a. The proposed development and its relationship to the specified recreation resource. The proposed development shall not degrade the recreation resource.
 - b. The design of transportation facilities shall ensure minimum impact on existing and proposed development, topography and vegetation.
 - c. The quality of site design and planning demonstrated and the extent that the plan preserves existing natural features, including air and water quality.
 - d. Secondary development will not adversely affect utilization of the recreation resource.
 - e. The impact of the proposed uses on potable water sources.
- 2. For a public facility conditional use permit: The standards of evaluation shall be as set forth in section <u>9-25-3</u> of this title. The commission may attach conditions of approval as specified in subsection <u>9-25-5A</u> of this title. (Ord. 2006-13, 10-26-2006; Ord. 98-6, 7-7-1998; Ord. 95-2, 3-6-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-7: NOTIFICATION BY ADMINISTRATOR:

The administrator shall give the applicant written notice of the commission's recommendation on a recreation development plan or its written findings of fact and decision on a public facility conditional use permit application within ten (10) days after the commission has signed written findings of fact and decision. (Ord. 98-6, 7-7-1998; Ord. 95-2, 3-6-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-8: ACTION BY BOARD:

A. Public Hearing: The board shall hold a public hearing on a proposed recreation development plan at its earliest convenience. Public notice of the time and place of this hearing shall be published in a newspaper of general circulation at least fifteen (15) days in advance.

B. Commission's Recommendation: At its next regular meeting after the hearing, the board shall approve, disapprove or modify the commission's recommendation on a proposed recreation development plan. If the board disapproves the commission's recommendation, it shall give the reasons used to come to that decision. (Ord. 98-6, 7-7-1998; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-13-9: RESUBMITTAL:

No recreation development plan which has been denied by the board or withdrawn by the applicant shall be resubmitted within less than one year from the date of final action thereon. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 14 GENERAL COMMERCIAL DISTRICT (C)

9-14-1: PURPOSE:

It is the purpose of this district to designate space for commercial uses as defined in section 9-2-1 of this title. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-14-2: DEVELOPABLE DENSITY:

- A. Minimum Lot Area: The minimum lot area in a residential subdivision shall be four-tenths (0.4) of one acre.
- B. Base Density: The base density shall be one unit per four-tenths (0.4) of an acre.
- C. Maximum PUD Density Bonus: Maximum PUD density bonus shall be twenty percent (20%).
- D. R-1/4 Densities: R-1/4 densities may be allowed if and when central water and sewer service become available. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-14-3: PERMITTED USES:

Permitted uses for this district are limited to the following:

- A. Single-family residential use.
- B. Business, professional, public or social services offices.
- C. Gas stations, restaurants, bars, theaters, banks, motels, tourist homes and hotels, car washes, motor vehicles repairs or sales.
- D. Retail stores and related storage, including commercial nursery and building supply outlet.
- E. Public utility business offices, repair and storage facilities.

F. Light industrial uses.
G. Recreational facilities including bowling alleys.
H. Nursery for children, nursing homes.
I. Repair and personal services.
J. Self-storage facilities. (Ord. 2014-04, 10-14-2014)
9-14-4: ACCESSORY USES:
The accessory uses for this district include, but are not limited to, the following:
A. Temporary buildings incidental to construction work on the premises; such buildings to be removed upon completion of construction work.
B. Boat, camper and travel trailer storage. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)
9-14-5: CONDITIONAL USES:
Conditional uses for this district are limited to the following:
A. Public facilities.
B. Parking lots and garages.
C. Bulk storage and sale of flammable liquids and gases, subject to the approval of the chief of the rural fire district having jurisdiction.
D. Multi-family dwellings.
E. Mobile homes, when placed on a suitable foundation of concrete or block, skirted and screened from adjacent areas by fences, walls or planted areas.
F. Mobile/manufactured home subdivisions, mobile/manufactured home parks, and mobile/manufactured home PUDs.
G. Daycare facilities.
H. Wireless communication facilities (see section <u>9-3-16</u> of this title). (Ord. 2012-05, 6-5-2012; Ord. 2001-10, 10-1-2001; Ord. 88-5, 1-12-1989; Ord. 77-5, 3-28 1977, eff. 4-7-1977)

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9-14-6: DIMENSIONAL STANDARDS:

Dimensional standards for this district are the following:

- A. Maximum Building Height: Forty feet (40').
- B. Side And Rear Yard Setbacks: Twenty feet (20').
- C. Minimum Lot Width, Front Yard Setback And Minimum Lot Area For Commercial Uses: None.
- D. Minimum Lot Width, Front Yard Setback And Minimum Lot Area For Residential Uses: Same as within the R-.4 district.
- E. Parking Requirements: For parking requirements, refer to chapter 28 of this title.
- F. Front Yard Setback: One hundred feet (100') from State Highway 75; otherwise none. (Ord. 77-5, 3-28-1977, as amended)

Chapter 15 LIGHT INDUSTRIAL DISTRICT (LI)

9-15-1: PURPOSE:

The light industrial district is established to provide lands for "light industrial uses" as defined in section 9-2-1 of this title which can be designed to operate compatibly in close proximity to adjoining commercial or residential uses. This district is not intended for residential purposes and no developable residential density is assigned within it. (Ord. 95-11, 11-6-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-15-2: PERMITTED USES:

Permitted uses for this district are limited to the following:

- A. Assembly, light manufacturing, processing, packaging, treatment and fabrication of goods and merchandise, including laboratories and research offices, bottling and distribution plants, light repair facilities and storage distribution warehouses.
- B. Wholesaling only if the items are manufactured on site and are not for sale as retail merchandise to the general public.
- C. Contractor's storage yard.
- D. Machine shops, printing services.
- E. Use of land for agricultural purposes.
- F. Commercial nurseries.

Sterling Codifiers, Inc. 4/20/15, 11:34 AM G. Animal hospitals and kennels. (Ord. 81-3, 8-24-1981; Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-15-3: ACCESSORY USES: The accessory uses for this district include, but are not limited to, the following: A. A dwelling of an owner, operator or caretaker of a principal permitted use when located on the same premises. B. Temporary buildings necessary for construction work on premises, such buildings to be removed upon completion or abandonment of construction work. (Ord. 77-5, 3-28-1977, eff. 4-7-1977) 9-15-4: CONDITIONAL USES: Conditional uses for this district are limited to the following: A. Bulk storage of flammable liquids or gases, subject to the approval of the fire chief of the rural fire district having jurisdiction. B. Office buildings. C. Solid waste incineration. D. Light industrial uses with commercial outlets, but which remain primarily light industrial rather than commercial. E. Truck terminal. F. Food or animal processing plants creating off site impacts, including the processing, packaging, storage and distribution of agricultural or dairy products. G. Public utility and service installations, including repair and storage facilities. H. Self storage facilities. I. Wireless communication facilities (see section 9-3-16 of this title). J. Storage, mixing, blending and sales of fertilizers. (Ord. 2012-06, 7-10-2012; Ord. 2001-10, 10-1-2001; Ord. 96-12, 10-15-1996; Ord. 77-5 as amended) 9-15-5: DIMENSIONAL STANDARDS: Dimensional standards for this district are the following: A. Maximum Building Height: Forty feet (40').

- B. Side And Rear Yard Setbacks: None, except as to lots adjoining property located in commercial (C), residential/agricultural (R-5), rural residential (R-2¹/₂), planned residential development (R-2), low density residential (R-1), medium density residential (R-.4), high density residential (R-¹/₄), floodplain overlay (FP) and riparian setback (R) districts, and any other residential districts as may be added hereto, in which case the setback shall be twenty feet (20').
- C. Minimum Lot Width And Minimum Lot Area For Light Industrial Uses: None.
- D. Minimum Lot Width, Front Yard Setback, And Minimum Lot Area For Residential Uses: Same as within the R-.4 district.
- E. Parking Requirements: For parking requirements, refer to chapter 28 of this title.
- F. Front Yard Setback: One hundred feet (100') from State Highway 75; otherwise none. (Ord. 2011-01, 1-18-2011; Ord. 95-11, 11-6-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 16 HEAVY INDUSTRIAL DISTRICT (HI)

9-16-1: PURPOSE:

The heavy industrial district is established to group heavy industrial uses with foreseeable off site impacts such as air, noise, visual or other forms of pollution where they will minimally affect neighboring land uses. This district is not intended for residential purposes and no developable residential density is assigned within it. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-16-2: RESTRICTIONS:

The following restrictions apply within this district:

- A. The uses shall be subject at all times to state and federal air and water pollution regulations.
- B. The uses shall be subject to the uniform fire code and operations are subject to the approval of the fire chief of the rural fire district having jurisdiction.
- C. Off site impacts such as direct or reflected glare, noise, vibration, dust, smoke or odor must be minimized through use of the best practical technology.
- D. All permanent structures built within the intermediate regional floodplain shall be sealed watertight up to the IRF flood elevation.
- E. One acre minimum lot size. (Ord. 79-4, 9-11-1979; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-16-3: PERMITTED USES:

Permitted uses for this district are limited to the following:

A. Refining, processing and storage of forest products and mineral resources (including, but not limited to: sawmills, asphalt hot mix plants, ore mills, rock crushers and concrete batch plants).

B. Junkyards; provided, that stored materials shall be invisible from public rights of way.
C. Contractors' storage yards.
D. Processing, packaging, storage and distribution of agricultural or dairy products. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)
9-16-4: ACCESSORY USES:
Accessory uses in this district must satisfy the definition specified in section <u>9-2-1</u> of this title. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)
9-16-5: CONDITIONAL USES:
Conditional uses for this district are limited to the following:
A. Bulk storage and sale of flammable liquids and gases, subject to the approval of the fire chief of the rural fire district having jurisdiction.
B. Solid waste incineration.
C. Truck terminal.
D. Chemical storage and/or manufacture.
E. Public utility and public service installations.
F. Smelter, rendering plants.
G. Wireless communication facilities (see section <u>9-3-16</u> of this title).
H. Storage, mixing, blending and sales of fertilizers. (Ord. 2012-06, 7-10-2012; Ord. 2001-10, 10-1-2001; Ord. 77-5, 3-28-1977, eff. 4-7-1977)
9-16-6: DIMENSIONAL STANDARDS:
There are no dimensional standards established for this district, except as regulated under section <u>9-3-10</u> of this title. (Ord. 2009-09, 12-22-2009)
Chapter 17 FLOODPLAIN OVERLAY DISTRICT (FP) AND RIPARIAN SETBACK DISTRICT (R)
9-17-1: FINDINGS OF FACT AND STATUTORY AUTHORITY:

The board finds the following facts:

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A. Importance To County: The rivers and creeks of the county are important to the well being of its citizens as a source of recreation, fish and wildlife habitat, aesthetic beauty, a source of irrigation water for the farmlands as well as other economic and lifestyle values.

- B. Flood Losses Resulting From Periodic Inundation: The flood hazard areas of the county are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- C. General Causes Of These Flood Losses: These flood losses are increased by:
 - 1. The cumulative effect of obstructions and constriction to flood heights and velocities;
 - The occupancy or use of flood hazard areas which are vulnerable to floods or hazardous to other lands or uses which are inadequately elevated or otherwise unprotected from flood damages;
 - 3. The removal of healthy riparian vegetation.
- D. Methods Used To Analyze Flood Hazard: The studies listed below are hereby adopted as the primary sources of flood hazard analysis:
 - 1. The special flood hazard areas identified by the federal emergency management agency in its flood insurance study (FIS) for Blaine County, Idaho and incorporated areas dated November 26, 2010, with accompanying flood insurance rate maps (FIRM) or digital flood insurance rate maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this chapter. The FIS and the FIRM are on file at the land use and building services office located at 219 First Avenue South, Suite 208, Hailey, Idaho.
 - 2. Flood hazard analysis sources as determined by the Blaine County engineer or other expert hired by the county and the administrator to be the best available information.
- E. Statutory Authority: The legislature of the state of Idaho in Idaho Code 46-1020 through 46-1024, authorized local government units to adopt a floodplain map and floodplain management ordinance that identifies floodplains and that sets forth minimum development requirements in floodplains that are designed to promote the public health, safety, and general welfare of its citizenry. (Ord. 2010-13, 1-18-2011; Ord. 2010-08, 11-16-2010)

9-17-2: PURPOSE:

The standards and mechanisms established herein are intended to protect floodplain and riparian areas in the county. By regulating development and alterations to floodplains and riparian areas this chapter seeks to:

- A. Protect members of the public and public resources and facilities from injury, loss of life, property damage or financial losses due to flooding or erosion;
- B. Protect and restore unique, fragile and valuable elements of the riparian area including wildlife and its habitat;
- C. Mitigate avoidable impacts to aquatic systems by regulating alterations in and adjacent to riparian areas;
- D. Prevent cumulative adverse environmental impacts to water availability, water quality, wetlands and streams;
- E. Augment the requirements of the national flood insurance program and maintain the county as an eligible community for federal flood insurance benefits;
- F. Alert members of the public, such as appraisers, owners, real estate companies, individuals, potential buyers or lessees, to the development limitations of riparian areas and floodplains;
- G. Provide county officials with sufficient information to protect floodplains, watercourses and riparian areas; and

H. Implement the county comprehensive plan, as amended, and all county functional and community plans.

The floodplain overlay and riparian setback districts shall restrict or prohibit uses which are dangerous to health, safety or property in times of flood, which result in environmental damage, or that cause increased flood heights or velocities. The county shall review subdivisions and lands to establish proper building envelope locations to minimize flood hazards. (Ord. 2011-01, 1-18-2011; Ord. 91-9, 7-22-1991; Ord. 88-4, 9-13-1988; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-17-3: ESTABLISHMENT OF FLOODPLAIN OVERLAY AND RIPARIAN SETBACK DISTRICTS:

A. Establishment Of Districts:

- 1. The floodplain overlay district is hereby established. The regulations of this district apply to all lands within the jurisdiction of the county that lie within the 100-year floodplain boundaries as established by subsection 9-17-1D of this chapter. Except as stated in subsection 9-17-1D2 of this chapter, any boundary established by a registered professional engineer in the state that is in conflict with the effective flood insurance study (FIS) must be submitted to and approved by FEMA through revised FIRM and DFIRM, or through a letter of map revision or letter of map amendment issued by FEMA. Such amendments or revisions to the effective FIRMs and DFIRMs authorized by FEMA shall be considered amendments or revisions to the maps adopted hereinabove and may be used as the best available information.
- 2. The riparian setback district is hereby established. The regulations of this district shall include the setbacks from the ordinary high water mark according to the class of stream as delineated in subsection 9-17-6B of this chapter.

B. Rules For Interpretation:

- 1. The floodplain overlay district boundaries are partially represented on the floodplain overlay district map for the county. The precise boundaries shall be determined by on site elevations as interpreted by subsection 9-17-1D of this chapter.
 - The administrator shall make the necessary interpretation of the boundary based upon the FEMA designation or the recommendation of the county engineer or other expert hired by the county. An applicant contesting the location of the boundary may submit applicant's own technical evidence when presenting applicant's case to the administrator, board or commission for the conditional use permit, stream alteration permit, building permit or subdivision application.
- 2. The riparian setback district boundaries will not be designated on the official county zoning map. These boundaries shall include the setbacks from the ordinary high water mark according to the class of stream as delineated in subsection 9-17-6B of this chapter.
- 3. Land used primarily for commercial agricultural purposes is excluded from section 9-17-6, "Riparian Setback District Use Regulations", of this chapter, provided a ten foot (10") natural vegetation buffer, as measured from the ordinary high water mark, shall be preserved along all designated streams. Revegetation of this natural vegetation buffer shall not be required where the watercourse moves its channel. (Ord. 2011-01, 1-18-2011; Ord. 2010-08, 11-16-2010)

9-17-4: WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 88-4, 9-13-1988; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-17-5: FLOODPLAIN DISTRICT USE REGULATIONS:

- A. Establishment Of Subdistricts: The floodplain areas within the jurisdiction of this chapter are divided into two (2) subdistricts: the floodway subdistrict and the floodplain subdistrict. The boundaries of these subdistricts are determined by methods in subsection 9-17-1D of this chapter.
- B. Floodway Subdistrict Use Regulations: Because of the possibility of flooding and changeable characteristics of streams in the county, floodway uses are highly restricted.
 - 1. Permitted Uses: Agricultural uses including, but not limited to, pipes, headgates, fences and weirs are permitted, provided that no agricultural buildings are involved, provided that they do not cause an obstruction, or a no-rise certification (with the documentation) is submitted to the Blaine County land use office.

2. Conditional Uses: Commercial extraction of sand or gravel; diversion structures, bridges, culverts, stream crossings, dikes, levees, dams provided that they do not cause an obstruction and a no-rise certification (with the documentation) is submitted to the Blaine County land use office.

- a. Local Public Interests: The proposed application (use) does not conflict with the local public interest, i.e., the affairs of the people in the area directly affected by the proposed use. This includes, but is not limited to, property values, fish and wildlife habitat, aquatic life, recreation, water quality, potable water sources or an impact upon a locally important factor. The burden of proof always rests with the applicant.
- 3. Prohibited Uses: Any encroachment into the floodway including fill, new construction, substantial improvements or modifications, stream alterations or other development that would cause any increase in velocity of the stream or increase of the 100-year flood level, thus jeopardizing the county's eligibility in the federal flood insurance program or cause adverse impacts including to areas downstream, upstream or across stream, or any use located within a wellhead protection area that may adversely affect a potable water source. See subsection 9-17-9D of this chapter for stream alteration permit.
- C. Floodplain Subdistrict Use Regulations: Because of hazard to individual and public health, safety, and welfare, uses in the floodplain are restricted or designated for individual consideration under the conditional use permit process. The following uses are allowed as either permitted or conditional uses provided they meet all applicable standards set forth in this chapter and can demonstrate they will not have any adverse impact on other upstream or downstream property owners as defined in subsection 9-17-9D2 of this chapter.
 - 1. Permitted Uses:
 - a. Agricultural, recreational, and residential accessory uses (nonstructural) which are designed to withstand flooding and will not increase the risk of flood losses on other land, to the public nor to the environment; inundation or flood damage to said permitted uses shall not be considered extraordinary circumstances¹.
 - b. Single-family residences and structures and uses accessory thereto, when located fully within an approved platted building envelope shown on a recorded subdivision plat, provided the proposal complies with conditions as outlined in subsections 9-17-7F1, F4, F5, F7 through F13, and F15 through F19 of this chapter. The applicant shall provide, as part of an application for a building permit, the information specified in subsections 9-17-7C2a through C2k of this chapter to assist in the evaluation of the project. Additional information may be required based on site specific conditions.
 - Upon a finding by the administrator that the development proposal does not comply with one or more conditions as stated hereinabove, the applicant may apply for a floodplain conditional use permit to be decided upon by the commission.
 - At the administrator's discretion and based on appropriate findings, a building permit application may be referred to the county engineer for technical review. Such review shall be at the applicant's expense and shall be paid by the applicant prior to issuance of the building permit.
 - 2. Conditional Uses: Commercial sand and gravel extractions; residential uses located outside platted building envelopes shown on a recorded subdivision plat; and the following uses: farm and garden buildings, pipelines, utilities and the storage of boats, campers and travel trailers by residents; public works gravel or shale pits, public works asphalt plants, wireless communication facilities (see section 9-3-16 of this title); chair lift base terminals associated with a bureau of land management or U.S. forest service approved ski area permit and uses customary to the operation of such ski area; provided, that the applicant demonstrates the use or activity will have no adverse impact or such impacts can be mitigated to the maximum extent feasible, conditions imposed in subsection 9-17-7 of this chapter are complied with, and that evaluation of criteria in subsection 9-17-7 of this chapter produces a favorable finding.
 - a. Local Public Interests: The proposed application (use) does not create a substantial conflict with the local public interest, i.e., the affairs of the people in the area directly affected by the proposed use. This includes, but is not limited to, property values, fish and wildlife habitat, aquatic life, recreation, water quality, potable water source or an impact upon a locally important factor. The burden of proof always rests with the applicant.
 - 3. Prohibited Uses In The Floodplain Subdistrict: Such uses include subdivision lots or lands for residential development within the floodplain that do not include a buildable site; any use or structure that is susceptible to flood damage or that could potentially cause flood damage to other property or environmental damage, or any use located within a wellhead protection area that may adversely affect a potable water source.
- D. Dimensional Standards: Any buildable lot within a floodplain overlay district shall use the setbacks required in the riparian setback district for the class of stream involved. More restrictive setbacks may be imposed through the conditional use permit or subdivision review process.
- E. Development Density: The base development density in the floodplain overlay district shall be the base density in the adjacent zoning district or one unit per five (5) acres, whichever is less dense.

Floodway land may be included in determining single lot on site base density development acreage requirements. For a parcel of land which straddles the floodplain overlay district and a residential district, individual lots may be drawn which include portions of the floodplain overlay district. However, each lot will include land out of the riparian setback and out of the floodway fringe when possible.

F. Definitions: As used in this chapter, the following words and terms shall have the meanings ascribed to them in this subsection:

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded each year.

BASE FLOOD ELEVATION (BFE): The water surface elevation during the base flood in relation to a specified datum. The base flood elevation (BFE) is depicted on the FIRM and the DFIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

BASEMENT: The portion of a structure including crawl space with its floor subgrade (below ground level) on all sides.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials; and the deposition or extraction of materials, including the construction of dikes, berms and levees.

DIGITAL FIRM (DFIRM): Digital flood insurance rate map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, issued by the federal insurance administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS): The official report by the federal insurance administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.

FLOOD OF 100-YEAR FREQUENCY: A flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year, as determined by probability analysis of historical hydrological data.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PROTECTION ELEVATION (FPE): As defined in Idaho Code, an elevation that corresponds to the elevation of the one percent (1%) chance annual flood (100-year flood or base flood elevation or BFE) plus any increase in flood elevation attributable to floodway encroachment, plus any required freeboard which in Blaine County is two (2) additional feet.

FLOODWAY (REGULATORY): The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FREEBOARD: A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams and the hydrologic effects of urbanization in a watershed.

LETTER OF MAP CHANGE (LOMC): An official FEMA determination, by letter, to amend or revise effective flood insurance rate maps, flood boundary and floodway maps, and flood insurance studies. LOMCs are issued in the following categories:

- A. Letter Of Map Amendment (LOMA): A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. An LOMA amends the current effective flood insurance rate map and establishes that a specific property is not located in a special flood hazard area.
- B. Letter Of Map Revision (LOMR): A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, an LOMR-F, is a determination that a structure or parcel has been elevated by fill above the base flood elevation and is excluded from the special flood hazard area. An LOMR must be approved by the county land use administrator and the Blaine County engineer prior to submittal to FEMA.
- C. Conditional Letter Of Map Revision (CLOMR): A formal review and comment by FEMA as to whether a proposed project complies with the minimum national flood insurance program floodplain management criteria. A CLOMR does not amend or revise effective flood insurance rate maps, flood boundary and floodway maps, or flood insurance studies. A CLOMR must be approved by the county land use administrator and the Blaine County engineer prior to submittal to FEMA.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor. The lowest floor is a determinate for the flood insurance premium for a building, home or business.

MANUFACTURED HOME: A structure transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

RECREATIONAL VEHICLE: A vehicle that is:

- A. Built on a single chassis,
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection,
- C. Designed to be self-propelled or permanently towed by a light duty truck, and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

STRUCTURE: See section 9-2-1 of this title.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure (see section 9-2-1 of this title) whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of its market value before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Reconstruction, rehabilitation, addition, or other improvement of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the structure should be: a) the appraised value of the structure prior to the start of the initial repair or improvement, or b) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed. The term does not include either:

- A. A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- B. Alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure. (Ord. 2014-03, 8-19-2014; Ord. 2011-01, 1-18-2011; Ord. 2010-13, 1-18-2011; Ord. 2010-08, 11-16-2010; Ord. 2006-18, 11-2-2006; Ord. 2006-13, 10-26-2006; Ord. 2001-10, 10-1-2001; Ord. 2000-3, 3-20-2000; Ord. 98-5, 6-8-1998; Ord. 97-1, 7-22-1997; Ord. 96-3, 4-8-1996; Ord. 92-7, 9-28-1992; Ord. 92-5, 9-14-1992; Ord. 91-9, 7-22-1991; Ord. 90-4, 6-11-1990; Ord. 88-4, 9-13-1988; Ord. 79-4, 9-11-1979; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-17-6: RIPARIAN SETBACK DISTRICT USE REGULATIONS:

- A. Applicability: Only those permitted uses or activities, as noted in subsection D of this section, are allowed within specified stream setbacks.
- B. Definitions: As used in this chapter, the following words and terms shall have the meanings ascribed to them in this subsection:

HAND EQUIPMENT: Any construction machinery such as chain saws, wheelbarrows, post hole diggers (not attached to vehicles) and all handheld tools.

ORDINARY HIGH WATER MARK: The mark on all watercourses, where the presence and action of waters is so common and continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation and destroy its value for agricultural purposes. In areas where riprap bank stabilization has occurred the measurement shall begin on the landward side of such stabilization work.

RIPARIAN AREAS: Lands adjacent to a watercourse or water body that are influenced by water, have the presence of riparian vegetation and have an important function in mitigating flood damage.

RIPARIAN PLANT COMMUNITY: The vegetation associated with streams that are subject to and sustained by seasonal surface water inputs, or high ground water elevations. Species commonly found in riparian areas are listed by the Idaho conservation data center as "wetlands and riparian plants associations in Idaho". Riparian areas in Blaine County shall be delineated by the presence of riparian plant communities that appear on the conservation data center list or other lists adopted by resolution of the board.

STREAMS: Those areas where surface water produces a defined channel or bed which demonstrates evidence of the passage of water. Dry washes, irrigation ditches, canals, surface water runoff devices or other entirely artificial water bodies/watercourses (unless specifically referred to herein) are not included. "Streams" are further defined as follows:

Class 1 Streams: Streams and/or reaches of streams with the potential to have extensive flooding, erosion and attendant hazards and include the Big Wood River.

Class 2 Streams: Streams and/or reaches of streams that flow year round during years of normal rainfall and have the potential for significant flooding and erosion. Such streams include the East Fork of the Big Wood River, Little Wood River, Salmon River (Upper), Smiley Creek, Trail Creek and Warm Springs Creek.

Class 3 Streams: Smaller perennial or intermittent streams and/or reaches of streams that are prone to periodic flooding and erosion. Class 3 streams shall include, but are not limited to, the following: Beaver Creek, Broadford Slough, Croy Creek, Deer Creek, Eagle Creek, Fish Creek and Rock Creek.

Class 4 Streams: All spring fed creeks and their tributaries, which are not subject to erosive flooding, such as Grove Creek, Loving Creek, Mudd Creek, Patton Creek, Silver Creek, Spring Creek and Wilson Creek.

YARDSCAPE: Introduced vegetation such as grass and ornamental shrubs, forbs and trees that may require irrigation in a normal cycle.

C. Nondisturbance In Stream Setbacks: Except as provided below, no disturbance of land shall be allowed in the stream setbacks set forth in subsection E of

this section, including, but not limited to, dredging, filling, new construction, substantial improvements or modifications, installation of septic systems, scraping by motorized equipment, and removal of vegetation or root systems.

- D. Permitted Uses: The purpose of this subsection is to indicate the type of activities that can enhance the flood protection function and allow landowners uses that do not significantly increase flood hazard.
 - 1. The planting of native riparian vegetation with hand equipment.
 - 2. Agricultural purposes on lands used primarily for agriculture, provided a ten foot (10') wide buffer of natural vegetation is left on the stream bank.
 - 3. Maintenance of yardscape existing July 22, 1991.
 - 4. Activities operating in accordance with a county approved permit, including riparian and stream restoration activities.
 - 5. Emergency bank stabilization activities as provided in subsection 9-17-9C of this chapter.
 - 6. Electric, natural gas, cable communications and telephone utility related activities within an existing right of way or easement where necessary.
 - 7. The control and maintenance of noxious weeds, provided chemical control methods are in accordance with USEPA label restrictions and only hand sprayers are used.
 - 8. The following management activities:
 - a. Removal of fallen dead branches or fallen dead trees, although this practice is discouraged due to the beneficial wildlife, fisheries and environmental value of fallen dead branches and trees;
 - b. Removal of hazardous leaning trees or dead branches; and
 - c. The clearing of one private access trail to the stream of up to eight feet (8') in width, or clearing for a public trail.
 - 9. Platted subdivision lots which contain designated building envelopes or development proposals previously approved by the county may be developed pursuant to the conditions on that subdivision plat; provided, that the development does not intrude into the riparian setback farther than the boundary of the envelope or a previously approved plan.
- E. Dimensional Standards: Any buildable lot within this district shall be subject to the following minimum setbacks, subject to subsection E5 of this section, as measured from the ordinary high water mark:
 - 1. Class 1 stream: Seventy five foot (75') setback.
 - 2. Class 2 stream: Fifty foot (50') setback.
 - 3. Class 3 stream: Twenty five foot (25') setback.
 - 4. Class 4 stream: Twenty five foot (25') setback.
 - More restrictive setbacks may be imposed through the subdivision review and conditional use process if site conditions or protection of natural resources so warrant.
 - 6. When application of this chapter would deny reasonable use of the property, an applicant may seek an exception from the standards and requirements of this chapter by means of a variance as provided in chapter 30 of this title. (Ord. 2006-18, 11-2-2006; Ord. 91-9, 7-22-1991)

9-17-7: CONDITIONAL USE PERMIT PROCEDURE:

Application for a conditional use in the district shall be made on a form furnished by the administrator. Upon receipt of the completed form, the application shall be placed on the agenda of the next available regular meeting of the commission or the board when concurrent stream alteration permit applications are submitted which require board approval, and shall meet the requirements for notification by publication and mail (subsection B of this section).

- A. General: It is recognized that certain uses possess unique and special characteristics with respect to their location, design, size, method of operation, circulation and public facilities. In order to protect the public health, safety and welfare and guarantee conformance with the plan, permits are required for such uses upon review by the commission or the board.
- B. Procedure: The following sections of chapter 25, "Conditional Use Permits", of this title, shall be followed:
 - 1. Section 9-25-4, "Public Hearing And Notice".
 - 2. Section 9-25-5, "Action By The Commission Or The Board".

- 3. Section 9-25-6, "Notification By The Administrator".
- 4. Section 9-25-7, "Appeals Process".
- 5. Section 9-25-8, "Expiration And Renewal".
- 6. Section 9-25-9, "Special Provision".
- C. Application: An application for a conditional use permit shall be filed with the administrator by at least one holder of an interest in the property or their agent accompanied by the fee established. The application shall include the following information:
 - 1. All information requested in subsections 9-25-2A1 through A5, A7, A8 and A9 (A6 is excluded).
 - 2. Additional information that may be requested by the administrator in order to review a specific application may include, but is not limited to, the following:
 - a. Eight (8) sets of plans when application requires commission approval, four (4) sets of plans when application requires board approval, or two (2) sets of plans when submitting an application for a building permit, drawn to scale showing the nature, location, dimensions and elevation of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures and the relationship of the above to the location of the channel, floodway and the flood protection elevation for the top of the foundation stem wall which shall be two feet (2') above the 100-year flood elevation.
 - b. Site specific information from the methods used to analyze flood hazard listed in subsection <u>9-17-1</u>D of this chapter, including IRF elevation and location of the boundaries of the floodway and floodplain.
 - c. A valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development and high water information.
 - d. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream and soil types.
 - e. A profile showing the slope of the bottom of the channel or flow line of the stream.
 - f. Specifications for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - g. Existing direction of water forces, areas of critical erosion, potential for channel movement or relocation and related hydraulic considerations.
 - h. Potential depth of inundation by flood.
 - i. Existing or potential overflow channels.
 - j. Groundwater table level at high water in the spring
 - k. Existing vegetation, soils and habitat for fish and streamside wildlife.
 - I. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title on file in the county, and is located within a wellhead protection area, written comment from Idaho department of environmental quality and from any other appropriate agency, including, but not limited to, owners of public water systems located within the wellhead protection area, shall be solicited if this is determined by the administrator to be necessary.
 - m. A written statement by a licensed engineer that the project will have no adverse impact or that such impacts have been identified and mitigated to the maximum extent feasible.
- D. Evaluation And Determination: Transmit one copy of the information described in subsection C of this section to an engineer (designated by the county) or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, other technical matters and environmental damage. Such technical review shall be at the applicant's expense. Fee for such review shall be paid by the applicant prior to public hearing.

Based upon the technical evaluation by this designated engineer or expert and other pertinent information, the commission or the board shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard and possible environmental damage.

- E. Criteria For Evaluation: It is incumbent upon the applicant to show that the criteria of this regulation has been satisfied. The commission or the board shall consider factors specified in other sections of this title, as well as the following:
 - 1. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - 2. The preservation of the inherent natural characteristics of the watercourses and floodplain areas.
 - 3. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - 4. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - 5. The effect upon fish and wildlife habitat, including existing vegetation.

- 6. The availability of alternative locations not subject to flooding for the proposed use.
- 7. The probability of mass erosion to adjacent property as opposed to normal stream bank erosion and accretion.
- 8. The safety of access to the property in times of flood of ordinary and emergency vehicles.
- 9. The danger that materials may be swept on to other lands or downstream to the injury of others.
- 10. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- 11. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- 12. The importance of the service provided by the proposed facility to the community.
- 13. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- 14. Effect of and susceptibility to obstruction by landslides, avalanches, ice jams or timber.
- 15. If the applicant or landowner with respect to an application for a conditional use permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528.
- 16. The project will not have an adverse impact on potable water sources when the project is located within a wellhead protection area.
- F. Conditions Attached To Conditional Use Permits: Upon consideration of the factors listed above and the purposes of this chapter, the commission or the board shall attach such conditions to the granting of conditional use permits as deemed necessary to further the purposes of this chapter, including, but not limited to:
 - 1. Infiltration Of Floodwaters: Modification of water disposal and water supply facilities to minimize or eliminate infiltration of floodwaters. A permit shall be received from the South Central health district who shall determine the specific system to be used.
 - 2. Periods Of Use: Limitations of periods of use and operation.
 - 3. Operational Controls: Imposition of operational controls, sureties and deed restrictions.
 - 4. Construction Of Protective Measures: Prohibiting the construction of channel modifications, diversions, dikes, levees and other protective measures, without a county approved permit. Fill is limited to the area immediately around the building sufficient to protect the structure. Fill is permitted along the driveway alignment to allow the driveway to meet the garage elevation provided the conveyance of floodwaters is maintained.
 - 5. Design Of Floodproofing Measures: Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The commission shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
 - 6. Location: Location of building sites or envelopes.
 - 7. Floor Elevation: Requirement that the lowest portion of the floor system shall be built to the flood protection elevation (FPE). Uninhabitable slab on grade structures may be built so that the underside of the slab is at the base flood elevation (BFE) or higher.
 - 8. Basements: Prohibited in the floodplain except as permitted elsewhere in this chapter.
 - 9. Maintenance: Maintenance of structure and surrounding area.
 - 10. Riparian Habitat: Replacement of riparian habitat, including vegetation.
 - 11. Anchoring:
 - a. All new construction and substantial improvements shall be anchored (bolted to the foundation) to prevent flotation, collapse or lateral movement of the structure.
 - b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation In Flood Hazard Areas" guidebook for additional techniques).
 - 12. Construction Materials And Methods:
 - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed or elevated or both, so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 13. Utilities:
 - a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

- c. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 14. Subdivision Proposals:
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage and the requirements of this chapter;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).
- 15. Review Of Building Permits: Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above grade in these zones may result in higher insurance rates.
 - a. When base flood elevation data has not been provided in accordance with section <u>9-17-3</u> of this chapter, the planning and zoning administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer subsection F12 of this section and subsection <u>9-17-5</u>B of this chapter.
- 16. Residential Construction:
 - a. New construction and substantial improvement of any residential structure shall have the lowest portion of the floor system elevated to the flood protection elevation or above.
 - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (1) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot (1') above grade.
 - (3) Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (4) To comply with the "lowest floor" criteria of this chapter, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
 - (5) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - (6) For crawl space foundation types, construction must follow the guidelines as set forth in this chapter or FEMA TB (technical bulletin) 11-01, crawl space construction for structures located in special flood hazard areas: national flood insurance program interim guidance whichever is more restrictive, specifically:
 - (A) Below grade crawl spaces are prohibited at sites where the velocity of floodwaters exceeds five feet (5') per second;
 - (B) Interior grade of the crawl space below the BFE must not be more than two feet (2') below the lowest adjacent exterior grade (LAG);
 - (C) Height of the below grade crawl space, measured from the lowest interior grade of the crawl space to the bottom of the floor joist must not exceed four feet (4') at any point;
 - (D) Contain an adequate drainage system that removes floodwaters from the interior area of the crawl space.
- c. In special flood hazard areas without base flood elevation data, new construction, including placement of manufactured homes, and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement or crawl space) elevated no less than two feet (2') above the highest adjacent grade at the building site. Openings sufficient to facilitate the movement of floodwaters in accordance with the construction standards in subsection F16b of this section.
- 17. Commercial, Industrial Or Nonresidential Structure: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection G of this section.
 - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection

F16 of this section.

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building constructed to the base flood level will be rated as 1 foot below that level).

- 18. Manufactured Homes: All manufactured homes to be placed or substantially improved within zones AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least at the flood protection elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection F11 of this section.
- 19. Additional Permits: Review all conditional use permits and building permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- 20. Wellhead Protection Area: Implementation of agency recommendations designed to mitigate potential impact of the project on potable water sources when the project is located within a wellhead protection area.
- 21. Recreational Vehicles: In all areas of special flood hazard, recreational vehicles, must either:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days;
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
 - c. The recreational vehicle must meet all the requirements for "new construction", including the anchoring and elevation requirements.
- 22. Nonhabitable Structures: A nonhabitable, slab on grade structure may be built so that the underside of the slab is at the base flood elevation or higher except as addressed in subsection F17 of this section.
- 23. Floodway Not Determined: Where the floodway has not been determined, no new construction, substantial improvements, or other development (including fill) shall be permitted in zones AE on the effective FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. Applicants of proposed projects that increase the base flood elevation more than one foot (1') are required to obtain and submit to the floodplain administrator, a conditional letter of map revision (CLOMR) preconstruction.
- 24. Changes To The Flood Hazard Map: Postconstruction, the applicant must apply to FEMA for a letter of map revision for changes to the flood hazard map proposed in the CLOMR.

G. Information To Be Obtained And Maintained:

- 1. Where base flood elevation data is provided through the flood insurance study, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.
- 2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level), and
 - b. Maintain the floodproofing certifications.
- 3. Maintain for public inspection all records pertaining to the provisions of this chapter.
- H. Criteria And Conditions Must Be Met: All proposed residential, commercial and industrial buildings, uses, construction or development and agricultural buildings within the floodplain shall meet the criteria (subsection E of this section) and conditions (subsection F of this section) attached to a conditional use permit, fire code, and the building code as adopted by the county.
- I. Standards For Shallow Flooding Areas (AO Zones): Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one foot to three feet (1' 3') where a clearly defined channel does not exist or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:
 - 1. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least 2 feet if no depth number is specified).
 - 2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least 2 feet if no depth number is specified); or
 - b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in subsection F17 of this section.
 - 3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 2014-03, 8-19-2014; Ord. 2010-13, 1-18-2011; Ord. 2010-08, 11-16-2010; Ord. 2006-18, 11-2-2006; Ord. 2006-13, 10-26-2006; Ord. 2001-03, 3-19-2001; Ord. 96-3, 4-8-1996; 1996 Code; Ord. 93-6, 7-19-1993; Ord. 91-9, 7-22-1991; Ord. 88-4, 9-13-1988; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-17-8: NONCONFORMING STRUCTURES AND USES IN FLOODPLAIN OVERLAY AND RIPARIAN SETBACK DISTRICTS:

- A. Conditions For Continuance: A structure or the use of a structure which was lawful before the passage of the ordinance codified herein, or amendment thereto, but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
 - 1. No such use or structure shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
 - 2. No structural addition shall be made to any nonconforming structure, unless the structure is permanently changed to a conforming use.
 - 3. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its value, it shall not be reconstructed except in conformity with the provisions of this chapter. It can be reconstructed if the structure is located outside the floodway and within the floodplain, and if the application is filed within twelve (12) months of the damage or destruction.
 - 4. Uses which are or become nuisances shall not be entitled to continue as nonconforming uses.
- B. Building Envelopes: Platted subdivision lots which contain designated building envelopes may be developed pursuant to the conditions on that subdivision plat without the necessity of obtaining a variance or conditional use permit, provided that the site alteration, including yardscape, does not intrude into the riparian setback farther than the designated building envelope. (Ord. 91-9, 7-22-1991; Ord. 88-4, 9-13-1988)

9-17-9: STREAM ALTERATION PERMIT PROCEDURE:

- A. Purpose: The board of county commissioners hereby finds that in order to more adequately control hazards from flooding existing lands within the floodplain overlay district, to ensure that the important environmental features of the state and localities are protected and enhanced, to protect life and property in areas subject to natural hazards at flooding, to protect, preserve and enhance fish, wildlife habitat and recreation resources, to avoid undue water and air pollution, to ensure that residents of the county continue to qualify for the national flood insurance program and to ensure that all persons desiring to undertake any stream alteration are afforded equal protection and procedural due process of law, this section is adopted establishing a formal stream alteration permit system and establishing appropriate standards and criteria to govern the issuance or denial of such permits.
- B. Interference With Stream Channels Restricted: No person may excavate in, disturb, fill, build in, upon or across, deposit in or change the channel of any nonintermittent stream in the county from high water mark to high water mark; or within the floodplain subdistricts, without a stream alteration permit issued by the board of county commissioners.
 - If a property has intermittent streams upon it, a possible change in the channel shall be reviewed under this section at the time of development or subdivision of the property.
- C. Procedures: Application shall be made for a stream alteration permit upon a form furnished by the administrator (see subsection C4 of this section). Forms shall also be provided the applicant for a permit from the department of water resources and the army corps of engineers.
 - 1. Application: An application for a stream alteration permit shall be filed with the administrator by at least one holder of interest or their agent. The application may include, but not be limited to, the following information to be specified by the administrator:
 - a. Applicant's name, address and phone number.
 - b. Name of engineer, if applicable.
 - c. Property location and legal description.
 - d. Name and reach of stream and area of proposed work, including a river milepost description.
 - e. Length of the stream to be worked.
 - f. Type of work to be done.
 - g. Type of equipment to be used.
 - h. Starting and completion dates of work.
 - i. Vicinity map of the area.
 - j. Names and addresses of property owners on both sides of the stream three hundred feet (300') above and one thousand feet (1,000') downstream from the proposed work site.
 - k. Plans and information done to appropriate scale accurately and legibly showing:
 - (1) Location and dimension of lot or property.

- (2) Location of existing or proposed structures and location of previous stream alterations.
- (3) Typical cross section of the proposed work.
- (4) Location of the lot in relation to the stream channel, floodway and floodplain.
- (5) A valley cross section of the area to be altered, if requested by the county engineer, showing the stream channel, floodway limit lines, elevations of land areas adjacent to the stream and the elevation of the intermediate regional flood (IRF). The county engineer, in consultation with FEMA officials, shall review and approve the cross section.
- (6) Location of any drainageways or overflow channels through the property affected.
- I. A statement to address potential beneficial and adverse impacts of the project, including the areas upstream, downstream and across the stream. In addition, the application shall include a written statement by a licensed engineer that the project will have no adverse impact or that such impacts have been identified and mitigated to the maximum extent feasible.
- m. Date application was sent to the army corps of engineers and the department of water resources.
- 2. Applicable State And Federal Permits Required Prior To Certification Of Application: The applicant shall provide the administrator with written approval from all applicable state and federal agencies prior to the administrator certifying the stream alteration application as complete. No stream alteration permit shall be scheduled for public hearing prior to the administrator receiving copies of said state and federal permits.
- 3. Certification, Public Hearing And Action By Board:
 - a. Certification: Upon receipt of the application and all other required data, the administrator shall certify the application as complete and affix the date of application acceptance thereon.
 - b. Public Hearing: Allowing sufficient time to conduct a site visit, receive input from the county engineer and other governmental agencies, and write staff reports the administrator shall then schedule the application for the board's next available hearing time wherein the legal notice requirements can be met.
 - c. Technical Review; Fee: Technical review shall be at the applicant's expense. Fee for such technical review shall be paid by the applicant prior to public hearing.
 - d. Board Consideration: The board shall consider the application and take public input at a duly noticed public hearing as set forth hereinbelow, and shall evaluate the application based on the standards of evaluation listed in subsection D of this section. The board shall approve, conditionally approve or disapprove the application making appropriate findings to support its decision.
 - e. Continuance Of Hearing: The board may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required other than that requested by the board. Continuation beyond thirty one (31) days shall require further published notice, established hereinbelow.
 - f. Written Findings: The board shall adopt its written findings of fact and decision within fifteen (15) days after decision by the board. The procedures in subsection 9-25-4C of this title shall be followed. The public hearing shall be scheduled within sixty (60) days of certification.
- 4. Emergency Bank Stabilization: There are times when immediate action must be taken to prevent major flood losses. At such times, the normal application and review procedure may be waived; however, before action may be taken, the county must be contacted and verbal approval received from two (2) county commissioners. The board may wish to contact the county engineer to review the request. If emergency bank stabilization is approved, the applicant shall apply for a stream alteration permit within three (3) months of any stabilization and implement the provisions of any approved stream alteration permit by March 31 of the year following the stabilization. If a stream alteration permit is approved, the applicant for the emergency bank stabilization shall:
 - a. Post sufficient financial security as determined by the board; and
 - b. Complete restoration of the affected property to state minimum standards by either March 31 of the year following the stabilization or by another date so specified by the board.
- D. Standards Of Evaluation: The following standards shall be used to review each proposed stream alteration. It is required of the applicant to show that the project meets the criteria of this regulation. Each of the standards D1 through D5 of this section must be satisfied before a permit can be approved:
 - 1. Permit Application: The applicant has applied for permits from the army corps of engineers and the Idaho department of water resources.
 - If the watercourse runs through a neighboring city, they shall be sent a copy of the application, at the direction of the administrator, to notify them of possible stream alterations. Copy shall be sent if the project is within one thousand feet (1,000') downstream or one mile upstream.
 - 2. Other Property Not Adversely Affected: The proposed stream alteration shall have no adverse impact on the property of another person or entity, including the areas upstream, downstream and across the stream. "No adverse impact" means that the proposed use or activity will not have any deleterious impacts in terms of increased flood peaks, flood stage, flood velocity, erosion and sedimentation, or water quality or that such impacts have been identified and mitigated to the maximum extent feasible.
 - 3. Acceptance By County Engineer For Encroachments, Obstructions, Etc., In Floodway: The stream alteration desired will not involve placing an encroachment, structure, fill, deposit, obstruction, storage of materials or equipment in the floodway, all of which are prohibited by subsection 9-17-5B3 of this chapter, unless certification by a registered engineer is provided and accepted by the county engineer, demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the 100-year flood discharge and other standards of this section are met.
 - 4. Compliance: The stream alteration desired shall not have any adverse impacts or go against the stated purposes of the floodplain overlay district (section

- 9-17-2 of this chapter) and the stream alteration permit program (subsection A of this section).
- 5. Local Public Interests: The proposed application (use) does not conflict with the local public interest, i.e., the affairs of the people in the area directly affected by the proposed use. This includes, but is not limited to, property values, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality or an impact upon a locally important factor. The burden of proof always rests with the applicant.
- 6. Extraordinary Circumstances: The following extraordinary circumstances may favor the granting of a stream alteration permit:
 - a. If the river tries to change to a channel outside of the floodway.
 - b. If the viability of an irrigation structure or water delivery system is threatened.
 - c. If a road or bridge which provides access to homes or businesses is threatened.
 - d. If an existing home or building envelope in a platted subdivision is threatened.
 - e. If severe erosion or severe sedimentation of land is threatened.
 - f. If a public facility (sewer plant, school, etc.) and/or any other use which would affect the chemical quality of the river is threatened.
- 7. State Agencies: If the applicant or landowner with respect to an application for a stream alteration permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528.
- E. Conditions: The board or administrator may attach conditions upon granting a stream alteration permit. These conditions may include, but are not limited to, the following:
 - 1. Requiring the project to be built to Idaho department of water resources, army corps of engineers, the county and applicant's engineering specifications and standards.
 - 2. Requiring work to be certified in writing by a registered engineer after its completion that work was done according to county requirements and stipulations.
 - 3. Requiring any modification in the extent or design of the proposed work in order to meet the mandatory standards imposed by subsection D of this section.
 - 4. Requiring preservation of existing vegetation and revegetation and enhancement of fish and wildlife habitat.
 - 5. Requiring review or approval of the application by other agencies or government units.
 - 6. Requiring modifications of the project so as not to raise the level of the 100-year floodplain and not to encroach upon the floodway, except as stated in subsection D3 of this section.
 - 7. Requiring work to be planned and approved in conjunction with other landowners along the particular reach of the stream in question.
 - 8. Requiring the work to be done at a certain height or location.
 - 9. Specifying time that the work shall be done (such as low water).
 - 10. Requiring work to be done by appropriate construction equipment.
 - 11. Limiting reclamation of eroded stream banks in the floodway.
 - 12. Requiring overflow channels to remain open.
 - 13. Restricting the future location of building envelopes.
 - 14. Requiring bonding or a letter of credit to guarantee completion of the work or conditions of approval.
 - 15. Agreement to maintain, by the property owners, shall be a condition of approval for all stream alteration permits for any watercourse so that the flood carrying capacity is not diminished and that erosion potential is not increased. The administrator shall be notified when maintenance work is to be done.
- F. Responsibilities: The landowner is responsible for obtaining the necessary permit and approval and for ensuring that the work is done according to county and state approvals. The design engineer is responsible for ensuring that engineer's work meets county and state requirements; the certifying engineer is responsible for ensuring that the stream alteration work is done according to county and state approvals. The contractor shall ensure that permits are obtained and the work is done according to them.
- G. Violations And Enforcement: In addition to the methods of enforcement available under chapter 32 of this title, violations of this chapter may be enforced as follows:
 - 1. Stop Work Order: For violations of this chapter and for any action which constitutes a threat to life or to public or private property, the county shall have the authority to issue a stop work order in the form of a written official notice given to the owner of the property or to the owner's agent or to the person doing the work where such a violation has been committed or exists. Upon notice from the county that there is a violation of this chapter, or any permit granted hereunder, or which constitutes a threat to life or to public or private property, such work shall immediately be stopped. The notice shall state the

conditions, if any, under which work may be resumed. Where an emergency exists, oral notice given by the board shall be sufficient. Continuation of any such work after written or oral notice is a violation of this chapter.

- 2. Additional Remedies: The county or board may have recourse to such remedies in law and equity as may be necessary to ensure compliance for any violation of the provisions of this chapter, including, but not limited to, the following:
 - a. Injunctive relief to enjoin and restrain any person from violating the provisions of this chapter;
 - b. Recovery of damages, attorney fees and costs for any violation;
 - c. Revocation of any permit or modification of the conditions of any permit granted under this chapter;
 - d. Withholding the issuance of any building permit, certificate of occupancy or inspection by the county; and/or
 - e. Requiring replacement and a board approved financial guarantee or security by the property owner of any vegetation removed in violation of this chapter or in violation of any permit issued under any county ordinance. Replacement vegetation shall be of sufficient quantity to replace that removed. Vegetation planted in accordance with this requirement shall be replaced if it dies any time within two (2) years after planting.
- 3. Misdemeanor: Any person, contractor, entity or organization which performs or causes or permits to be performed any work or activity in violation of this chapter or who performs any work in excess of the authority granted by the issuance of a stream alteration permit hereunder, or who violates any condition or stipulation placed upon the issuance of a stream alteration permit shall be guilty of a misdemeanor; and subject to penalty as provided in section 1-4-1 of this code. Each day or portion thereof during which any work performed in violation of this chapter continues in existence shall constitute a separate and distinct violation of these provisions. All enforcement provisions of this title as contained in chapter 32 of this title, shall be applicable to any violation of this chapter.
- H. Manual To Be Used As A Guide to Work Performed Under A Stream Alteration Permit And Within Riparian Areas:
 - 1. The manual, "Guide To Stream Alterations", dated March 20, 1986, and prepared by the county planning department; and "Rules And Regulations, Stream Channel Alterations", dated July 1983, and prepared by the department of water resources, are hereby adopted as the primary guides to stream alteration work.
 - 2. The 1991 manual, "Guide To Riparian Area Site Alterations", and subsequent amendments, as prepared by the county planning department in cooperation with practicing professionals in the field and approved by resolution of the board, is hereby adopted as the primary guide to riparian area site alteration work.
- I. Filing Fees: Those applications referred to in this chapter may have a fee established for the processing of the application. The fees shall be paid to the county and deposited with the administrator. No action can be taken on an application until all applicable fees have been paid in full. Fees shall be established by resolution passed and adopted by the county board of commissioners and shall take effect on the date of publication. (Ord. 2011-01, 1-18-2011; Ord. 2008-09, 5-28-2008; Ord. 2006-18, 11-2-2006; Ord. 2001-03, 3-19-2001; Ord. 95-2, 3-6-1995; Ord. 93-6, 7-19-1993; Ord. 91-9, 7-22-1991; Ord. 88-4, 9-13-1988)

Chapter 18 AIRPORT VICINITY OVERLAY DISTRICT (AV)

9-18-1: PURPOSE:

This District is established to prevent encroachment on air space, to prevent interference from the light and electromagnetic sources on runway approaches and to prevent intensive human use of runway approaches. (Ord. 77-5, 3-28-77, eff. 4-7-77)

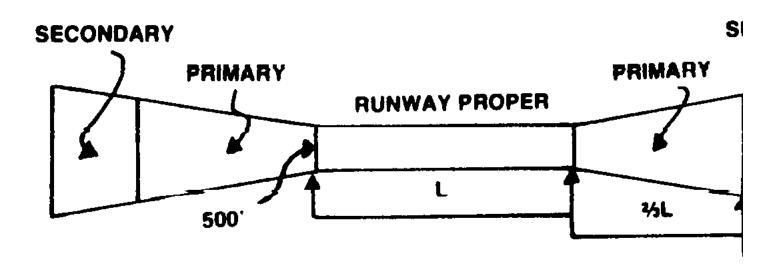
9-18-2: DEFINITIONS:

The Airport Vicinity Overlay District for noninstrument airports (such as Friedman Field, Gimlet Airport and the Picabo Airport) shall be geometrically defined as:

- A. A rectangle (the runway proper) whose width is five hundred feet (500') and whose length (L) is the maximum planned or foreseeable length of the runway. Unpayed, noninstrument airstrips may allow for a lesser width, with a minimum of two hundred fifty feet (250').
- B. A primary safety zone, or that portion of the approach area to the runway measuring in length ²/₃L, and a width flaring on both sides from five hundred feet (500') (immediately adjacent to the runway proper), at a rate of one lateral foot for every ten feet (10') in length.

C. A secondary safety zone on both extremities of the primary safety zone, measuring in length ¹/₃L, and flaring in width in the same manner.

Where topographic features near an airport indicate, the alignment of these components may be altered slightly in accordance with topography. Where approaches and takeoffs are restricted to the same direction, the primary and secondary zones shall be defined accordingly, in the same direction alone.



(Ord. 77-5, 3-28-77, eff. 4-7-77)

9-18-3: DEVELOPABLE DENSITY:

- A. Primary Safety Zone: Within the primary safety zone, the base density and maximum PUD bonus shall be the same as that assigned to the underlying district. However, no residential building permits will be issued within this zone; all density accumulated by ownership of these lands must be transferred to land outside this zone to contiguous property.
- B. Secondary Safety Zone: Within the secondary safety zone, the base density and maximum PUD bonus shall be the same as that assigned to the underlying district. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-18-4: PERMITTED USES:

- A. For The Runway Proper: Only those uses necessary for the operation of the airport.
- B. Within The Primary Safety Zone: Agricultural purposes, recreational uses without structures, parks, golf courses, cemeteries or water impoundments.

C. Within The Secondary Zone: Agricultural purposes, recreational uses and residential uses. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-18-5: ACCESSORY USES:

- A. In The Runway Proper: None.
- B. In The Primary Safety Zone: Additional buildings or uses on the same premises which are clearly and customarily incidental to the principal permitted use.
- C. In The Secondary Safety Zone: Additional buildings or uses on the same premises which are clearly and customarily incidental to the principal permitted use. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-18-6: ADDITIONAL RESTRICTIONS:

In any portion of the Airport Vicinity Overlay District that following additional restrictions apply:

A. Prohibited Lighting:

- 1. Any moving, pulsating, flashing, rotating or oscillating light.
- 2. Flood lights, spot lights or other lighting device shall be so arranged or shielded as not to cause illumination in an upward direction.
- 3. Any light which constitutes "misleading light" within the meaning of regulations adopted by the Federal Aviation Administration.
- B. Glare: No glare-producing building materials shall be allowed on any structure.
- C. Electromagnetic Influences: No use may be made of land which results in electromagnetic radiation which interferes with radio communication between aircraft and airport or interferes with established radio navigation aids. (Ord. 77-5, 3-28-77, eff. 4-7-77)

Chapter 19 WETLANDS OVERLAY DISTRICT (WE)¹

9-19-1: PURPOSE:

The purpose of this district is to identify and protect those lands in the county characterized by marshes, sloughs, poorly drained soils, a high water table or which are covered by natural nonfloodwaters during a significant portion of the year. These lands should be protected from harmful land uses because of their value for fish and waterfowl habitat, for grazing and for stabilizing fluctuations in water levels. (Ord. 2006-18, 11-2-2006)

9-19-2: DEFINITIONS:

The following definition applies to the wetlands overlay district:

WETLANDS: Those areas of Blaine County that are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas (army corps of engineers regulation, 33 CFR, 328.3, 1988) and tend to be found in transitional areas between dry land and water where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands, for the purpose of this classification, means an area where three (3) of the following attributes, as defined in the current and future amended editions of "The Federal Manual For Identifying And Delineating Jurisdictional Wetlands" exist: a) hydrophytic vegetation, b) hydric soils, and c) wetland hydrology. (Ord. 2006-18, 11-2-2006)

9-19-3: DEVELOPABLE DENSITY:

The base density and maximum PUD bonus shall be the same asthat assigned to the underlying district. (Ord. 2006-18, 11-2-2006)

9-19-4: PERMITTED USES:

The purpose of this section is to permit the type of activities that can enhance wetlands function and not allow uses that may impede wetlands function. The following uses shall be permitted:

- A. The planting of native riparian vegetation with hand equipment (see definition of "hand equipment" in section 9-17-6 of this title).
- B. Agricultural purposes on lands used primarily for agriculture.
- C. Maintenance of yardscape existing at the time of passage hereof.
- D. Activities operating in accordance with a county approved permit. (Ord. 2006-18, 11-2-2006)

9-19-5: CONDITIONAL USES:

A. Disturbance to wetlands or within the wetlands setback, including driveway crossing or installation of utilities leading to a building site, which are not reasonably feasible elsewhere on the property, shall comply with the requirements of this chapter and all other county, state and federal requirements. The amount of land disturbance shall be minimized to the smallest area possible. (Ord. 2006-18, 11-2-2006)

9-19-6: DEVELOPMENT STANDARDS:

The following standards shall apply within the wetlands overlay district:

- A. No Disturbance In Wetlands Or Wetlands Setbacks: Except as provided in sections <u>9-19-4</u> and <u>9-19-5</u> of this chapter, no disturbance of land shall be allowed within the wetlands or wetlands setbacks described in subsection B of this section, including, but not limited to, dumping, filling, dredging, new construction, excavating, substantial improvements or modifications, installation of septic systems, scraping by motorized equipment, removal of vegetation or root systems, or transferring materials that will reduce the natural storage capacity of the land or interfere with the natural flow pattern of any watercourse or degrade the quality of surface or ground water.
- B. Wetlands Setback: Any development excepting, developmentwithin a designated building envelope or within a platted or recognized lot of record under two (2) acres, as of November 8, 2006, within this district shall be subject to a minimum setback of twenty five feet (25'), as measured from the edge of any delineated wetland, outside of a riparian setback, and consisting of an area larger than twenty five (25) square feet.
- C. In A-20 And A-40 Districts: Applicant shall comply with standards for wetlands set forth in subsection 9-5-7E of this title.
- D. More Restrictive Setbacks: More restrictive setbacks may be imposed through the subdivision review and conditional use process if site conditions or protection of natural resources so warrant.
- E. Variance: When application of this chapter would deny reasonable use of property, an applicant may seek an exception from the standards and requirements of this chapter by means of a variance as provided in chapter 30 of this title. (Ord. 2006-18, 11-2-2006)

Chapter 20 WILDLIFE OVERLAY DISTRICT (W)

9-20-1: PURPOSE:

The Blaine County board of county commissioners finds that the county contains wildlife habitat and species of local, statewide, and national significance as documented by Idaho department of fish and game (IDF&G), the federal bureau of land management, United States fish and wildlife service and the United States forest service. It is the purpose of these regulations to preserve and enhance the diversity of wildlife habitat and species throughout the county for the economic, recreational, and environmental benefit of county residents and visitors. (Ord. 2006-19, 11-14-2006)

9-20-2: ESTABLISHMENT OF DISTRICT:

The wildlife overlay district (W) is hereby established and shall cover all lands within Blaine County. (Ord. 2008-17, 11-25-2008)

9-20-3: APPLICABILITY:

Any subdivision of land within Blaine County. (Ord. 2006-19, 11-14-2006)

9-20-4: DEFINITIONS:

The following terms used in this chapter shall be defined as follows:

CLASSIFIED LANDS: Lands within Blaine County, as follows:

Class I Lands: Lands within Blaine County that include elk winter habitat or mule deer winter habitat as defined within references used by IDF&G and other professional sources.

Class II Lands: Lands within Blaine County that include elk migration corridors or mule deer migration corridors as defined within references used by IDF&G and other professional sources.

Class III Lands: Lands within Blaine County that include current endangered, threatened, and candidate species pursuant to the endangered species act of 1973, species of greatest conservation need as listed within IDF&G's 2005 Idaho comprehensive wildlife conservation strategy, or defined within references used by IDF&G and other professional sources.

CONSERVATION PLAN (MITIGATION PLAN): A plan that discusses wildlife habitat management and protection, mitigation, and habitat enhancement planned to become part of the development.

ELK MIGRATION CORRIDORS: The migration routes used by elk to migrate from summer habitat to winter habitat. Elk migration corridors in Blaine County are designated by IDF&G.

ELK WINTER HABITAT: Generally consists of low to mid elevation, southern exposed xeric and mesic sagebrush grasslands and mixed shrub grasslands that are used during winter months by elk. Winter habitat is essential to the survival of these animals during winter. Elk winter habitat in Blaine County is designated by IDF&G.

ENDANGERED, THREATENED AND CANDIDATE SPECIES: Protected under the endangered species act of 1973, and administered by the U.S. fish and wildlife service.

HABITAT ASSESSMENT: A study that determines the types and values of vegetation and habitat, including sensitive lands. It shall include, but not be limited to, a description and maps of ownership, location, type, size, condition, habitat potential, and other attributes of wildlife habitat on site. A habitat assessment shall be prepared at the applicant's expense under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense.

MAXIMUM EXTENT PRACTICABLE: Under the circumstances, that reasonable efforts have been undertaken to comply with the regulation or requirement, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project and that reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance.

MULE DEER MIGRATION CORRIDORS: The routes used by mule deer to migrate from summer habitat to winter habitat. Mule deer migration occurs over a few days or may span several weeks, depending upon the weather and other factors. Mule deer migration corridors in Blaine County are designated by IDF&G.

MULE DEER WINTER HABITAT: Generally consists of low elevation, southern exposed xeric and mesic sagebrush grasslands and mixed shrub grasslands that are used during winter months by mule deer. Winter habitat is essential to the survival of these animals during winter. Mule deer winter habitat in Blaine County

is designated by IDF&G.

SENSITIVE LANDS: Lands professionally determined to be integral to the functioning of the ecosystem, including wetlands, riparian areas and wildlife habitat.

SPECIES OF GREATEST CONSERVATION NEED: Those species listed as within the IDF&G's 2005 Idaho comprehensive wildlife conservation strategy, or as subsequently updated.

WILDLIFE HABITAT: An area with a combination of resources (food, water, cover, and space) and environmental conditions (temperature, precipitation, and presence or absence of predators and competitors) that promotes occupancy by individuals of a given species (or population) and allows those individuals to survive and reproduce. Components of wildlife habitat include, but are not limited to, principal feeding or foraging areas, winter range, summer range, transition areas, production and breeding areas, movement corridors, and areas providing essential minerals and water.

WILDLIFE SURVEY: Current and historical observation and documentation of the animals using the property. It shall include, but not be limited to, a description and map of the populations of wildlife species that inhabit or use the site, including a qualitative description of their spatial distribution and abundance. A wildlife survey shall be prepared at the applicant's expense under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, or similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

9-20-5: REVIEW PROCEDURE:

The following procedures shall apply to all applications for subdivision in Blaine County:

A. Preliminary Review:

- 1. Prior to the planning or designing of any subdivision, the applicant shall contact IDF&G and any other applicable agency or professional as determined by the administrator to identify any classified lands on the subject property. IDF&G shall forward all preliminary reviews to the planning and zoning administrator who will determine if classified lands are on the subject property. If classified lands are determined to exist on the subject property, the applicant shall be referred to section 9-20-6 of this chapter.
- 2. If the preliminary review by the administrator determines that the proposed subdivision will have no significant impact on wildlife or wildlife habitat, no further action is required of the applicant pursuant to this chapter.
- 3. An applicant may appeal the administrator's classified lands determination to the board pursuant to section <u>9-32-3</u> of this title. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

9-20-6: CONSERVATION PLAN:

The following procedures shall apply to all subdivisions in the wildlife overlay district determined by the administrator in section <u>9-20-5</u> of this chapter to have classified lands:

A. Plan Preparation: A conservation plan required by this section shall be prepared by a qualified person at the applicant's expense and shall be submitted by the applicant.

A conservation plan shall be prepared at the applicant's expense, under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense.

- B. Plan Content: The conservation plan required by this section shall include, but not be limited to, the following information:
 - 1. Wildlife survey and habitat assessment, as described in section <u>9-20-4</u> of this chapter.
 - 2. Conservation plan:
 - a. An analysis of the potential adverse impacts of the proposed development on wildlife and wildlife habitat on or off site;
 - b. A list of proposed mitigation measures and an analysis of the probability of success of such measures;
 - c. A plan for implementation, maintenance and monitoring of mitigation measures;
 - d. A demonstration of prohibition of wildlife feeding;
 - e. A plan for any relevant enhancement or restoration measures, including noxious weed eradication and control; and
 - f. A demonstration of fiscal, administrative, and technical competence of the applicant or other relevant entity to successfully execute the plan.

C. Waiver Of Requirements: The administrator may waive in writing specific submittal requirements based on the location of the development, the previous use of the site, the size and potential impact of the development, the absence of a particular species on the site and other relevant factors.

D. Commission Or Board Review: If upon review of the application, the commission or board determines that a conservation plan is necessary the commission or board may require a conservation plan be prepared and submitted. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

9-20-7: DESIGN STANDARDS1:

The following standards shall apply to all subdivisions in the wildlife overlay district and for which a completed conservation plan has been required. The applicant has the burden of demonstrating compliance with this chapter, including each of the following design review standards of evaluation. Before approving or conditionally approving this application, the board shall find that the proposed development meets the following standards:

- A. Wildlife And Wildlife Habitat: All development shall be designed so it does not have a significant adverse impact on wildlife or wildlife habitat or that such significant adverse impacts have been avoided or mitigated to the maximum extent practicable. In determining if a new development will or may have a significant adverse impact on wildlife or wildlife habitats or that such adverse impacts have been avoided or mitigated to the maximum extent practicable, the administrator, commission, or board as relevant shall consider the following criteria:
 - 1. Wildlife Species: Impacts on wildlife species, including, but not limited to, human related activities (including impacts from domestic pets) that disrupt necessary life cycle functions of wildlife, displace wildlife from suitable habitat or decrease the capacity of an area to support wildlife. Assessment of significant impacts will be based on the following:
 - a. Activities in previously undisturbed areas involving any combination of humans, pets, and machines or equipment that disturb or harass an individual animal, group of animals or wildlife species;
 - b. Site development or activities that disrupt necessary life cycle functions, resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species. Examples include, but are not limited to, introduction of nonnative vegetation; excessive use of fertilizers and other chemicals; placement of structures in close proximity to nesting and feeding areas; and excessive exterior lighting:
 - c. Species reliance on specific, unique habitat features, such as riparian areas, that may be affected;
 - d. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, controls on domestic animals and household pets; approval of an outdoor lighting plan as required by chapter 29A of this title; seasonal restrictions of recreational travel (motorized and nonmotorized) and activities, clustering of development to avoid intrusion into or fragmentation of habitat; and creation of buffers around critical areas.
 - 2. Wildlife Habitat: Impact on wildlife habitat, including, but not limited to, the loss, degradation or fragmentation of wildlife habitat to the extent that the capacity of an area to support wildlife is diminished and the diversity of wildlife species occurring in the county is reduced. Assessment of significant impacts will be based on the following:
 - a. The amount of vegetation/habitat removal or alteration within the development site;
 - b. The amount of habitat of similar type and quality within the development site that remains contiguous;
 - c. The existing and proposed amount of lot coverage;
 - d. The existence of contiguous habitat of similar type and quality on adjoining land; and
 - e. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; restrictions on vegetation removal; and enhancement or restoration of equivalent habitat on or adjacent to the site.
 - 3. Wildlife Movement Patterns: Impact on wildlife movement patterns, wildlife displacement and habitat use, including, but not limited to, disruption of necessary migration or movement patterns that prevent wildlife from using current or traditional habitats; displacement of wildlife species into areas that cannot support or sustain the species over the long term; or decrease the capacity of an area to support wildlife. Assessment of significant impacts will be based on the following:
 - a. Preventing wildlife from using current or traditional habitats, such as blocking migration corridors from summer to winter range;
 - b. Causing wildlife to find new routes that expose them to significantly increased predation, interaction with motor vehicles, intense human activity or more severe topography and climatic conditions;
 - c. The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area;
 - d. The human activity and development that would result in the inability of a single or multiple species to adapt to the new conditions;
 - e. Inability of affected species to adapt to significant alteration of their current habitats or to find a new habitat that is sufficient to sustain the species over the long term; and

f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering or location of development to avoid intrusion into migration or movement areas; creation of buffers around critical areas; limits on fencing that might interfere with migration and movement patterns; and enhancement or restoration of equivalent habitat on or adjacent to the site.

- 4. Uniqueness Of Habitat And Species: Uniqueness of habitat and species to Blaine County, including, but not limited to, loss, degradation, or fragmentation of important wildlife habitat that is identified as unique to Blaine County in that it supports wildlife species that do not commonly occur outside the county to the extent that the health and viability of a species is threatened in the county and impacts on wildlife species that do not commonly occur outside Blaine County to the extent that a species is threatened in the county. Assessment of significant adverse impacts will be based on the following:
 - a. The extent that habitat similar to that affected by the proposed development exists in Blaine County;
 - b. Whether the species does not commonly occur outside Blaine County, as determined by listing by state or federal agencies as threatened or endangered or as determined by Blaine County in conjunction with the Idaho department of fish and game;
 - c. Whether the habitat does not commonly occur outside of Blaine County as determined by the county in conjunction with the Idaho department of fish and game;
 - d. The extent of the threat to the viability of the species;
 - e. The extent of the reduction of the diversity of wildlife species in the county; and
 - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; and enhancement or restoration of equivalent habitat on the site or elsewhere in the county.
- 5. Cumulative Impacts Assessment: An assessment of cumulative impacts including the effects of past, present, and reasonably foreseeable future actions within and beyond the boundaries of the proposed site. Assessment of significant adverse impacts will be based on the following:
 - a. The area, including land outside the project site, in which effects of the proposed project will occur and the impacts of the proposed project that are expected to occur in that area; and
 - b. A cumulative assessment of the incremental impacts on wildlife populations and habitat of the proposed development in conjunction with the past, present, and reasonably foreseeable future impacts of other activities and developments.
- 6. Vegetation Removal And Revegetation:
 - a. Removal of natural vegetation shall be minimized and restricted to the smallest area necessary to construct permitted uses and associated structures, septic systems, and driveways within an activity envelope.
 - b. All disturbed areas shall be revegetated with native vegetation as soon as possible and no later than one growing season after construction of the primary structure(s) is completed.
 - c. Planting nonnative ornamental plants on sites near or adjacent to designated big game winter habitat is prohibited and strongly discouraged on all other sites. In areas immediately surrounding residential dwelling units, planting of nonpalatable vegetation is strongly encouraged to reduce potential human/wildlife conflicts. (Ord. 2010-06, 5-25-2010; Ord. 2006-19, 11-14-2006)

Chapter 21 MOUNTAIN OVERLAY DISTRICT (M)

9-21-1: STATEMENT OF INTENT AND PURPOSES:

A. Intent: It is important that current owners and potential purchasers of property that includes land within the mountain overlay district recognize the significance of the public policy and land use interests reflected in this chapter, and the additional requirements under this code applicable to that land. Unless a categorical exclusion applies, site alterations within the mountain overlay district require a site alteration permit, which is a type of special use permit authorized by Idaho Code, section 67-6512.

The intent of the mountain overlay district is to direct development to land outside of the mountain overlay district. Only when no sufficient available area for a site alteration exists outside of the mountain overlay district and all other criteria under this chapter have been met may a site alteration occur within the district. Site alterations should not include land within the 100-year floodplain, floodway, designated wetland areas, and avalanche hazard within "available area", as defined in the criteria. Even then, the site alteration must be located at the lowest point within the district which will minimize its disturbance and hillside visibility. The design review standards of evaluation of this chapter, and any conditions of approval, should be used to ensure that any site alteration will be limited in its bulk, design, and use of materials to minimize its site disturbance and visibility from a reference road. The size of "sufficient available area" shall depend upon the facts and circumstances of each application for site alteration permit, and is not necessarily dependent upon the specific plans of an applicant. For example, an area may exist outside of the mountain overlay district that would be sufficient in all respects for a one-story, two thousand (2,000) square foot residential dwelling. The mere fact that the applicant's plans specify a ten thousand (10,000) square foot residential dwelling that could only be constructed within the mountain overlay district because of lot configuration and topography would not necessarily change the fact that a "sufficient available area" exists outside the mountain overlay district, albeit for a smaller home than the applicant desires. In other words, an applicant may not create a so called lack of "sufficient available area" outside of the mountain overlay district merely by enlarging the scope of the proposed site alteration.

The county is directed by its comprehensive plan and this chapter to protect its hillsides and closely regulate structural and other development within the mountain overlay district. "Visibility" is an important concept under this chapter. In reviewing visibility of a proposed site alteration within the mountain overlay

district, a building one thousand five hundred (1,500) yards from a reference road but higher on a hillside would, except where extraordinary circumstances exist, be considered for the purpose of this chapter to be more visible than a building located only fifty (50) yards from the reference road. A building farther up a hillside may be visible from more vantage points on reference roads and therefore more visible under this chapter than a building directly adjacent to a reference road. This chapter shall not be construed to support the claim that buildings closer to reference roads are necessarily more visible than those located farther up a hillside.

The mapping of the mountain overlay district provides landowners with a more certain basis for determining the location of lands within the district and affords more certainty than the definitional approach used previously within this code. Any future proposals to rezone the mapped boundary of the mountain overlay district should not create a patchwork that excludes saddles, ridges, knolls, summits, or pockets or islands of flatter land between and including the applicable lowest slopes within the mapped district and the summit of the hillside. The district is intended to include all such areas.

This chapter is to be read as a whole, and construed to effectuate its purposes and the intent of this chapter.

- B. Purpose: The purposes of the mountain overlay district are:
 - 1. To preserve the natural character and aesthetic value of hillsides and mountains in the county by regulating development thereon;
 - 2. To maintain slope and soil stability;
 - 3. To prevent scarring of hillsides and mountains made by cuts and fills and/or by access roads to hillside and mountainous areas;
 - 4. To ensure accessibility by emergency vehicles on hillside roads;
 - 5. To prevent unsafe conditions for access, circulation, and road maintenance and unwarranted problems associated therewith in hillside and mountainous areas;
 - 6. To help ensure water quality and prevent deterioration due to sedimentation or inadequately performing septic systems;
 - 7. To prevent unsafe development into areas at risk to wildfires:
 - 8. To protect hillside and mountainous areas that function as essential wildlife habitat;
 - 9. To regulate site alteration and structural development in the mountain overlay district to assure that site alteration and development occurs in the mountain overlay district only when no sufficient available area for siting of the proposed site alteration or development exists outside of the district and all other criteria under this chapter have been met, and to assure that any site alteration and structural development within the district occurs in a manner that minimizes hillside visibility:
 - 10. To carry out the provisions contained in the county comprehensive plan; and
 - 11. To protect agricultural lands for productive agriculture while providing for necessary residential and other structural use within the context of productive agriculture. (Ord. 2010-10, 12-7-2010; Ord. 2007-02, 3-20-2007; Ord. 2006-04, 6-29-2006; Ord. 2000-04, 3-27-2000; Ord. 98-1, 1-7-1998; Ord. 94-15, 11-14-1994; Ord. 94-6, 6-16-1994; Ord. 91-15, 11-25-1991; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-21-2: ESTABLISHMENT:

- A. District Established: The mountain overlay district (MOD) is hereby established in accordance with the area indicated on the mountain overlay district layer available on the geographical information services (GIS) mapping pages on the Blaine County website (www.blainecounty.org), effective May 30, 2012. The mountain overlay district buffer is hereby established as a subarea of the mountain overlay district in accordance with the area indicated on the GIS mapping pages on the Blaine County website, effective May 30, 2012. The scenic corridor 1 (SC1) as defined in chapter 2 of this title is hereby established as a subarea of the mountain overlay district, as defined in this title in accordance with the area indicated on the scenic corridor 1 layer, on the GIS mapping pages on the Blaine County website, effective May 30, 2012, and visible from Highway 75.
- B. Site Alteration Permit Required: Site alteration within the mountain overlay district is prohibited unless a special use permit designated as a site alteration permit has been issued in accordance with this chapter, or the administrator has determined in writing pursuant to this title that the site alteration falls within a categorical exclusion. A site alteration permit or a written categorical exclusion is required prior to issuance of a building permit within the mountain overlay district, and applications for any site alteration permit shall include plans for all proposed buildings, other structures, and hillside roads.
- C. Mining: Mining activity on private property in the mountain overlay district is subject to a conditional use permit and hillside site alteration permit. (Ord. 2012-04, 4-30-2012; Ord. 2007-02, 3-20-2007; Ord. 98-1, 1-7-1998; Ord. 94-15, 11-14-1994; Ord. 94-6, 6-16-1994; Ord. 91-15, 11-25-1991; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-21-3: BASE DENSITY:

For slopes that exceed twenty five percent (25%), the base density shall be as follows:

- A. Outside of the urban influence boundary: One unit per one hundred sixty (160) acres.
- B. Inside the urban influence boundary: One unit per forty (40) acres.

Portions of a site within the mountain overlay district may be included in determining single lot on site base density development acreage requirements. For a parcel of land that straddles the mountain overlay district and another district, individual lots may be drawn that include portions of the mountain overlay district. However, each lot shall include buildable land outside of the mountain overlay district. Density shall not be transferable to noncontiguous lots. (Ord. 2006-04, 6-29-2006; Ord. 94-15, 11-14-1994; Ord. 94-6, 6-16-1994; Ord. 91-15, 11-25-1991; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

This section has been affected by a recently passed ordinance, 2015-02 - EXEMPT FIRE BREAKS. Go to new ordinance.

9-21-4: CATEGORICAL EXCLUSIONS:

- A. General Exclusions: Unless the intent of the landowner or his/her authorized agent is to circumvent the purposes of the mountain overlay district regulations, the requirements of this chapter shall not apply to the following, provided the landowner or agent, before commencing any site alteration, first obtains a written decision from the administrator, in consultation with the county engineer or his/her designated representative, that the site alteration falls within and meets one of the following categorical exclusions:
 - 1. On lands outside of scenic corridor 1 (SC1):
 - a. Roads used primarily for agricultural purposes.
 - b. Agricultural fences and equipment and activity directly related to agricultural purposes.
 - 2. On lands outside of scenic corridor 1 (SC1) and until such time as subdivision or planned unit development are proposed:
 - a. Single-family residences; provided, that:
 - (1) They are not skylined;
 - (2) They are located among agricultural buildings and structures on lands used primarily for agricultural purposes; and
 - (3) They are inhabited by agricultural property owners or their employees.
 - b. Agricultural structures which do not require a building permit; provided, that they are not skylined.
 - 3. On lands inside of scenic corridor 1 (SC1): Single-family residences or structures or uses where all structures and improvements are certified by a state licensed surveyor to be located outside and below lands greater than fifteen percent (15%) slope, as measured by the contour line demarcating the lowest fifteen percent (15%) slope on the parcel.
 - 4. On lands inside the mountain overlay district buffer: Single-family residences or accessory structures or uses where all structures and improvements are certified by a state licensed surveyor to be located outside lands greater than twenty five percent (25%) slope. On lands inside the mountain overlay district buffer and scenic corridor 1, applicants seeking a categorical exclusion must meet the requirements of both subsection A3 of this section and this subsection A4.
 - 5. Valid permits and platted building envelopes approved prior to the effective date of ordinance 91-15 on December 18, 1991. This exception includes all structures built within the platted building envelope.
 - 6. Any building, access road and/or driveway that is not visible from a reference road. Plans submitted to the county for building permit and/or road/driveway construction for such development shall include and demonstrate, in addition to all other requirements, revegetation with native or native compatible vegetation to prevent erosion; compliance with all applicable road and driveway standards, including all applicable grade standards; appropriate measures or design features to prevent soil erosion, silting of lower slopes, slide damage, flooding, and any other geologic instability; and approval from the applicable fire district/marshal and the South Central health district for on site sewage disposal.
 - 7. Fire breaks and related site alterations used to protect property from wildfire, provided no fill is added nor excessive soil removed.
 - 8. The locations of existing platted unbuilt roads within platted subdivisions existing prior to the effective date of ordinance 91-15 on December 18, 1991, will be allowed a driveway/road exception provided the road shall meet the evaluation standards as set forth in subsections 9-21-5D3, D4, D6 and D7 of this chapter. This may require a realignment of the platted unbuilt road.
 - 9. Platted lots existing prior to the effective date of ordinance 91-15 on December 18, 1991, may be combined to reduce the number of lots within the mountain overlay district and such existing lots may be amended for the purpose of designating a building envelope. Replat applications necessary therefor shall not be considered new subdivisions however, shall be subject to public notice and hearing and criteria contained in title 10 of this code as they relate to drainage, suitability of soils for septic systems, emergency and road/driveway access and erosion control.
 - 10. Chairlifts as part of a bureau of land management or United States forest service or county approved ski area permit.

- 11. Underground utility structures working in accordance with a county approved permit.
- 12. Testing necessary to meet the requirements of subsection 9-21-5B of this chapter.
- 13. Incidental planting and transplanting of vegetation by hand tools.
- 14. Maintenance, repair and improvement of any building, other structure, or hillside road that was in existence and lawful before December 18, 1991, the effective date of ordinance 91-15, or lawfully constructed thereafter, which does not increase its visibility from any reference road, provided the plans for such maintenance, repair and improvement demonstrate appropriate measures or design features to prevent soil erosion, silting of lower slopes, slide damage, flooding, and any other geologic instability.
- 15. The construction, installation, siting or operation of a wireless communication facility when said proposed facility: a) is in the immediate vicinity of one or more wireless communication facilities existing as of the effective date of Blaine County ordinance 2001-10 on October 10, 2001; and b) is no higher than any existing WCF in the immediate vicinity. The fact that a WCF may qualify for a categorical exclusion from the site alteration permit requirements of the mountain overlay district, shall not exempt the WCF from the requirements of section 9-3-16 of this title. Plans submitted to the county for the construction, siting or installation of a wireless communication facility shall include and demonstrate, in addition to all other requirements, revegetation with native or native compatible vegetation to prevent erosion; appropriate measures or design features to prevent soil erosion, silting of lower slopes, slide damage, flooding, and any other geologic instability.
- B. Subdivision Exclusion: Upon application to the board, subdivisions platted before June 16, 1994, may propose to enter into agreement with the county to exempt building lots within that subdivision from the site alteration permit procedures contained herein, provided that any such building site and proposed structures are not visible from Highway 75. To qualify for this exclusion, the subdivision shall meet, at a minimum, the following criteria and conditions:
 - 1. The subdivision has an effective design review committee that has been in existence for at least two (2) years prior to application for exemption.
 - 2. Architectural design review standards of the subdivision are submitted to the county for review and approval to ensure that the standards of subsection 9-21-5D of this chapter are included.
 - 3. Once approved by the county, the subdivision design review standards may not be changed by the subdivision without the approval of the county.
 - 4. The administrator or commission shall be notified and is allowed to attend subdivision design review sessions to ensure the goal of minimizing visual impact is emphasized.
 - 5. The county may revoke a subdivision exclusion if it finds that the subdivision design review committee decisions do not comply with approved design standards or the intent of this chapter. Should the subdivision fail to conduct design review according to the agreement with the county, the county may terminate said agreement and revoke exemption.
- C. Administrator's Review Of Categorical Exclusions: The administrator, in consultation with the county engineer or his/her designated representative, shall review all written requests for determinations of categorical exclusions under subsection A of this section, and promulgate appropriate forms to be used for such requests. The applicant shall have the burden of demonstrating that the proposed site alteration falls within and meets the requirements of a categorical exclusion. The administrator shall issue a written decision within thirty one (31) days of receipt of an application for determination of categorical exclusion. The administrator, prior to issuance of its decision, may request additional information from the applicant, including, without limitation, technical review from the county engineer at the applicant's expense, and the failure to provide such requested information within sixty (60) days of request shall be grounds for denial of the request for determination of categorical exclusion. The thirty one (31) day time period for issuance of the administrator's decision shall begin to run anew following the date of the administrator's receipt of additional information from the applicant. Such period also shall be tolled during any periods that the administrator does not have reasonably safe access to the site of the proposed site alteration. Any person aggrieved by the written decision of the administrator as to a categorical exclusion may appeal the administrator's decision to the board according to the procedures and time requirements of section 9-32-3 of this title.
- D. Exception To Written Decision Requirement: Notwithstanding any provision of this title to the contrary, a written decision of the administrator shall not be required prior to commencing a site alteration that falls within and meets a categorical exclusion stated in subsection A1b, A2, or A5 of this section. (Ord. 2010-04, 4-6-2010; Ord. 2007-02, 3-20-2007; Ord. 2006-04, 6-29-2006; Ord. 2001-10, 10-1-2001; Ord. 98-1, 1-7-1998; Ord. 94-15, 11-14-1994; Ord. 94-6, 6-16-1994; Ord. 91-15, 11-25-1991; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

This section has been affected by a recently passed ordinance, 2015-02 - EXEMPT FIRE BREAKS . Go to new ordinance.

9-21-5: SITE ALTERATION PERMIT PROCEDURE:

A. Application Form; Contents; Review: Application for a site alteration permit in the mountain overlay district shall be made on a form furnished by the administrator. All site alteration permit applications shall include the plans for all proposed buildings, additions to existing buildings, other structures, and hillside roads. The commission shall review all such elements of the development simultaneously but shall evaluate under the provisions of this chapter only those portions which lie within the mountain overlay district. Upon receipt of the completed form, together with the information listed below, and following an on site inspection by the administrator, the completed application shall be placed on the agenda of the next available regular meeting of the commission, and shall meet the requirements for notification contained in section 9-25-4 of this title.

B. Application And Submittal Requirements; Fees: An application for a site alteration permit shall be filed with the administrator by at least one holder of an interest in the property, or their agent, accompanied by the fee established by resolution of the board of county commissioners. Fees resulting from review by the county engineer are the responsibility of the applicant, according to the fee resolution of the board and shall be paid prior to public hearing. No application shall be certified as complete unless it includes the following information in sufficient detail for the commission to determine compliance with the design review standards of evaluation:

- 1. The name, address and phone number of the owner of the land for which the permit is requested and of the person, firm or corporation (contractor) that will physically alter the land, if known.
- 2. The proposed date that the site alteration will commence and the projected date of completion.
- 3. A description of the land on which the proposed work is to be done, by lot, block, tract and house and street address, or similar description that will readily identify and definitively locate the proposed site. A vicinity map shall be included.
- 4. A report including text, designs, and visual representations including simulations, which indicates how the design and construction of improvements shall mitigate visibility, and also including specific engineering, public safety, revegetation, site review, building and other information demonstrating compliance with the design review standards of evaluation. Where applicable, the report shall include a visual resource contrast rating worksheet and other forms promulgated and required by the administrator.
- 5. A description of the work to be performed, an estimate of the depth of soil, the type of equipment to be used, the total area of disturbance, and the amount and type of material to be removed or deposited, all in sufficient detail to evaluate impact of such activities.
- 6. A graphic representation of the proposal. This plan shall include property lines and delineate the proposed areas for improvement or alteration, existing and proposed contours, drainage and drainage structures, landscaping and revegetation plans, including a plan for the control of noxious weeds, location for placement of the drain field, and retaining walls.
- 7. A statement that the proposed areas of disturbance have been staked and are ready for administrative review.
- 8. A signature by the property owner or his/her authorized agent that application is certified as true and accurate.
- 9. Slope and elevation analysis by a licensed engineer or surveyor and a report from a licensed engineer describing the risks of soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability associated with the site alteration, and plans for mitigation of those risks.
- 10. Evidence that South Central health district has reviewed the site and determined that the property is found appropriate for on site sewage disposal.
- 11. Written input from the applicable rural fire district or the county fire marshal, if the parcel is located outside an established fire district, addressing adequacy of the proposed access for emergency vehicles and compliance with fire protection requirements.
- 12. Written input from the county engineer addressing, but not limited to, compliance with road standards, drainage and erosion mitigation.
- 13. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the applicant shall depict on a map the general location of potable water sources within three hundred feet (300') of the subject property and identify any ten (10) year time of travel zones of public water system(s) affecting the property. The applicant shall provide a report and plans by an Idaho licensed engineer which describes how the project will be designed and constructed to mitigate adverse impact on potable water sources. The applicant shall solicit and document the request for written comment from Idaho department of environmental quality and, in addition, written comment from any other appropriate agency, including, but not limited to, owners of public water systems located within the wellhead protection area, if this is determined by the administrator to be necessary.
- C. Commission Review And Action: Decisions shall be based on the standards of evaluation contained herein. Review of the application and receipt of public input shall be conducted at a scheduled public hearing as set forth hereinabove. The commission may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required other than that requested by the commission. Continuation beyond thirty one (31) days shall require further published notice, according to this section. The commission shall approve, approve with conditions, or deny said application, making appropriate findings to support its decision. The commission shall enter an order or adopt its written findings of fact and decision within thirty one (31) days after the action is taken by the commission. The granting of a site alteration permit shall not be considered as establishing a binding precedent to grant other site alteration permits. A site alteration permit is not transferable from one parcel of land to another.
- D. Design Review Standards Of Evaluation: The applicant has the burden of demonstrating compliance with this chapter, including each of the following design review standards of evaluation. Before approving or conditionally approving a site alteration permit, the commission shall review and find adequate evidence that the proposed development or site alteration meets the following standards:
 - 1. No sufficient available area for the site alteration exists on the lot outside of the mountain overlay district. "Available area" excludes land located within the 100-year floodplain, floodway, wetlands, avalanche or landslide hazards created by off site conditions where such environmental concerns outweigh the hillside concerns for the particular project. Existing structures that are nonconforming to this chapter may be improved, moved, or replaced within the mountain overlay district, provided the commission finds that the proposal is less nonconforming than what is existing and is in substantial compliance with subsections D2 through D12 of this section.
 - 2. Visibility of the site alteration as viewed from reference roads shall be minimized through design, landscaping and siting. Except where extraordinary circumstances exist that are peculiar to the physical characteristics of the site, site alterations, particularly buildings, other structures, and hillside roads, are less visible the lower in elevation they are as determined by topographic contour lines. New development shall be compatible with the general scale (height, dimensions, overall mass) of development in the vicinity. The maximum bulk of structures shall be hidden or minimized by design, landscaping and siting. Landscaping shall blend harmoniously with the surrounding area, and shall not create excessive contrast with the surrounding area.
 - 3. The site alteration, and any grading and excavation relating thereto, shall include measures or designs to mitigate the risk of soil erosion, silting of lower slopes, slide damage, flooding, severe scarring and any other geologic instability. All excavation, grading and fill shall be revegetated as provided herein

(except for roadway surfaces) and otherwise stabilized to control erosion.

- 4. The site alteration shall comply, where reasonable, with the requirements of the avalanche overlay district.
- 5. Any proposed building or other structure shall remain below the skyline and shall be sited in such a manner so as not to create a silhouette against the sky as viewed from any reference road.
- 6. Manmade slopes, road alignments, driveways, improvements, grading, excavation, berming, and fill activities shall conform as closely as possible to the natural terrain. Alteration of the natural drainage of the site shall be minimized and mitigated. Hillside roads shall also meet all other applicable road or driveway standards under county ordinances and adopted codes, including, but not limited to, those for grades and emergency vehicles. Existing roads/driveways to existing nonconforming structures located within the mountain overlay district may be moved or improved to reduce the degree of noncompliance with requirements for grades and emergency vehicles.
- 7. Native or native compatible vegetation shall be preserved to the greatest extent possible, and revegetation adjacent to residences shall be with low combustible plant species. Revegetation of disturbed areas shall utilize plant materials harmonious and/or native to the area. The method for control and prevention of noxious weeds shall be demonstrated. Disturbed areas shall be landscaped or revegetated immediately after completion of the site alteration activities. Components of the revegetation plan shall include the techniques that will be used to ensure the establishment of the proposed vegetation for a period of not less than five (5) years.
- 8. Exterior building materials shall be of nonreflective materials. The visibility of hillside development shall be lessened by limited glazing and exterior lighting, and by use of materials and colors compatible with the natural surrounding setting. Roofs shall be designed to minimize the visibility of the structure. Reflective metal roofs are prohibited; nonreflective metal roofs may be approved.
- 9. All outdoor lighting shall comply with the outdoor lighting requirements of chapter 29A of this title.
- 10. Construction proposed as part of a site alteration permit application shall comply with other applicable codes and ordinances, including, but not limited to, the fire code; title 7, chapter 3 of this code; and the building code, as amended, in effect at the time.
- 11. Any proposed new road or driveway is necessary to access a building site or building that was lawfully approved under this title.
- 12. If the applicant or landowner with respect to an application for a site alteration permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528.
- 13. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area the applicant has adequately demonstrated that the project has been designed to mitigate any adverse impact to a potable water source.
- E. Conditions: The commission may attach reasonable conditions upon granting a site alteration permit, including, but not limited to:
 - 1. Providing bonding or other sufficient financial guarantee to complete the site alteration; at a minimum, the revegetation of disturbed areas, including weed control, and new vegetation or landscaping proposed to minimize the visibility of the project on the hillside shall be financially guaranteed at one hundred fifty percent (150%) of the estimated cost for five (5) growing seasons;
 - 2. Modification of the property development or site alteration;
 - 3. Providing road design modifications to avoid undue scarring;
 - 4. Further mitigation of visibility not included on the application; and/or
 - 5. Any other condition for special use permit specified in Idaho Code section 67-6512(d), as amended: a) minimizing adverse impact on other development; b) controlling the sequence and timing of development; c) controlling the duration of development; d) assuring that development is maintained properly; e) designating the exact location and nature of development; f) requiring specific on site or off site public facilities or services; g) requiring more restrictive standards than those generally required in this title; and h) requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.
 - 6. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the commission may impose reasonable conditions of approval to protect the surface and/or ground water from contamination, including, without limitation, the installation by the applicant of monitoring wells and the granting of easements relating to such wells.
- F. Expiration Of Permit: Any site alteration permit granted under this chapter after January 31, 1998, shall expire one year following the date of its approval if construction of the site alteration has not been substantially commenced. If good cause for delay in commencement of construction is shown, the administrator may once only extend the period for commencement of construction for a period not exceeding one year, provided application is made for an extension before expiration of the permit.
- G. Emergency Site Alteration Permit Procedure: There are times and circumstances in which immediate action must be taken to prevent major property loss. Wildfires and other natural disasters may create such situations. In these limited situations the normal application and review procedure may be waived and an emergency site alteration permit granted or amended.
 - 1. Submittal And Application Requirements: The applicant shall own land within an area affected by wildfire or other natural disaster. A complete application for an emergency site alteration permit shall be submitted with the following attachments:

a. An aerial photo or site map/drawing of the subject property showing the approximate location and scope of work for the site alteration being applied for.

- b. Dated photographs showing the condition of the property for which the work is proposed before alteration.
- c. If the location of the proposed site alteration is within one hundred feet (100') of a property line, the limits of disturbance shall be flagged.
- d. A time frame whereby the site alteration will commence and a date when alteration will be completed. If the site alteration is not completed within the specified time frame, administrative approval shall be sought prior to the expiration date.
- 2. Review And Decision: An emergency site alteration permit shall be reviewed and either approved or denied in writing by two (2) county commissioners.
 - a. The two (2) county commissioners shall conduct a site visit:
 - (1) Held in accordance with Idaho Code 67-2343(2) (special meetings);
 - (2) For which a reasonable effort is made to contact adjacent landowners; and
 - (3) Where minutes are taken.
 - b. Approval may be granted if the following criteria are met:
 - (1) Permanent structures are imminently threatened and would sustain considerable damage if emergency stabilization measures are not undertaken;
 - (2) Emergency stabilization measures will not unreasonably increase the threat of damage to permanent structures on neighboring property;
 - (3) The emergency stabilization measures are limited in scope to protecting permanent structures, as set forth in the emergency permit;
 - (4) The applicant posts financial security of one thousand dollars (\$1,000.00) or more as determined by the board for the purpose of ensuring that a regular site alteration permit application will be filed; and
 - (5) The applicant shall apply for a regular site alteration permit by the date set forth in the emergency permit and commence implementation of any regularly approved site alteration permit as may be required, following emergency stabilization. In such cases, the regular site alteration permit application shall be reviewed and a decision rendered by the board of county commissioners.
 - c. The board may seek review and recommendations by the county engineer at any time.

H. Notice And Reconsideration Procedure:

- 1. Notice: Once an emergency site alteration permit has been approved, the land use and building services office shall within two (2) business days post notice on the property of such approval and mail notice to property owners within three hundred feet (300') and two thousand feet (2,000') down gradient of the exterior boundaries of the subject property.
- 2. Reconsideration: An application for reconsideration of an emergency site alteration permit may be filed with the administrator within fifteen (15) calendar days of its issuance by anyone claiming an increased threat of damage to permanent structures on neighboring properties as referenced in subsection G2b(2) of this section, accompanied by a fee established by resolution of the board of county commissioners. County engineer review fees are the responsibility of the applicant seeking reconsideration.
 - a. Application Contents: An application for reconsideration shall contain at a minimum, the following information:
 - (1) Name, property address, and phone number of the person or persons requesting the reconsideration.
 - (2) Name and property address of the emergency permit holder.
 - (3) A report including photographs, engineering studies, if any, and all supporting documents describing the grounds for the reconsideration.
 - b. Application Placed On Agenda: Upon receipt of the completed application for reconsideration, together with the information listed below, and following an on-site site inspection by the administrator and county engineer, the completed application for reconsideration shall be placed on the agenda of the next available regular or special meeting of the board.
 - c. Hearing By The Board: The board shall conduct a public hearing on the matter, providing notice of the hearing at least three (3) business days prior to the hearing to property owners as described in this subsection H and post the property. The board shall consider the documents in the record including the recommendations of the administrator and county engineer and oral arguments as they relate to the threat of damage to structures on neighboring properties.
 - d. Decision By The Board: The board shall enter an order within fifteen (15) calendar days after the reconsideration affirming, reversing or modifying the original emergency permit. (Ord. 2014-02, 2-25-2014; Ord. 2010-06, 5-25-2010; Ord. 2007-02, 3-20-2007; Ord. 2006-13, 10-26-2006; Ord. 2001-03, 3-19-2001; Ord. 2000-04, 3-27-2000; Ord. 98-1, 1-7-1998; Ord. 94-15, 11-14-1994; Ord. 94-6, 6-16-1994; Ord. 91-15, 11-25-1991; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 21A SCENIC HIGHWAY OVERLAY DISTRICT (SHO)

9-21A-1: INTENT AND PURPOSES:

A. This chapter is intended to provide measures to protect visual resources and allied economic interests associated with scenic corridor 1 (SC1), as defined in chapter 2 of this title, in addition to those measures found in chapter 21 of this title, and to assist in providing for safety of passage on Idaho State Highway 75. Prior to the addition of this chapter, Blaine County has been regulating development within one hundred feet (100') of Highway 75. It is important that current owners and potential purchasers of property that includes land within the scenic highway overlay district recognize the significance of the public policy and land use interests reflected in this chapter, and the additional requirements under this code applicable to that land. Unless a categorical exclusion applies, construction of freestanding walls, earthen berms, fences and sight obscuring screens of trees within the scenic highway overlay district require a site alteration permit, which is a type of special use permit authorized by Idaho Code section 67-6512.

B. Among the references to visual resources in the Blaine County comprehensive plan, the following are particularly illustrative of the role of land use planning in protecting these values:

The word aesthetic is used in this section to define the perception or awareness of one's environment. It pertains to the sensations of sight, sound, taste, smell and touch. The importance placed on aesthetics varies according to individual attitude and sensitivity. There is, however, a longstanding consensus, among experts as well as laymen, that visual scenic quality, clean air, high water quality, absence of noise pollution, and other aspects of the natural environment represent invaluable county resources.

Preservation of these resources is of vital importance to the residents of the county as well as to the recreational economy.

Plan, historical background, social environment, and aesthetic values section, page 7 of the comprehensive plan, on file in the office of the county clerk.

The use of berms as a landscaping device to protect the visual aspects of the scenic corridor, or for the benefit of private property owners, has led to unanticipated negative effects. High berms, in a continuous line, with tall trees, lead to ice formation on highways and streets in winter and to impairment of the views from roads. To protect against these problems, ordinances shall be drawn requiring design review for landscaping in scenic corridors. Such ordinances shall consider heights, spacing, setbacks, and plantings of berms and the visual effect on view corridors.

Plan, historical background, social environment, and aesthetic values section, page 9 of the comprehensive plan, on file in the office of the county clerk.

The building of fences, walls and earthen structures and the planting of trees have impacts in addition to obscuring views. Accordingly, the following are the purposes to be achieved by regulation of such structures:

- * Preserve natural and natural like views from Highway 75.
- * Allow reasonable separation of homes from Highway 751
- * Avoid unnatural levels of drainage onto public roads and adjacent lands.
- * Avoid decrease in highway safety from shading of the highway and resultant icing of the pavement.
- * Avoid decrease in highway safety by preserving sightlines and distant visibility for travel².
- * Avoid excess water usage for irrigation of landscaping of earthen structures in accordance with the county's local public interest water resources policy.
- * Control noxious weeds and erosion on disturbed soil. (Ord. 2010-09, 11-9-2010; Ord. 99-5, 10-12-1999)

9-21A-2: ESTABLISHMENT:

A. District Established: The scenic highway overlay district is hereby established.

1. Application Of Regulations: The regulations of this overlay district, which will not be designated on the official zoning map, shall apply within the county to all lands within one hundred feet (100') of the right of way of Idaho State Highway 75 on both sides of said State Highway 75 north of the east to west intersection with State Highway 20, excluding lands within the jurisdiction of an incorporated city. (Ord. 99-5, 10-12-1999)

9-21A-3: CATEGORICAL EXCLUSIONS, STANDARDS AND PROCEDURES:

- A. General Exclusions: Unless the intent of the landowner or his/her authorized agent is to circumvent the purposes of the scenic highway overlay district regulations, the requirements of this chapter shall not apply to the following, provided the landowner or agent, before commencing construction of freestanding walls, earthen berms, fences and sight obscuring screens of trees, first obtains a written decision from the administrator, in consultation with the county engineer or his/her designated representative, that the construction falls within and meets one of the following categorical exclusions. The fact that construction does fall within a categorical exclusion does not remove such construction from the scenic highway overlay district.
 - 1. Agricultural fences on lands within the R-5, A-20, A-40, R-10 and RR-40 districts which are customarily and directly related to agricultural purposes.
 - 2. Berms, fencing and landscape improvements that are required as part of a valid conditional use permit, variance or subdivision approved prior to the effective date hereof provided the improvements are consistent with the previously approved plan.
 - 3. Freestanding walls, earthen berms, fences and sight obscuring screens of trees that meet the following design standards:

a. Fences shall be of a post and pole design with a maximum top rail height of forty two inches (42") and with the bottom rail at least sixteen inches (16") off of the ground as measured from natural grade. Fences shall not be located on any portion of a berm or within five feet (5') of the toe of any berm. The openings in fences shall not be blocked with wire fencing or in any other manner³. Fences shall comply with the provisions of section 9-29-8 of this title.

On lots which have a residence within one hundred feet (100') of Highway 75, sight obscuring fences of wood construction no higher than five feet (5') as measured from natural grade may be constructed. On such lots, post and pole design fences may be blocked. Fences on such lots must also be set back at least five feet (5') distant from the toe of any berm⁴.

- b. The toe of earthen berms shall be located no closer than five feet (5') from the property line nearest to the Highway 75 right of way within the scenic highway overlay district⁵. This setback is to be increased in accordance with subsection A3c of this section where the natural grade is higher than the centerline of Highway 75.
- c. Within the first twenty feet (20') of depth of the lot or parcel as measured from the property line nearest the Highway 75 right of way, the slope of earthen berms shall be no greater than three to one (3:1) (run:rise) on the side facing Highway 75. On lots which have a residence within one hundred feet (100') of Highway 75, earthen berms may have a slope no greater than two to one (2:1) (run:rise) within the first twenty feet (20') of the depth of the lot or parcel⁶.

The peak of earthen berms and the top of freestanding walls shall not exceed the following maximum heights⁷:

Setback Distance	Maximum Height
From property line to 5 feet	Natural grade
5 feet to 20 feet	4 feet
From 20 feet to 75 feet	5 feet
Greater than 75 feet	6 feet

The height measurements shall be taken from the centerline of the highway at the point closest to the berm. The distance measurements shall be taken from the peak of the berm to the Highway 75 right of way at the point closest to the berm.

Where the natural grade is higher than the centerline of Highway 75, berms, freestanding walls, and fences must be set back an additional three feet (3') for every one foot (1') in height the natural grade is higher than the centerline of Highway 75, and this additional setback shall be added to the distance measurement for calculation of the maximum height designated⁸. Landowners are encouraged to build berms that undulate in height and distance from the right of way in order to provide a less monotonous, more pleasing appearance.

- d. No additional structures, including fences, shall be placed on top of walls or above the toe of earthen berm structures to which the restrictions in this chapter apply.
- e. Vegetation on earthen berms, other than trees and shrubs for which standards are provided in subsection A3f of this section, shall be limited to native or native compatible drought tolerant grasses, wildflowers and ground cover. Disturbed areas shall be landscaped or revegetated immediately after completion of the site alteration activities, but no later than the end of the first construction season during which the site alteration commences. Earthen structures shall be covered with a depth of topsoil adequate to sustain vegetation, and shall be planted with native or native compatible drought tolerant grasses, wildflowers or ground cover in a weed free environment prior to the end of the fall season in the year in which construction of the earthen structure was commenced. The required topsoil is to be included in the height of the berm for the purpose of determining compliance with maximum height limitations. Earthen structures shall be maintained weed free in all phases of construction and after revegetation. Components of the revegetation plan shall include techniques that will be used to ensure the establishment of the proposed vegetation within a period of three (3) years.
- f. Trees and shrubs may only be planted within the lowest two (2) vertical feet of earthen berms. The limitations in this subsection A3f shall apply to all trees and shrubs planted within the district with the exception of naturally growing trees and shrubs along the banks of surface bodies of water. No more than thirty percent (30%) of the width of the lot measured parallel to Highway 75 shall be occupied by trees and shrubs, and no more than twenty five percent (25%) of such trees and shrubs shall be conifers. In order to avoid shading and icing of Highway 75 when they have matured, clusters and screens of trees and shrubs shall be planted at least ten feet (10') from the property line nearest to the Highway 75 right of way, and no conifers may be planted within the first fifty feet (50') from the property line nearest to the Highway 75 right of way.
- g. Earthen structures shall be designed and constructed so that no more than natural runoff of water and sediment leaves the property of the applicant.
- h. Applicants are encouraged to consult with the Idaho department of transportation to determine what state standards may apply. Applicants must also comply with the safety standards in section <u>9-29-8</u> of this title.
- 4. Modifications to any conforming or nonconforming existing berm, fencing, wall, or landscaping, within the Timberway to Big Wood Bridge project area, as designated on exhibit A attached to the ordinance codified herein: Timberway to Big Wood Bridge-SHO, as of the passage date hereof, as consistent with an approved Timberway to Big Wood Bridge _ scenic highway overlay state-county transportation improvement plan, which shall not:
 - a. Exceed the elevation of the existing berm, fence, or wall, as identified on the improvement plan; or
 - b. Add any retaining wall taller than forty eight inches (48") in height, as measured from base of footing to top of wall.

Any existing berm, fence, or wall deemed conforming before the passage date hereof shall not be required to obtain a SHO site alteration permit unless new modification or construction is proposed.

B. Review Of Categorical Exclusions: The administrator or his/her designated representative, in consultation with the county engineer or his/her designated representative, shall review all written requests for determinations of categorical exclusions under subsection A of this section, and promulgate appropriate forms to be used for such requests. The applicant shall have the burden of demonstrating that the proposed site alteration falls within and meets the requirements of a categorical exclusion. In addition to completing the application form and providing a drawing or plan and such other information required for evaluation by the administrator, photographs of the site before and after construction (upon confirmation of compliance with categorical exclusion standards) of fences, walls, berms and planting of vegetation regulated by this chapter shall be provided to the administrator by the applicant. The administrator shall issue a written decision within five (5) business days of receipt of an application for determination of categorical exclusion. The administrator, prior to issuance of its decision, may request additional information from the applicant, including, without limitation, technical review from the county engineer, and the failure to provide such requested information within sixty (60) days of request shall be grounds for denial of the request for determination of categorical exclusion. The five (5) business day time period for issuance of the administrator's decision shall begin to run anew following the date of the administrator's receipt of additional information from the applicant. Such period shall be tolled during any periods that the administrator does not have reasonably safe access to the site of the proposed construction. Any person aggrieved by the written decision of the administrator may seek review of the administrator's decision before the board according to the procedures and time requirements of this section.

- C. Review By The Board: Any person aggrieved by a decision of the administrator made in interpreting or enforcing this chapter may request review by the board of such a decision by filing a request for review with the board within twenty (20) calendar days of the date of such decision, stating the date and nature of the decision and the grounds for the review. The person seeking review shall lodge all legal and factual material in support of the request for review with the administrator within twenty (20) calendar days of the date of the administrator's decision being reviewed. If any of such lodged material had not been submitted to the administrator prior to the administrator's decision, the board may remand the matter to the administrator for reconsideration in light of the new material.
- D. Hearing By The Board: The board shall hold a hearing on a request for review of a decision of the administrator under this chapter during the next available date after the person requesting review has complied with the requirements of this section. Review of the administrator's decision under this chapter shall be de novo, or a new hearing allowing and requiring presentation of all legal and factual material to be considered as if it were being presented for the first time. The original application and the administrator's decision shall be considered, and the administrator may submit a report and testify at the de novo hearing before the board. Otherwise, prior submissions and testimony shall not be required.
- E. Decision By The Board: The board shall, within fourteen (14) calendar days after the hearing, enter a written order affirming, reversing or modifying the administrator's decision. The order shall also contain the reasons for the board's decision. On its own motion, the board may, within seven (7) calendar days of issuing a written decision, reconsider that decision.
- F. Exception To Written Decision Requirement: Notwithstanding any provision of this title to the contrary, a written decision of the administrator shall not be required prior to commencing construction that falls within and meets the agricultural categorical exclusion stated in subsection A1 of this section. (Ord. 2010-09, 11-9-2010; Ord. 2006-08, 6-29-2006; Ord. 99-5, 10-12-1999)

9-21A-4: SITE ALTERATION PERMIT STANDARDS AND PROCEDURES:

- A. Form Of Application: Application for a site alteration permit in the scenic highway district shall be made on a form furnished by the administrator. All site alteration permit applications shall include the plans for all proposed freestanding walls, fences, earthen structures and associated vegetation within the scenic highway district. Upon receipt of the completed form, together with the information listed below, and following an on site inspection by the administrator, the completed application shall be placed on the agenda of the next available regular hearing of the hearing examiner or planning and zoning commission, as designated by resolution, and shall meet the requirements for notification in section 9-25-4 of this title.
- B. Application And Submittal Requirements; Fees: An application for a site alteration permit shall be filed with the administrator by at least one holder of an interest in the property, or their agent, accompanied by the fee established by resolution of the board. Fees resulting from review by the county engineer are the responsibility of the applicant, according to the fee resolution of the board, and shall be paid prior to public hearing. No application shall be certified as complete unless it includes the following information in sufficient detail for the hearing examiner or planning and zoning commission to determine compliance with the design review standards of evaluation in subsection D of this section:
 - 1. The name, address and phone number of the owner of the land for which the permit is requested and of the person, firm or corporation (contractor) who will physically alter the land, if known.
 - 2. The proposed date that the site alteration will commence and the projected date of completion.
 - 3. A description of the land on which the proposed work is to be done, by lot, block, tract and house and street address, or similar description that will readily identify and definitively locate the proposed site. A vicinity map shall be included.
 - 4. A report including text, designs, and visual representations including simulations which indicate the design and construction of improvements, and also including public safety, revegetation, and other information demonstrating compliance with the design review standards of evaluation.
 - 5. A description of the work to be performed, an estimate of the depth of soil, the type of equipment to be used, the total area of disturbance, and the amount

and type of material to be removed or deposited, all in sufficient detail to evaluate the impact of such activities.

- 6. A graphic representation of the proposal. This plan shall include property lines and delineate the proposed areas for improvement or alteration, existing and proposed contours, drainage and drainage structures, landscaping and revegetation plans, including a plan for the control of noxious weeds, and retaining walls. Photographs of the site prior to beginning of construction and planting, and after completion of construction and planting.
- 7. A statement that the proposed areas of disturbance have been staked and are ready for administrative review.
- 8. A signature by the property owner or his/her authorized agent that the application is certified as true and accurate.
- 9. Written input from the county engineer addressing, but not limited to, compliance with road standards, drainage and erosion mitigation.
- C. Hearing Examiner Or Commission Review And Action: Either the hearing examiner or the planning and zoning commission (commission), as designated by resolution, shall make decisions based on the standards and evaluation herein. Review of the application and receipt of public input shall be conducted at a scheduled hearing as set forth hereinabove. The hearing examiner or commission may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required other than that requested by the hearing examiner or commission. Continuation beyond thirty one (31) days shall require further published notice, according to this section. The hearing examiner or commission shall approve, approve with conditions, or deny said application, making appropriate findings to support its decision. The hearing examiner or commission shall enter an order or adopt its written findings of fact and decision within thirty one (31) days after the action is taken by the hearing examiner or commission. The granting of a site alteration permit shall not be considered as establishing a binding precedent to grant other site alteration permits. A site alteration permit is not transferable from one parcel of land to another.
- D. Design Review Standards Of Evaluation: The applicant has the burden of demonstrating compliance with this chapter, including each of the following design review standards of evaluation. The hearing examiner or commission shall review and find adequate evidence that the proposed development or site alteration meets all of the following standards:
 - 1. The size of the lot, geographical features of the lot, or a combination thereof require that the maximum height limitations for earthen berms, freestanding walls or fences, or the maximum coverage limitations for sight obscuring screens of trees must exceed the categorical exclusion standards of this chapter in order to allow the landowner reasonable use and enjoyment of the parcel for which the permit is sought.
 - 2. While still allowing reasonable use and enjoyment of the lot, new development shall be designed and sited so as not to impair or obstruct existing mountain and river views from Highway 75 to the maximum extent possible, and will meet the requirements and encouraged practices of the categorical exclusion set forth in subsection 9-21A-3A2 of this chapter to the maximum extent possible using generally accepted engineering practices.
 - 3. Native or native compatible vegetation shall be preserved to the greatest extent possible. Revegetation of disturbed areas shall utilize plant materials harmonious and/or native to the area. The method for control and prevention of noxious weeds shall be demonstrated. Disturbed areas shall be landscaped or revegetated immediately after completion of the site alteration activities, but no later than the end of the first construction season during which the site alteration commences. Components of the revegetation plan shall include techniques that will be used to ensure the establishment of the proposed vegetation within a period of three (3) years¹².
 - 4. Earthen structures shall be designed and constructed so that no more than natural runoff of water and sediment leaves the property of the applicant.
 - 5. Walls, fences, earthen berms and sight obscuring screens of trees must comply with all applicable regulations and standards of the Idaho department of transportation.
 - 6. If the applicant or landowner with respect to an application for a site alteration permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528.
- E. Conditions: The hearing examiner or planning and zoning commission may attach reasonable conditions upon granting a site alteration permit, including, but not limited to:
 - 1. Providing bonding or other sufficient financial guarantee to complete the site alteration; at a minimum, the revegetation of disturbed areas, including weed control, and new vegetation or landscaping for at least three (3) years.
 - 2. Modification of the site alteration.
 - 3. Any other condition for special use permit specified in Idaho Code section 67-6512(d), as amended: a) minimizing adverse impact on other development; b) controlling the sequence and timing of development; c) controlling the duration of development; d) assuring that development is maintained properly; e) designating the exact location and nature of development; f) requiring specific on site or off site public facilities or services; g) requiring more restrictive standards than those generally required in this title; and h) requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.
- F. Expiration Of Permit: Any site alteration permit granted under this chapter after October 20, 1999, shall expire one year following the date of its approval if construction of the site alteration has not been substantially commenced. If good cause for delay in commencement of construction is shown, the administrator may once only extend the period for commencement of construction for a period not exceeding one year, provided application is made for an extension before expiration of the permit. (Ord. 2001-03, 3-19-2001; Ord. 99-5, 10-12-1999)

Chapter 22 AVALANCHE OVERLAY DISTRICT (A)

9-22-1: PURPOSE:

The purpose of this District is to restrict and guide development in areas of avalanche hazard. Such areas are categorized as either high hazard or low hazard, for which different regulations shall pertain. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-22-2: BASE DENSITY:

The base density and maximum PUD bonus for both high and low hazard areas shall be the same as that assigned to the underlying district. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-22-3: HIGH HAZARD AREAS:

No public roads shall be located within high hazard areas and no building permits for residential, commercial or industrial uses will be issued within the high hazard areas, as shown on the Avalanche Overlay maps or site specific avalanche studies. All density accumulated by ownership of these lands is transferrable to contiguous land in the same ownership which is not located in a high hazard area. However, the transfer of density is not guaranteed and shall be allowed only if the Commission and the Board find it in conformance with the purposes and standards of the Planned Unit Development Ordinance¹. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-22-4: LOW HAZARD AREAS:

Residential uses are permitted in low hazard areas. The following performance standards shall apply to all structures built within the low hazard areas:

- A. Inhabited Structures: Inhabited structures must be set back from projected slide areas and offset from slide paths.
- B. Structural Modifications: Reinforcing structuralmodifications shall be incorporated in the design of structures subject to avalanche danger.
- C. Natural Barriers: Natural barriers to potential avalanche slide areas shall not be removed or altered so as to increase the degree of avalanche potential. (Ord. 77-5, 3-28-77, eff. 4-7-77)

Chapter 23 SEASONAL USE OVERLAY DISTRICT (SU)

9-23-1: PURPOSE:

The Seasonal Use District identifies summer use areas in the County where winter and spring occupancies should be restricted in order to release the County from road maintenance where the public safety and welfare may be jeopardized by avalanches or other hazardous winter conditions. Residential developments proposed for these areas shall be served by private roads, from which the County will be absolved from all maintenance responsibility. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-23-2: DEVELOPABLE DENSITY:

The base density and maximum PUD bonus shall be the same as that assigned to the underlying district. (Ord. 77-5, 3-28-77, eff. 4-7-77)

Chapter 24 SAWTOOTH CITY ZONES (SCC, SCR-.4)

9-24-1: **AMENDMENT**:

This title is hereby amended to add two (2) new zoning classifications as follows:

(SCC) Sawtooth City commercial.

(SCR-.4)Sawtooth City medium density residential.

(Ord. 91-2, 1-28-1991; Ord. 77-16, 11-28-1977)

9-24-2: PURPOSE:

The purpose of this chapter is to provide for community development land use regulations for the unincorporated village of Sawtooth City within Sawtooth national recreation area in northern Blaine County. (Ord. 91-2, 1-28-1991; Ord. 77-16, 11-28-1977)

9-24-3: REGULATIONS:

- A. Commercial Zones: All of the provisions of chapter 14 of this title, as it defines (C) commercial zones shall apply to the SCC (Sawtooth City commercial) zones except as such provisions are in conflict with the hereinafter provisions of this chapter, in which event the provisions of this chapter shall be controlling and applied in conjunction with the relevant nonconflicting portions of chapter 14 of this title to define the SCC zones.
- B. Medium Density Residential Zones: All provisions of chapter 11 of this title, as it defines R-.4 (medium density residential) zones shall apply to the SCR-.4 (Sawtooth City medium density residential) zones except as such provisions are in conflict with the hereinafter provisions of this chapter in which event the provisions of this chapter shall be controlling and applied in conjunction with the relevant nonconflicting portions of chapter 11 of this title to define the SCR-.4 zone in addition to the relevant SCR-.4 zones.
- C. Applicable Provisions: These provisions shall apply to and define both the SCC and SCR-.4 zones in addition to the relevant provisions of chapters 11 and 14 of this title, respectively, and shall apply to all land use categories indicated on the zoning map for Sawtooth City as general standards:
 - 1. Use And Development: Use and development on all lands within community shall be in conformance with all applicable federal, state and local laws, regulations and ordinances.
 - Septic System Permit Required: On site septic systems may be used for sanitary disposal after obtaining a septic system permit from the state health department or its authorized regional or county agent.
 - 3. New Utilities: All new utilities shall be underground.
 - 4. Structures And Improvements: Structures or other improvements shall not be constructed within fifty feet (50') of streambeds, banks or in floodplains of live or intermittent streams. Streambeds, banks and floodplains will not be disturbed, except as may be necessary to construct, operate and maintain irrigation, fisheries, utilities, fences, roads and similar facilities or improvements. Any such necessary encroachment will avoid impeding water flow, sedimentation of streams or entrance of deleterious material into streams and must comply with Idaho Code, section 42-3801 et seq., and chapters 3 and 17 of this title.
 - 5. Number Of Buildings Allowed: Not more than one single-family dwelling shall be permitted on each building site or lot. Up to two (2) outbuildings are permitted per lot, provided they are not to be used for additional dwelling area, each does not exceed twenty two feet (22') overall building height, and the total aggregate lot coverage footprint for all outbuildings does not exceed eight hundred fifty (850) square feet. Lots in Sawtooth City shall not be subdivided. Adjoining lots shall not be joined together and considered as one lot unless a common line is vacated. Any structure that does not share a partial common wall with an entryway with the main structure is considered an outbuilding.
 - 6. Mobile And Modular Homes: Mobile, semimobile and modular homes are not permitted. Definition of mobile and modular homes shall be as used by the Idaho department of labor and industrial services pursuant to Idaho Code, section 39-4003 and shall include structures constructed with a floor frame system so that they can be moved more than once. It shall not include manufactured buildings that meet uniform building code specifications.
 - 7. Parking: Temporary parking of guest and resident owner's vehicles is allowed only on permitted developed property. Parking of operable motor vehicles on an undeveloped lot is allowed only if the lot is adjacent to a permitted developed lot owned by the same owner. Parking and storage of boats, campers and travel trailers is only allowed by resident owners on developed property.
 - 8. Compatible Architecture: Building architecture is to be compatible with the general location, site environment and to be consistent with the present generally rustic western character of the community, which is to be maintained as such in its natural scenic setting. Structures shall be reflective of the historic, pastoral architectural traditions of the Sawtooth Valley. Unusual or nontraditional architectural styles are not permitted.

9. Maintenance: All commercial and residential buildings and structures, including fences, shall be maintained in a usable and serviceable condition or shall be repaired or removed by owner. Properties shall be maintained in a clean and orderly condition. All debris shall be removed within a reasonable time, but in any event promptly upon notice to owner from the building committee. Debris shall include, but not be limited to, the following:

- a. Unused construction material;
- b. Miscellaneous equipment used during construction permissible during construction period. Not to be allowed after construction, unless screened from view;
- c. General trash, household and commercial; and/or
- d. Nonfunctioning vehicles parked or stored out of doors.
- 10. Animals: No animals shall be maintained on the premises except house pets and riding horses, and in accordance with this code and this section. No more than one riding horse per one-third (1/3) available fenced acre is allowed. Horse area to be kept in sanitary and healthful condition to avoid creating unhealthy and unsightly conditions for adjacent properties.
- 11. Public Utility Easement: A ten foot (10') easement shall be provided for public utilities on the side and rear boundaries of each lot.
- 12. Television Satellite Dish Standards: Television satellite dish standards and building committee review are detailed in subsection 9-24-5J of this chapter.
- 13. Signs: See section <u>9-24-7</u> of this chapter. (Ord. 2006-12, 8-22-2006; Ord. 2005-06, 8-23-2005; Ord. 99-4, 8-23-1999; 1996 Code; Ord. 93-4, 5-3-1993; Ord. 92-2, 4-27-1992; Ord. 91-2, 1-28-1991; Ord. 77-16, 11-28-1977)

9-24-4: CONFORMANCE:

Buildings and structures, or parts thereof, erected, constructed, reconstructed, altered, moved or used for any purpose, shall be in conformance with the uniform building code and this code.

- A. Grading And Excavating: Grading, excavating and other topographical changes are permitted as required for foundations, utilities, drainage or roads. A building permit must be obtained prior to any excavation for land development.
- B. Driveways And Roads: Driveways and roads are to be located and designed to preserve natural features. Driveways and roads from the street to the house shall be a maximum of fifteen feet (15') in width and seven percent (7%) grade. Surface shall be natural soil or rock from the area.
- C. Lot Coverage: Lot coverage of structures shall not exceed ten percent (10%) of the land area on a residential lot. (Ord. 93-4, 5-3-1993; Ord. 91-2, 1-28-1991; Ord. 77-16, 11-28-1977; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-24-5: BUILDING SITES:

Building sites are to be located with maximum regard to natural features, open space area, topography, vegetation, access parking and design treatment.

- A. Permits: The property owner is required to obtain a building permit from the Blaine County planning and zoning building inspector after review and recommendation of building plans by the Sawtooth City building committee.
- B. Setback: All new buildings shall be set back a minimum of twenty feet (20') to building foundations from front and rear property lines, and ten feet (10') from side property lines.
- C. Building Height: The vertical distance measured from the highest point of the roof directly to natural grade shall not exceed thirty feet (30'). This provision does not apply to accessory fixtures such as flagpoles, lightning rods, weathervanes, antennas (not including satellite dishes), chimneys or air conditioners. Accessory buildings such as garages and sheds shall not exceed one story above natural grade.
- D. Foundations: Pillars or stilts, if used, must be enclosed. Foundation exterior surfaces above six inches (6") shall be covered with wood or natural stone. However, painted metal, concrete, or block are permitted up to a maximum of eighteen inches (18"). Painted surfaces shall be of colors as shown in the "Color Guide for Sawtooth City", as amended, which is available for reference at the Sawtooth City association building committee.

- E. Minimum Area: The minimum area of the main floor for new residences shall be seven hundred fifty (750) square feet, excluding porches and garages.
- F. Exterior Materials: Exterior walls shall be of natural materials (i.e., wood) including siding, shakes, shingles, logs, rough lumber or natural stone. Stained and painted surfaces of walls and trim shall be of colors as shown in the "Color Guide for Sawtooth City" referenced herein.
- G. Roofs: Roofs shall be of colors as shown in the present or later amended revisions of the "Color Guide for Sawtooth City", referenced herein.
- H. Tree Removal: Tree removal shall be kept to a minimum consistent with preservation of natural site conditions. Only those trees within the dimensions of a foundation plus an eight foot (8') work area on all sides of the foundation may be removed. Trees beyond the allowable driveway width shall not be removed.
- I. Landscaping Development: Owners shall submit a landscaping plan to the Sawtooth City building committee for approval. Such plan shall include the planting of a minimum of four (4) trees (minimum height of 5 feet) per lot if at least four (4) trees do not already exist on the property. Use of indigenous plants and vegetation is encouraged. Planting of lawns is not recommended.
- J. TV Satellite Dish Antennas: This addendum to the Sawtooth City regulations is presented to provide guidelines for the installation of TV satellite dish antennas in Sawtooth City. The intent of these guidelines is to reduce the visual impact to the public of satellite dish installations. The installer is expected to carefully consider the aesthetic affect of satellite dish location. Each installation shall be visually unobtrusive, screened from view on three (3) sides and from view from state scenic Highway 75. What follows below are general guidelines. Each installation will be considered by a case-by-case basis.
 - 1. Mounting: The satellite dish shall be ground mounted.
 - 2. Setback: The satellite dish shall comply with setback requirements as specified elsewhere in the Sawtooth City regulations for buildings.
 - 3. Size: The satellite dish installation shall not exceed fifteen feet (15') in height, nor shall the dish exceed ten feet (10') in diameter.
 - 4. Color: The satellite dish, structure and appurtenances shall be colored to blend into the surrounding landscape. Acceptable colors are black, dark brown and dark green.
 - 5. Dish Type: "Mesh" type "see-through" dishes are preferred. However, advances in design technology may offer other alternatives which feature reduced visual impact. Proposed alternatives will be considered on a case-by-case basis.
 - 6. Location: Side and rear yard locations are preferred. Installer should take advantage of existing trees and topography to reduce the view of the installation from the public. Supplemental natural screening materials, i.e., vegetation, wood fences, etc., may be necessary where existing screening is inadequate.
 - 7. Wiring And Cabling: Wire and cables connected to the satellite dish installation shall be conducted underground.
 - 8. Permits: The property owner is required to obtain a building permit from the Blaine County planning and zoning building inspector after the review and recommendations of installation plans by the Sawtooth City building committee for any proposed satellite dish installation are received.
- K. Fences: Fences shall be of natural wood construction (with natural finish) of design typical for the area such as logworm, log block, post and rail, and jack and rail fences, with a maximum height of five feet (5').
- L. Steps And Walks: Steps and walks are to be constructed of wood or natural stone.
- M. LPG Tanks: Liquefied petroleum gas tanks shall be screened from public view with natural materials. Location of tanks and plans for screening shall require the approval of the administrator.
- N. Yard Lights And Outdoor Lights: Yard lights and any/all outdoor lights shall be shielded and directed downward, and in compliance with chapter 29A of this title.
- O. Enforcement: Blaine County has the ultimate responsibility for enforcement of Sawtooth City regulations pursuant to the provisions of chapter 32 of this title. (Ord. 2010-06, 5-25-2010; Ord. 99-4, 8-23-1999; Ord. 91-2, 1-28-1991; Ord. 77-16, 11-28-1977)

9-24-6: COMMERCIAL STANDARDS:

Standards described in subsections <u>9-24-4B</u> and C, and <u>9-24-5C</u> and E of this chapter shall not apply to properties developed for commercial purposes. The following standards are in addition to those above which apply:

- A. Maximum Height: Commercial buildings or structures shall not exceed two (2) stories or forty feet (40') in maximum height, whichever is less.
- B. Uses: Commercial uses of the area shall be restricted to the following:
 - 1. Business, professional, public or social service offices.
 - 2. Gas stations, restaurants, bars, motels, motor vehicle repairs.
 - 3. Retail stores.
 - 4. Recreational facilities.
 - 5. Repair and personal services.
 - 6. Wireless communication facilities (see section 9-3-16 of this title).
- C. Parking: One parking space shall be provided for each lodging unit and each two hundred (200) square feet of restaurant space.
- D. Temporary Structures: In order to protect SNRA visual scenic values and the quality of community way of life, temporary structures are not permitted.
- E. Trailer And RV Park Areas: Trailer and RV park areas shall be screened from Highway 75 with trees. Building service areas shall be screened from public view. (Ord. 2001-10, 10-1-2001; Ord. 91-2, 1-28-1991; Ord. 77-16, 11-28-1977)

9-24-7: SIGN STANDARDS:

- A. Purpose: It is the purpose of this section to regulate the use of signs and lighting to promote traffic safety, to protect property values, to provide visibility for signs for public and private purposes and to preserve and enhance the natural beauty and aesthetic values of Sawtooth City.
- B. Restrictions:
 - 1. Signs shall only identify or advertise uses conducted on the same premises, unless approved as a conditional use as provided below.
 - 2. No signs shall be placed in any public right of way except for public signs, such as traffic control and directional signs.
 - 3. Moving, revolving, flashing, intermittent or oscillating signs, parts or lights are not permitted.
 - 4. Signs shall be maintained in good repair at all times. Abandoned signs or signs no longer in use shall be removed and the area returned to its natural state.
 - 5. A sign permit must be applied for from the Blaine County Administrator and after review and recommendation by the Sawtooth Building Committee approved for signs being placedunder subsections C3 and C4 of this Section.
- C. Permitted Signs For Uses And Conducted On The Same Premises:
 - 1. Customary residential, professional and home occupancy signs not to exceed two (2) square feet in area.
 - 2. One single freestanding or wall sign, nonilluminated, not to exceed four (4) square feet in area, when advertising sale or rental of a lot, a business or home.
 - 3. One identification sign per public use shall be allowed, providing such sign does not exceed twenty (20) square feet in area and is unlit or indirectly lit.
 - 4. One informational sign in conjunction with commercial uses, not provided that the surface area of the largest side does not exceed twenty feet (20').
 - 5. Signs advertising the sale or rental of a lot, home or business abutting Highway 75 must be located with a twenty five foot (25') setback providing that only one sign per lot, home or business is used.
 - 6. A ranch identification sign incorporated into the entry gate.

D. Signs Permitted As A Conditional Use: Off-site, nonilluminated directional signs for identification of commercial, residential, tourist, recreational or cultural uses as warranted by size and remote location of the use, with a maximum of six (6) square feet. Conditional use permits must be obtained from Blaine County, pursuant to Chapter 25 of this Title.

E. Dimensional, Structural And Locational Requirements:

- 1. A freestanding sign shall not project above the building height of the nearest building to which the sign pertains. In no case shall the height of the sign exceed fifteen feet (15') from the ground level to sign top.
- 2. No lettering on any sign, including cutout letters, shall exceed eighteen inches (18") in height.
- 3. Projecting or wall signs shall not project above the eave line or parapet wall of the building to which they are affixed and shall be a minimum of eight feet (8') above grade when projecting over a pedestrianway. Such signs shall not project out more over a pedestrianway. Such signs shall not project out more than two feet (2') from the front or face of the building, except where such a sign is an integral part of an approved awning or canopy.
- 4. The area of a sign painted or imprinted on a wall, a signcomposed of cutout letters or other type of sign whose background has no clearly defined dimension shall be equal to the smallest rectangle figure which can contain copy, insignia background and other graphic elements.
- 5. Sign background colors shall be in conformance with the "Color Guide for Sawtooth City", as amended, which is available at the SNRA. Letters or numbers shall be in white, yellow, sage green or brown. (Ord. 91-2, 1-28-1991)

9-24-8: PROPERTY ZONED SCC:

The Blaine County Zoning Maps adopted by reference by Section 9-4-7 of this Title are hereby amended to change the zoning on the following described real property from (C) Commercial District to (SCC), Sawtooth City Commercial:

TOWNSHIP 7 NORTH, RANGE 14 EAST OF THE BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

SECTION 27: A parcel of land in the east one-half, more particularly described as follows:

Commencing at the south one-quarter corner of Section 27, Township 7 North, Range 14 East of the Boise Meridian, to a point No 0°13'45" E 4048.25' to the southerly boundary of State Highway 75 right-of-way; thence S 59°30'21" E 1450.54' along said right-of-way to the REAL POINT OF BEGINNING; thence,

S 59°48'57" W 64.70'; thence, S 49°03'05" W 54.06'; thence,

S 12°31'54" W 113.68'; thence,

S 07°22'06" E 100.09'; thence,

S 12°50'18" E 100.94'; thence,

S 19°38'01" W 110.01'; thence,

S 01°57'29" W 100.74'; thence,

S 12°24'38" E 100.84'; thence, S 04°26'11" E 100.02'; thence,

S 17°24'06" E 35.45'; thence,

S 84°25'07" E 432.54'; thence,

continuing 383.24 feet along a curve to the right having a central angle of 63°11'39", a radius of 407.14 feet, a tangent of 250.44 feet, and a long chord of 449.02 feet; thence N 58°47'39" E 159.09'; thence continuing 153.99 feet along a curve to the right having a central angle of 04°22'21", a radius of 2067.95 feet, a tangent of 78.95 feet, and a long chord of 157.80 feet; thence, N 63°10'00" E 34.26'; thence, continuing 49.78 feet along a curve to the left having a central angel of 115°37'50", a radius of 20.34 feet, a tangent of 32.32 feet, and a long chord of 41.05 feet; thence 177.14 feet along a curve to the left having a central angle of 26°07'12", a radius of 1366.70 feet, a tangent of 317.03 feet and a long chord of 623.00 feet; thence N 59°30'21" W 815.45 feet to the REAL POINT OF BEGINNING.

(Ord. 91-2, 1-28-1991)

9-24-9: PROPERTY ZONED SCR-.4:

The Blaine County Zoning Maps adopted by reference by Section 9-4-7 of this Title are hereby amended to change the zoning on the following described real property from R-4, Medium Density Residential District, to SCR-4, Sawtooth City Medium Density Residential District:

TOWNSHIP 7 NORTH, RANGE 14 EAST OF THE BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

SECTIONS 26 & 27: A parcel of land in the western one-eighth of Section 26 and the east one-half of Section 27, more particularly described as follows:

Commencing at the south one-quarter corner of Section 27, Township 5 North, Range 17 East of the Boise Meridian, to a point N 0°13'45" E 1319.16', known as the central south one-sixteenth corner of Section 27, said point being the REAL POINT OF BEGINNING. Thence, N 0°13'45" E 2729.09' to the southerly boundary of State Highway, 75 right-of-way; thence S 59°30'21" E 2327.32' along said southerly right-of-way boundary; thence continuing along said southerly highway boundary 543.26 feet along a curve to the right having a central angle of 26°07'12", a radius of 1366.70 feet, a tangent of 317.03 feet, and a long chord of 623.00 feet; thence S 26°20'38" E 1001.07': thence, S 89°59'08" W 884.46', thence N 89°42'09" W 1057.10' to the REAL POINT OF BEGINNING.

EXCEPTING from this description that property described in Section <u>9-24-8</u> of this Chapter which is zoned SCC by the said Section <u>9-24-8</u> of this Chapter. (Ord. 91-2, 1-28-1991)

Chapter 25 CONDITIONAL USE PERMITS

9-25-1: GENERAL:

It is recognized that certain uses possess unique and special characteristics with respect to their location, design, size, method of operation, circulation and public facilities. In order to protect the public welfare and guarantee conformance with the plan, permits are required for such uses upon review by the commission or the board when concurrent stream alteration permit applications are submitted which require board approval. (Ord. 96-3, 4-8-1996; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-2: APPLICATION FOR CONDITIONAL USE PERMIT:

An application for a conditional use permit shall be filed with the administrator by at least one holder of an interest in the real property for which such conditional use is proposed, accompanied by the fee specified in section 9-3-9 of this title. Planned unit developments and mobile/manufactured home subdivisions, mobile/manufactured home parks, and mobile/manufactured home PUDs shall follow the fee schedule set forth in section 10-1-5 of this code. At the administrator's discretion, based on appropriate findings, a conditional use permit application may be referred to the county engineer for technical review. Such review shall be at the applicant's expense and shall be paid by the applicant prior to public hearing.

- A. Minimum Information: The application shall include at least the following information:
 - 1. Name, address and phone number of the applicant.
 - 2. Legal description of the property.
 - 3. Description of existing use.
 - 4. Zoning district.
 - 5. Description of proposed conditional use.
 - 6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, landscaping, refuse and service areas, utilities, signs, outdoor lighting, rendering of building exteriors, property lines and north arrow, and such other information as the commission or the board may require to determine if the proposed conditional use meets the intent and requirements of this title.
 - 7. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district and the relationship of the proposed use to the comprehensive plan. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the narrative statement shall also describe the measures that have been taken to mitigate potential adverse impacts to potable water sources.
 - 8. A list of the names and addresses of all property owners and residents within three hundred feet (300') of the external boundaries of the land being considered. When the project is located within a wellhead protection area, the name and address of the affected public water system owner(s) shall also be provided.
 - 9. For any conditional use permit application required in chapter 17 of this title, the applicant shall stake the exterior boundaries of the proposed structure and demarcate with steel posts and wire the stream setback areas not to be encroached upon during construction. This staking shall be performed two (2) weeks prior to the public hearing for the conditional use permit.
- B. Additional Application Requirements: Additional application requirements for a conditional use permit in the floodplain overlay district are set forth in subsection 9-17-7B of this title.
- C. Applications For Gravel Or Shale Pit, Etc.: Applications for a gravel or shale pit, public works gravel or shale pit, or public works asphalt plant shall include a site and vicinity plan showing the area to be utilized, the amount of material to be extracted, crushed, or stockpiled, the three hundred feet (300') adjoining the property in all directions, and a plan for recontouring the excavated area. A performance bond in favor of the county of five hundred dollars (\$500.00) per acre to ensure the adequate recontouring of the area and full compliance with all conditions of the permit shall accompany the application. This bond shall be released upon determination that an excavated area complies with all conditions attached to the permit.

- D. Temporary Mobile Home: Conditional use permit applications for a temporary mobile home while constructing a permanent residence may be granted by the administrator upon the administrator's finding of negative adverse impact.
- E. Aquaculture: In any zone, a conditional use permit shall be required for "aquaculture", which is defined as the commercial raising of fish in a fish hatchery.

 The operation of a processing plant shall be considered a conditional use and must be secondary to the fish hatchery, except in a heavy industrial (HI) zone.
- F. Concurrent Submission: A conditional use permit application may be submitted and reviewed concurrently with other applications affecting the same piece of property, with the approval of the administrator. The administrator may require concurrent submission of a conditional use permit application(s) with other land use applications affecting the same parcel(s) of property. Additional time for review of concurrent applications may be specified by the administrator. Concurrent submissions will be voted on separately.
- G. Wellhead Protection Area: When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the applicant shall provide a report and plans by a qualified Idaho licensed engineer which describe how the project will be designed and constructed to mitigate adverse impacts on potable water source(s). The applicant shall solicit and document the request for written agency comment from Idaho department of environmental quality, and, in addition, written comment from any other appropriate agency, including, but not limited to, owners of public water systems located within the wellhead protection area, if this is determined by the administrator to be necessary before the application is certified as complete and scheduled for public hearing. (Ord. 2012-05, 6-5-2012; Ord. 2011-01, 1-18-2011; Ord. 2010-06, 5-25-2010; Ord. 2006-13, 10-26-2006; Ord. 96-3, 4-8-1996; Ord. 95-2, 3-6-1995; Ord. 93-6, 7-19-1993; Ord. 92-5, 9-14-1992; Ord. 91-9, 7-22-1991; Ord. 90-4, 6-11-1990; Ord. 79-6, 10-10-1979; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-3: STANDARDS FOR EVALUATION:

- A. Review: The commission or the board shall review the particular facts and circumstances of each proposed conditional use in the terms of the following standards and shall find adequate evidence showing that such use at the proposed location:
 - 1. Will, in fact, constitute a conditional use as established for the zoning district involved;
 - 2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or this title;
 - 3. Will be designed, constructed, operated and maintained to be harmonious and 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 same area. All outdoor lighting shall comply with chapter 29A of this title;
 - 4. Will not be hazardous or disturbing to existing or future neighboring uses;
 - 5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - 6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
 - 7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water pollution or safety hazards. Water pollution includes impact to surface and ground water and potable water sources. When the proposed use involves a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the commission shall consider the impact of the project on potable water sources and determine whether there is sufficient information in the record to demonstrate that the project has been designed to mitigate adverse impact to potable water source(s);
 - 8. Will have vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares;
 - 9. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance; and
 - 10. If the applicant or landowner with respect to an application for a conditional use permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528.
- B. Additional Standards: Additional standards for applications for a conditional use permit in the floodplain overlay district are set forth in section <u>9-17-7</u> of this title. (Ord. 2011-01, 1-18-2011; Ord. 2010-06, 5-25-2010; Ord. 2006-13, 10-26-2006; Ord. 2001-03, 3-19-2001; Ord. 96-3, 4-8-1996; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-4: PUBLIC HEARING AND NOTICE:

Each application will be reviewed at a public hearing for which adequate public notice will be given.

- A. Review: Allowing sufficient time to conduct a site visit and write staff reports, the administrator shall then schedule the completed application to be heard by the commission or the board whenever the next regular agenda opening is available and the advertising requirements can be met. If no regular meeting time is available within ninety (90) days of certification, the administrator shall call a special commission meeting, to be held not more than three (3) weeks after the end of the ninety (90) days, to hear the application.
- B. Public Hearing: Prior to granting a conditional use permit, at least one public hearing in which interested persons shall have an opportunity to be heard shall be held.
- C. Notice: Notice of the time, date and place of the hearing and a summary of the proposal shall be given to the general public, local newspaper, purchasers of record, and potable water source owners as follows:
 - 1. Publication: One publication in the official newspaper or paper of general circulation within the county's jurisdiction at least fifteen (15) days prior to the hearing.
 - 2. Notice To Property Owners And Potable Water Source Owners: Notice to property owners or purchasers of record and potable water source owners within:
 - a. The land being considered;
 - b. Three hundred feet (300') of the external boundaries of the land being considered;
 - c. Affected public water system owners when the project is located within a wellhead protection area; and
 - d. Any additional area that the commission, in accordance with subsection C3 of this section, determines necessary.
 - 3. Determination Of Proper Notice: As set forth in Idaho Code, section 67-6512, notice shall be provided to property owners or purchasers of record that may be substantially impacted by the proposed conditional uses as determined by the commission or the board. To implement this statute, the commission or the board shall make a finding at the time the advertised item is to be publicly heard as to whether proper notice was given. If owners or purchaser of record that may be substantially impacted by the proposed conditional uses, as determined by the commission or the board, were not notified, then these entities shall be notified and the hearing continued, as set forth in section 9-25-5 of this chapter.
 - 4. Posting On Premises: A notice sign, as provided by the planning department, shall be posted by the applicant on the premises not less than one week prior to the hearing. The visibility of the on site posting shall be as follows:
 - a. Location Of Posting: Posting location shall be on the property line closest to a public thoroughfare or, if no such thoroughfare exists, on the property line of the nearest adjoining property not owned by the applicant, a property of which the applicant has a proprietary interest, or the government.
 - b. Size Of Notice Sign: Approximately six (6) square feet.
 - 5. Supplying Of Names And Addresses: The applicant is responsible for providing the names and addresses specified in this subsection C.
- D. Notice Requirements For Over Two Hundred Property Owners: When notice is required to two hundred (200) or more property owners or purchasers of record, the following notice procedure shall be used:
 - 1. Prior to the hearing, notice of the time, date and place, as well as a summary of the proposal shall be given to the public. To ensure that the public is properly noticed, this information shall be posted on site and published in the newspaper as follows:
 - a. Newspaper: Fifteen (15) days prior to the hearing the following notice shall be given in the official newspaper and one additional paper of general circulation within the jurisdiction:
 - (1) One publishing.
 - (2) A reasonable sized advertisement, as determined by the administrator, which is not less than two (2) columns by two inches (2"). This advertisement shall be paid for by the applicant and is the applicant's responsibility to submit.
- E. Continuance Of Hearing: In any public hearing on a conditional use permit application, the commission or the board may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required other than that requested by the commission or the board. (Ord. 2006-13, 10-26-2006; Ord. 96-3, 4-8-1996; Ord. 95-2, 3-6-1995; Ord. 92-3, 5-11-1992; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-5: ACTION BY THE COMMISSION OR THE BOARD:

A. Conditions: The commission or the board shall enter an order approving, conditionally approving or disapproving the application within thirty one (31) days after conclusion of the public hearing together with the reasons therefor. Conditional uses are subject to the conditions specified prior to issuance of their permits. Conditions which may be attached include, but are not limited to, those which will:

- 1. Minimize adverse impact on other development.
- 2. Control the sequence, timing and duration of development.
- 3. Assure that development is maintained properly.
- 4. Designate the exact location and nature of development.
- 5. Require the provision for on site or off site public facilities or services.
- 6. Mitigate foreseeable social, economic, fiscal and environmental effects, including the effect on potable water sources when the project is located within a wellhead protection area. The commission may impose reasonable conditions of approval to protect the surface and/or ground water from contamination, including, without limitation, the installation by the applicant of monitoring wells and the granting of easements relating to such wells.
- 7. Require more restrictive standards than those generally required in this title.
- B. Gravel Or Shale Pit Conditions: Permits for gravel or shale pits may be granted subject to the following specific conditions:
 - 1. Permits shall be granted for a period of two (2) years or less.
 - 2. Excavation shall take place no closer than ten feet (10') from any property line or right of way.
 - 3. Excavation and hauling of gravel shall be operated only between seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., or confined to weekdays unless exceptions for special project require longer hours or weekend and holiday work.
 - 4. All topsoil must be stockpiled to be used to restore the excavation area at the termination of the permit. Excavated areas shall be back sloped and smoothed and all traces of excavation shall be removed.
 - 5. The minimum distance from any natural stream shall be established by the commission or the board.
 - 6. Access roads may be required to be paved if the use of any unpaved access road would interfere with the health and safety of others or interfere with the enjoyment of residential or recreational property rights.
 - 7. All uses in connection with the gravel pit shall set back at least one hundred feet (100') from any major arterial.
 - 8. All uses shall be subject to most recent state and federal air pollution regulations.
- C. Floodplain Overlay District Conditions: Conditions attached to conditional use permits in the floodplain overlay district are described in subsection <u>9-17-7</u>F of this title.
- D. Public Works Asphalt Plants And Gravel And Shale Pit Conditions: Permits for public works asphalt plants and public works gravel or shale pits may be granted subject to the following specific conditions:
 - 1. The scrubbing ponds and all fuel material tanks, used with public works asphalt plants, shall be placed over lined pits capable of preventing any seepage into the ground, watercourses or water table.
 - 2. All uses shall be subject to the most recent state and federal EPA, OSHA and air pollution standards.
 - 3. A restoration plan shall be filed with each application. Restoration work shall be completed within one growing season after the completion of the project.
 - 4. An application shall contain:
 - a. A proposed timetable for each phase of the use;
 - b. A statement indicating the need for the use and the approximate savings to be had over using an established nontemporary site for the public works asphalt plant or public works gravel or shale pit, so the commission or the board may evaluate the need for the temporary site;
 - c. A statement indicating how such a temporary use will serve the public interest; and
 - d. A statement agreeing that no permanent change in the temporary site will take place other than the changes which take place with the removal of gravel.
 - 5. Any other condition deemed appropriate in subsections A and B of this section. (Ord. 2011-01, 1-18-2011; Ord. 2006-13, 10-26-2006; Ord. 96-3, 4-8-1996; Ord. 95-2, 3-6-1995; Ord. 92-5, 9-14-1992; Ord. 90-4, 6-11-1990; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-6: NOTIFICATION BY THE ADMINISTRATOR:

Written notice of the commission's or board's decision shall be delivered to the applicant within ten (10) days after the commission or the board has adopted the findings of fact and conclusions of law. (Ord. 96-3, 4-8-1996; Ord. 92-3, 5-11-1992; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-7: APPEALS PROCESS:

A decision by the commission on a conditional use permit application may be appealed to the board through the process specified in section <u>9-32-4</u> of this title. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-8: EXPIRATION AND RENEWAL:

- A. Periodic Review: It is recognized that certain types of conditional uses have the potential to become public nuisances if mismanaged or operated improperly. Periodic review of such conditional uses is therefore desirable. As a result, conditional use permits for gravel or shale pits, concrete batch plants, mills refining mineral ore, temporary mobile homes, feedlots, processing plants, bulk storage of flammable liquids or gases and solid waste incineration shall expire two (2) years after their issuance or most recent renewal.
- B. Evaluation, Review: Conditional use permits for public works gravel or shale pits and public works asphalt plants shall expire one year after the scheduled starting date of the conditional use and the commission or the board shall specify the duration and starting date of any public works gravel or shale pit and public works asphalt plant. In determining the duration and starting date, the commission or the board shall evaluate the proposed conditional use on a site and project specific basis, predicated on the scope of the project and the location of the temporary use. In the event there is an unexpected delay in any project requiring public works gravel or shale pits and public works asphalt plant, the applicant shall return to the administrator for any extension of the conditional use, so long as the commission or the board previously permitted renewal by the administrator and the renewal is within the guidelines previously set by the commission or the board. Otherwise, any renewal must be reviewed by the commission or the board. In any event, renewal is allowed only if the applicant has complied with all the conditions of the conditional use permit. (Ord. 96-3, 4-8-1996; Ord. 92-5, 9-14-1992; Ord. 90-4, 6-11-1990; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-25-9: SPECIAL PROVISION:

- A. Nonbinding Precedent: The issuance of a conditional use permit shall not be considered a binding precedent for the issuance of other conditional use permits.
- B. Nontransferable: A conditional use permit is not transferable from one parcel of land to another. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 26 RECLASSIFICATION OF A ZONING DISTRICT (REZONE)

9-26-1: APPLICATIONS FOR REZONES:

Any person may submit an application for a reclassification of the zoning district to which property is subject, with or without a development agreement, provided such person is the owner of the property or possesses a legally binding option to purchase such property. Any such application shall be governed by the provisions of this chapter. The commission or the board may initiate amendments effecting a reclassification or rezone of property pursuant to the provisions of chapter 31 of this title.

Reclassifying to an inactive zoning district (i.e., R-.4 and $R-^{1}/_{4}$) is not permitted. (Ord. 2006-15, 10-26-2006; Ord. 98-3, 4-13-1998; Ord. 94-2, 4-4-1994; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-2: APPLICATIONS FOR RECLASSIFICATION:

A. Form And Content: Any person seeking a reclassification or a reclassification with a development agreement shall apply to the commission on a form provided by the administrator, accompanied by the fees in section <u>9-3-9</u> of this title.

- 1. Reclassification: An application for a reclassification shall include:
 - a. A vicinity map showing the lots and parcels on the property in question, on all property within three hundred feet (300') of the exterior boundaries of the property in question and any additional area, as determined by the commission, that may be impacted by the proposed change; and
 - b. A list of names and addresses of the owners of each parcel required to be included on the vicinity map.
- c. When the area to be rezoned is located within a wellhead protection area, the applicant for a rezone shall identify on a map the ten (10) year, six (6) year, three (3) year time of travel zone of the public water system in which the property is located, and all potable water sources within three hundred feet (300') of the boundary of the property being considered.
- d. When the proposed zoning district allows permitted or accessory uses that may involve a potential contaminant source or potential contaminant as set forth in appendix A of this title, on file in the county, and is located within a wellhead protection area, the applicant shall solicit and document the request for written agency comment from Idaho department of environmental quality, and, in addition, written comment from any other appropriate agency, including, but not limited to, owners of public water systems located within the wellhead protection area, if this is determined by the administrator to be necessary before the application is certified as complete and scheduled for public hearing.
- 2. Reclassification With Development Agreement: An application for a reclassification with a development agreement shall include:
 - a. The name, address and phone number of the applicant(s);
 - b. The present and proposed land use including roadways;
 - c. The present and proposed zoning and overlay districts;
 - d. A vicinity map showing the lots and parcels on the property in question, all property within three hundred feet (300') of the exterior boundaries of the property in question and any additional area, as determined by the commission, that may be impacted by the proposed change;
- e. A list of names and mailing addresses of the owners of each parcel required to be included on the vicinity map and the name and mailing address of any affected potable water source owner;
- f. A proposed site plan showing at a minimum:
 - (1) Property lines, scale and north arrow;
 - (2) Location and width of rights of way, easements, canals and ditches;
 - (3) Building locations;
 - (4) Traffic access and circulation;
 - (5) Parking, loading and snow removal areas;
 - (6) Open space and landscaping;
 - (7) Existing and proposed grade(s);
 - (8) Refuse and service areas;
 - (9) Utilities and signs;
 - (10) Rendering of building exteriors; and
 - (11) Any additional materials the administrator considers necessary such as those set forth in subsection 10-4-3F and section 10-6-10 of this code.
- g. A list of required permits;
- h. The phasing of the project, time of commencement and completion;
- i. The phasing of supporting public facilities:
- j. A statement setting out how the public would benefit from the project; and
- k. When the area to be rezoned is located within a wellhead protection area, the applicant shall identify the ten (10) year, six (6) year, three (3) year time of travel zone of the public water system in which the property is located, and all potable water sources within three hundred feet (300') of the boundary of the property being considered. The applicant shall also identify proposed uses that may involve a potential contaminant source or potential contaminant as set forth in appendix A attached to the ordinance codified herein, on file in the county. The applicant shall solicit and document the request for written agency comment from Idaho department of environmental quality, and, in addition, written comment from any other appropriate agency, including, but not limited to, owners of the public water systems located within the wellhead protection area, if this is determined by the administrator to be necessary before the application is certified as complete and scheduled for public hearing.
- I. Such other information that the administrator considers necessary.
- B. Screening: In granting rezone applications for light industrial and commercial uses, the board shall require the zones to be visually screened. The cost of the screening is to be borne by the individual(s) obtaining the rezone.

C. Additional Information For Light Industrial Zoning: Prior to any consideration of a rezone application for light industrial zoning, the board shall require the following information:

- 1. A statement describing how the proposed light industrial area will provide expanded employment opportunities in the county.
- 2. Information tending to show that the economic benefit of a proposed light industrial area will outweigh the cost of providing services to the area concerned at taxpayer expense.
- 3. Information tending to show that additional light industrial lands are necessary in light of the unavailability of sufficient land zoned for light industrial uses located either in incorporated or unincorporated areas of the county.
- 4. A statement describing detrimental and/or beneficial impacts on existing adjacent lands and uses.
- 5. Design plan which shows:
 - a. Existence of natural screening, or the provision of reasonable alternatives, to give separation of the proposed light industrial use from surrounding existing uses. The cost of the screening is to be borne by the individual(s) obtaining the industrial rezone.
 - b. Employee and service traffic flow to and within the proposed light industrial area, and the parking facilities to be provided on site.
 - c. Location of utilities (water, sewer, gas and electricity).
 - d. Proposed layout of building(s), including lot coverage and building area.
 - e. Plans for snow removal. (Ord. 2006-13, 10-26-2006; Ord. 94-2, 4-4-1994; Ord. 92-3, 5-11-1992; Ord. 81-3, 8-24-1981; Ord. 79-4, 9-11-1979; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-3: PUBLIC HEARING AND NOTICE:

- A. Hearing Date: Once the administrator certifies that an application for reclassification of a zoning district is complete, and allowing sufficient time to conduct a site visit and write staff reports, the administrator shall schedule the application to be heard by the commission at the next available regular commission meeting date for which public notice requirements can be met. If a hearing before the commission cannot otherwise be held during a regularly scheduled commission meeting within one hundred eighty (180) days of certification, the administrator shall call a special commission meeting, to be held not more than three (3) weeks after the end of the one hundred eighty (180) days, to hear the application.
- B. Publication Of Notice: Notice of the time, date and place of the hearing, and a summary of the proposal shall be given by one publication in a newspaper of general circulation in the county at least fifteen (15) days prior to the hearing. The commission shall also make available a notice to other newspapers, radio and television stations serving the county for use as a public service announcement. Notice of the proposed amendment shall be sent to all political subdivisions providing services within the county, including school districts, at least fifteen (15) days prior to the public hearing scheduled by the commission.
- C. Mailing Of Notice: The administrator shall also give notice by United States mail to each property owner or purchaser of record within the land being considered and within three hundred feet (300') of the external boundaries of the land being considered, and within any additional area that may be impacted by the proposed change as determined by the commission, giving the time, date and the place of the hearing, the relief or other action sought by the applicant, and an identification of the property under consideration. The applicant is responsible for providing the administrator a list of the names and addresses of property owners and purchasers of record within the land being considered and within three hundred feet (300') of the external boundaries of the land being considered. When the land being considered is located in a wellhead protection area, the name and address and mailing label(s) shall be provided for all affected potable water source owners.
- D. Posting Of Notice: Notice shall also be posted on the land being considered as provided by chapter 31 of this title.
- E. Alternative Forms Of Notice: When notice is required to two hundred (200) or more property owners or purchasers of record for reclassification of the zoning district to which property is subject under this chapter, alternative forms of notice in lieu of posted or mailed notice may be provided as set forth in chapter 31 of this title.
- F. Continuance Of Hearing: In any public hearing on a reclassification of the zoning district to which property is subject, the commission may order the hearing to be continued. If during any such public hearing the hearing is continued to a specific date, time and place within thirty one (31) days, no further published notice shall be required. (Ord. 2006-13, 10-26-2006; Ord. 98-3, 4-13-1998; Ord. 95-2, 3-6-1995; Ord. 94-2, 4-4-1994; Ord. 92-3, 5-11-1992; Ord. 81-3, 8-24-1981; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-4: CRITERIA FOR REVIEW:

- A. In acting upon an application for a reclassification or a reclassification with a development agreement, the commission shall first determine whether the proposal is in accordance with the comprehensive plan text and map.
- B. If the application is determined to be in accordance with the comprehensive plan text and map, the board shall then consider, at least, the following criteria:
 - 1. Accuracy: Whether there was a mistake in the original zoning, or a map amendment to the MOD is warranted under subsection B11 of this section.
 - 2. Change: Whether there has been a change in the surrounding neighborhood since the existing zoning was adopted.
 - 3. Special Planning Area: Whether this or any adjoining property has been designated a special planning area on the county zoning map.
 - 4. Effect On Public: To what extent the public health, safety, or general welfare may be adversely affected by the reclassification.
 - 5. Conformity: Whether present zoning classifications are in conformity with existing uses of adjacent property.
 - 6. Availability Of Services: Whether central water and sewer services are available.
 - 7. Map Amendment Satisfied: Whether the relevant sections of chapter 31 of this title regarding a map amendment have been satisfied.
 - 8. Development Agreement: Whether a development agreement that includes stricter regulations than those applicable to the proposed zoning district generally should be required as a condition of rezoning the subject parcel. See section <u>9-26-8</u> of this chapter for the additional requirements that apply to a reclassification with a development agreement.
 - 9. Location Of Rezone: When the rezone is located within a wellhead protection area, it may only be granted if best management practices will be taken to mitigate the risk of contamination of public water systems and potable water sources.
 - 10. Light Industrial District Rezones: Additional criteria for proposed light industrial rezones, unless satisfactorily addressed by a development agreement, shall include, but are not necessarily limited to, the following:
 - a. Before approving any rezone application for a light industrial zone, the board shall find that the following required standards are met:
 - (1) Maintenance of the Highway 75 view corridor by not allowing industrial rezones within one thousand feet (1,000') of the Highway 75 right of way except when they are to be located adjacent and contiguous to an existing light industrial zone in or adjacent to the cities. In situations where the topography indicates that a smaller setback will ensure maintenance of the view corridor, reasonable flexibility may be allowed.
 - (2) Allowance of only one access off of Highway 75.
 - (3) Location of the property outside identified hazard areas such as floodplain or avalanche zones with the exception of the airport vicinity overlay district.
 - (4) Existence of natural screening or the provision of reasonable alternatives to give separation from existing uses.
 - (5) Minimum size of area to be rezoned is ten (10) acres, unless it is to be located adjacent and contiguous to an existing light industrial zone in or adjacent to the cities.
 - (6) Location of the proposed light industrial area outside of land zoned as A-20 or A-40 (productive agriculture).
 - b. In considering any rezone application for a light industrial zone, the board shall consider the following factors as favoring the application:
 - (1) Utilization or substitution of an existing access off of Highway 75.
 - (2) Location adjacent to existing industrial uses in the cities.
 - (3) Accessibility of proposed area to employee and product transportation lines.
 - (4) Provision of expanded employment opportunities in the county.
 - (5) Be economically beneficial to the county when compared to the cost of county services needed.
 - c. In considering any rezone application for a light industrial zone, the board shall consider the following factors as being unfavorable to the application:
 - (1) Utilization of residential accesses to serve the industrial area.
 - (2) Location of the proposed industrial area outside of and not adjacent to any incorporated or unincorporated town sites.
 - 11. Mountain Overlay District (MOD) Rezones: Boundary modifications are of a topographic nature and therefore may impact more than one parcel or an area greater than identified in the current application. In addition to considering the general rezone standards set forth above in this section, before approving any rezone application for the mountain overlay district (including any land in the SC1), with or without a development agreement and after a site visit and a review of all pertinent materials, the board shall find that each of the following required standards are met:
 - a. The rezone is in accordance with the intent and purposes of the MOD regulations described in chapter 21 of this title; and
 - b. The rezone consists of one of the following:
 - (1) All land of less than twenty five percent (25%) slope contiguous to land outside of MOD where the MOD boundary was created by slopes falling

within the floodplain overlay or riparian setback district, or the bank of a river or stream named in the national hydrography data set attached as exhibit AA, dated July 8, 2010, to the ordinance codified herein, or

- (2) All land of less than twenty five percent (25%) slope contiguous to land outside of MOD where the MOD boundary was exclusively created by the isolated artificial slopes falling within the right of way or thirty feet (30') from the centerline of a manmade road cut; or
- (3) All land of less than twenty five percent (25%) slope contiguous to land outside of MOD, within a discrete drainage, traversed by a dedicated, paved and accepted county road or a road designated as eligible for improvement under a county approved master plan.
- 12. Standards And Criteria: If the applicant or landowner with respect to an application for a rezone under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528. (Ord. 2011-01, 1-18-2011; Ord. 2010-10, 12-7-2010; Ord. 2006-13, 10-26-2006; Ord. 2006-08, 6-29-2006; Ord. 2001-03, 3-19-2001; Ord. 94-2, 4-4-1994; Ord. 81-3, 8-24-1981; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-5: ACTION BY THE COMMISSION:

- A. Entry Of Order: The commission shall enter an order recommending for or against the application within fifteen (15) days after conclusion of the public hearing, together with the reasons therefor.
- B. Expansion Of Boundaries; Second Hearing: The commission shall have the option to recommend the expansion of the boundaries of any application to the board after the initial public hearing. In such a case, a second public hearing must be held to consider the revised boundaries, after giving public notice in the same manner prescribed above.
- C. Notice Of Second Hearing: In such case, the administrator shall determine the names and addresses of the owners of each parcel of land within three hundred feet (300') of the amplified boundaries and notify them by United States mail of the upcoming hearing. (Ord. 94-2, 4-4-1994; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-6: NOTIFICATION BY ADMINISTRATOR:

- A. Notice Of Recommendation: The administrator shall give the applicant written notice of the commission's recommendation by certified mail within ten (10) days after the commission has reached a decision.
- B. Filing Of Recommendation: The administrator shall file the commission's written recommendation with the county clerk within ten (10) days after such recommendation has been made. (Ord. 94-2, 4-4-1994; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-7: ACTION BY BOARD:

- A. Schedule Public Hearing: After receipt of the commission's recommendation, the board shall schedule at its earliest convenience a public hearing that complies with the requirements of section 9-26-3 of this chapter.
- B. Adoption Of Motion: The board shall adopt a motion with written findings approving, disapproving or modifying the commission recommendation. If the board decides to modify the commission recommendation after the public hearing, it shall follow the procedure set out in subsection 9-26-5B of this chapter. (Ord. 94-2, 4-4-1994; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-8: ADDITIONAL REQUIREMENTS FOR RECLASSIFICATION WITH DEVELOPMENT AGREEMENT:

Pursuant to Idaho Code section 67-6511A, the additional requirements of this section shall apply to any written agreements between the county and an owner or an owner's authorized agent made as a condition of reclassifying a specific parcel of property; and furthermore, compliance with these additional requirements does not obligate the commission to recommend or the board to adopt any reclassification proposal. Nothing in this section shall be construed as relieving any property which is subject to a development agreement from complete compliance with all other applicable permit and code requirements.

A. Standards Of Review: In addition to the criteria set forth in section <u>9-26-4</u> of this chapter, the commission shall determine whether the application for a reclassification with a development agreement:

- 1. Is compatible with the uses authorized in, and the regulations prescribed for, the proposed zoning district;
- 2. Is compatible with surrounding zoning districts, or whether reasonable conditions can sufficiently mitigate any incompatible use;
- 3. Will not adversely impact public services such as fire, water, sewer, police, schools, transportation, or other entities; or whether exaction/impact requirements need to be added beyond those required by any other applicable county ordinances;
- 4. Will not adversely impact the orderly development of land;
- 5. Complies, to the extent applicable, with title 10, chapters 4, "Procedure For Approval And Plat Contents", and 6, "Planned Unit Developments", of this code:
- B. Agreement Terms, Conditions Or Obligations: In acting upon an application for a reclassification with a development agreement, the commission may require any additional term, condition or obligation it deems reasonable to address the specific circumstances of the application, the standards in section 9-26-4 of this chapter and subsection A of this section, or the general purposes of this title.
- C. Recording Of Development Agreements: At the applicant's expense, an approved development agreement or any subsequent modification shall be recorded in the Blaine County recorder's office. Proof of recording must be submitted by the applicant prior to finalizing any rezoning decision. All the development agreement terms, conditions, duties, or any modifications shall run with the land and shall bind each owner of the parcel, each subsequent owner, and each other person acquiring an interest in the property.
- D. Modification Of Development Agreements:
 - 1. Any proposal to modify a development agreement shall require a public hearing that complies with the hearing and notice requirements set out in section 9-26-3 of this chapter; and
 - 2. Except as provided in subsection E of this section, a zoning classification adopted pursuant to a request by a property owner shall not be changed for a period of four (4) years without the consent in writing of the current property owner.
 - 3. Subject to subsection D2 of this section, the county may initiate a development agreement modification if it can demonstrate that:
 - a. Subsequent applicable legislation is essential to protect the health, safety and welfare of the public;
 - b. Relevant circumstances have changed materially since the development agreement was executed;
 - c. The development agreement was based on materially inaccurate information; or
 - d. The property owner or their authorized agent has failed to comply with any development agreement term, condition or duty.
 - 4. Any major modification, as determined by the planning director, shall require a public hearing by the commission and the board. A minor modification shall require a public hearing only by the board.
- E. Enforcement Or Termination Of Development Agreements: The county shall periodically review a project through completion to ensure compliance with the terms of the development agreement. If it appears that there is a breach of any term of the agreement, the county has the option of enforcing the terms of the agreement or seeking termination of the agreement. The county shall recover from the property owner any engineering or professional service costs necessary to complete this review and any costs associated with an enforcement or termination action.
 - 1. Enforcement Of Development Agreements: The county may enforce a development agreement by any means appropriate at law or in equity, including, but not limited to, specific enforcement, injunctive relief, damages for violation of this chapter.
 - 2. Termination Of Development Agreements: The board, after a public hearing that complies with the notice and hearing requirements, may terminate a development agreement when a party fails to comply with any of its terms, conditions, or obligations. Failure to comply with the terms, conditions or obligations of a development agreement shall be deemed consent to rezone the land back to the preexisting zone. Only those uses in the original zoning district shall be allowed to continue so long as the conditions of approval in the original zoning district are satisfied. (Ord. 94-2, 4-4-1994; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-26-9: RESUBMITTAL:

No application for the reclassification of a piece of property which has been denied by the board or withdrawn by the applicant shall be resubmitted in less than one year from the date of final action thereon. (Ord. 94-2, 4-4-1994; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 27 NONCONFORMING USES AND BUILDINGS

9-27-1: PURPOSE:

It shall be the policy of this Chapter to allow the continuation of existing nonconforming uses and buildings, but not to encourage their survival or allow an increase in size or intensity of use. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-2: CONTINUATION OF USE:

A nonconforming use or building may be continued except as elsewhere provided in this Chapter. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-3: CHANGE OF USE:

A nonconforming use may be changed to a conforming use. A nonconforming use may not be changed to another category of nonconforming use. Categories of use as recognized and defined by this Chapter are: 1) Commercial, 2) Industrial and 3) Residential. Nothing in this Section shall be construed to allow an expansion of a nonconforming use as described in Section 9-27-4. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-4: EXPANSION OF USE:

Nonconforming uses and buildings shall not be enlarged or extended after passage of this Title. Criteria used to determine enlargement or extension shall include, but are not limited to, hours of operation, square footage of building or use space, traffic generated, area of land covered, volume of goods handled and number of dwelling units. A nonconforming use shall not be used as justification for adding other structures or uses prohibited in the same district. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-5: DISCONTINUANCE OF USE:

If active and continuous operations are not carried on in a nonconforming use during a continuous period of six (6) months, the building or tract of land shall thereafter be used only for a conforming use. Intent to resume active operation shall not be considered active and continuous operation unless written intent of continuation, including a timetable therefor, is filed with the Board within the six (6) month period. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-6: REPAIR:

- A. Ordinary Repair Work: On any nonconforming structure, or portion of a structure containing a nonconforming use, ordinary repair work may be done, including repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the structure's volume when it became nonconforming shall not be increased. (Ord. 77-5, 3-28-77, eff. 4-7-77)
- B. Reduction Of Nonconformity: Any structural alteration that would reduce the degree of nonconformity or change the use to a conforming use is permitted. (Ord. 79-4, 9-11-79; Ord. 77-5, 3-28-77, eff. 4-7-77)
- C. Unsafe Condition: Any structure containing a nonconforming use, or any nonconforming building or portion thereof, declared unsafe by the Building Inspector may be strengthened or restored to safe condition. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-7: RESTORATION:

A nonconforming building or a building containing a nonconforming use which has been damaged by natural causes may be restored to its original condition,

provided such work is started within six (6) months of such damage. A nonconforming building or use that is moved or torn down by the owner cannot be replaced. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-27-8: SINGLE NONCONFORMING LOTS OF RECORD:

- A. Yard Dimensions And Requirements: In any district in which single-family dwellings are permitted, a single-family dwelling and accessory building may be erected on any single lot of record at the effective date of adoption or amendment hereof, except where such lots are located in the floodplain overlay district or other identified hazardous areas and thereby limited. This provision shall apply even though such lot fails to meet the requirements for lot area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.
- B. Undersized Lot: A residential building on an undersized lot shall not be considered a nonconforming building provided the building meets the bulk and setback requirements in that district. (Ord. 2011-01, 1-18-2011; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-27-9: NONCONFORMING LOTS OF RECORD IN COMBINATION:

- A. If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage hereof and if all or part of the lots with no buildings do not meet the requirements established for lot width or area, the lands involved shall be considered to be an undivided parcel for the purposes of this title and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this title, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this title.
- B. All lots in platted subdivisions which have been approved and filed for recording with the Blaine County recorder shall be exempted from subsection A of this section. (Ord. 2012-07, 10-9-2012)

9-27-10: EXISTING ILLEGAL USES AND BUILDINGS:

All buildings and uses that existed prior to the adoption of the ordinance codified in this title and that were, at that time, in violation of the then existing state statutes or county zoning regulations shall not be considered to be either nonconforming uses or nonconforming buildings. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 28 OFF STREET PARKING AND LOADING FACILITIES

9-28-1: PURPOSE:

Accessory parking and loading facilities shall be provided as required herein for every building and structure erected and every land use established after the effective date hereof. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-2: OFF STREET PARKING REQUIRED, BY USE TYPE:

A. Off Street Parking Required:

- 1. Off street parking spaces, each containing at least one hundred eighty (180) square feet, shall be required in all districts for all uses minimally at the rates established in subsection B of this section for each use. Parking requirements for a use not specifically listed shall be the same as for a use specified below which has similar traffic generating characteristics as determined by the county.
- 2. Minimum parking stall and aisle dimensions are as follows:



Angle	Width	Length	Aisle Width	
90 degrees	9.0 feet	18 feet	24 feet	
60 degrees	9.0 feet	21 feet	18 feet	
45 degrees	9.0 feet	19.8 feet	15 feet	
Parallel	8.0 feet	23 feet	-	

- 3. All area counted as off street parking space shall be unobstructed and kept clear of snow and free of other uses and snow storage.
- 4. Unobstructed access to and from a street shall be provided for all off street parking space.
- All off street parking spaces shall be surfaced with asphalt, concrete, compacted gravel or other dustless material and shall be routinely maintained. Compatibility with surrounding area and uses shall be encouraged.
- 6. Off street parking spaces may be provided in areas designed to serve jointly two (2) or more buildings or users provided that the total number of off street parking spaces shall not be less than that required by this section for the total combined number of dwelling units and uses.
- 7. No part of an off street parking space required for any building or use for the purpose of complying with the provisions of this section shall be included as a part of an off street parking space similarly required for another building or use.
- 8. No required off street parking space may be converted for any other use unless an equivalent amount of additional parking space is provided.
- 9. When the calculation of the required number of spaces called for in this section results in a fractional number, fractions equal to or greater than one-half (1/2) shall be adjusted to the next higher whole number of spaces.
- 10. Lighting used to illuminate off street parking areas shall comply with chapter 29A of this title.

B. Parking Spaces Required By Type Of Use:

- 1. Residential: Additional visitor parking may be required for any of the following uses:
 - a. Single-family or two-family dwellings: Two (2).
 - b. Apartments or multi-family dwellings: One and one-half (1¹/₂) per dwelling unit.
 - c. Boarding houses, rooming houses, dormitories: One for each sleeping room.
 - d. Mobile/manufactured home park, subdivision, and PUD: One and one-half (11/2) per mobile/manufactured home.
 - e. Community buildings and facilities in community housing and other planned unit or similarly planned developments: One per one thousand four hundred (1,400) square feet of gross floor area.

2. Commercial:

- a. Service stations and repair garages: One for each two (2) gas pumps and two (2) for each service bay.
- b. Hotels, motels, tourist homes: One per sleeping room, plus one space for each two (2) employees.
- c. Funeral parlors, mortuaries: One for one hundred (100) square feet of parlors or service rooms.
- d. Restaurants, taverns, nightclubs: One for each two hundred (200) square feet of floor.
- e. Bowling alleys: Four (4) for each lane plus one per two hundred (200) square feet of restaurant/cocktail lounge.
- f. Auditoriums, arenas, theaters: One for each four (4) seats.
- g. Retail stores: One for each two hundred fifty (250) square feet of floor area.
- h. Offices, administration buildings: One for each three hundred (300) square feet of floor area.
- 3. Public and semipublic uses:
 - a. Churches: One for each four (4) seats.
 - b. Hospitals: One for every two (2) beds plus employees' parking.
 - c. Nursing homes, homes for the aged: One for every four (4) beds plus employees' parking.
 - d. Medical and dental clinics: One for every two hundred (200) square feet.
 - e. Elementary and junior high schools: Two (2) for each classroom and a minimum of six (6) per building

4. Industrial: All types of manufacturing, storage, wholesale, distribution: One for every two (2) employees on the large shift for which the building is designed plus one for every motor vehicle used in the business. (Ord. 2012-05, 6-5-2012; Ord. 2010-06, 5-25-2010; Ord. 2004-02, 5-3-2004; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-3: ACCESS:

All spaces must have unobstructed access to and from streets and alleys by means of a driveway not less than ten feet (10') wide. Parking areas shall be designed in such a manner that any vehicle leaving or entering the parking area from or onto a public or private street shall be traveling in a forward motion. Access driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or leaving such area shall be clearly visible by a pedestrian or motorist approaching the access or driveway from a public or private street. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-4: SURFACE AND DRAINAGE:

Off street parking and loading areas shall be surfaced with asphalt, concrete, compacted gravel, crushed rock or other dust free durable material. Drainage of surface water adequate to prevent flows of water onto adjacent properties or walkways shall be provided. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-5: LIGHTING:

Any lights used to illuminate a parking area shall comply with chapter 29A of this title. (Ord. 2010-06, 5-25-2010)

9-28-6: DESIGN AND LOCATION:

Whenever a new parking or loading area is located in or adjacent to a residential area, it shall be effectively screened on all sides which adjoin or face any property used for residences by a wall, fence or planting screen not less than four feet (4') in height. The space between such fence, wall or planting screen and the lot line of the adjoining premises in any residential district shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition.

- A. No part of any parking area for more than ten (10) vehicles shall be closer than twenty feet (20') to any dwelling unit, school, hospital, or other institution for human care located on an adjoining lot.
- B. Parking spaces for commercial, industrial or institutional uses shall be located not more than four hundred feet (400') from such use.
- C. Parking spaces for apartments, dormitories or multi-family dwellings shall be located not more than three hundred feet (300') from such use. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-7: JOINT USE:

When times of use for several buildings do not normally overlap, off street parking may be provided collectively and used jointly, after obtaining approval from the commission. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-8: INTENSITY OF USE INCREASES AND CHANGE OF USE:

A. Increase In Use: When the intensity of any use of any building, structure or premises is increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement as specified in subsection 9-28-2B of this chapter requiring parking or loading facilities, parking and loading facilities as required herein shall be provided for such increased intensity of use.

B. Change In Use: When the existing use of a building shall be changed to an entirely new use, parking and loading facilities shall be provided as required for such new use. If the building was erected prior to the effective date hereof, additional parking and loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of this chapter.

C. Conversion Of Space: No required off street parking space may be converted to any other use unless an equivalent amount of additional parking space is provided. (Ord. 2004-02, 5-3-2004; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-28-9: OFF STREET LOADING FACILITIES:

Adequate off street loading spaces for commercial, industrial and institutional uses shall be provided so that loading need not take place from public streets. Off street loading facilities shall not project into the public right of way or setback area. They shall be conveniently accessible from streets and alleys. The required off street loading berths shall not be part of the same area used to satisfy the off street parking requirements. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 29 SIGNS, LIGHTING AND FENCES

9-29-1: PURPOSE:

It is the purpose of this chapter to regulate the use of signs, fences, billboards and lighting to ensure maximum visibility along streets and highways, to promote traffic safety, to protect property values, to provide visibility for signs for public and private purposes and to preserve and enhance the natural beauty and aesthetic values of the county.

A certain character has been established in Blaine County and should be maintained through the use of indigenous materials, for example, wood, rock and earth tone colors. (1996 Code; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-29-2: RESTRICTIONS:

- A. Signs shall only identify or advertise uses conducted on the same premises, unless approved under section 9-29-4 of this chapter.
- B. It shall be unlawful for any person to erect, construct, alter, maintain or use any sign except as provided for in this chapter.
- C. No sign shall be placed in any public right of way except:
 - 1. Public signs, such as traffic control and directional signs.
 - 2. Subdivision signs at the entrance to subdivisions to which the primary access is a public road, if the sign:
 - a. Has been granted a right of way permit for an encroachment by Blaine County road and bridge department, and
 - b. Includes a visible indication that the road is a public road.
- D. Moving, revolving, flashing, intermittent or oscillating signs, parts or lights shall not be permitted.
- E. Signs shall not look similar to devices controlling public traffic or to impair the safety of a moving vehicle by distracting or obstructing the vision of the driver.
- F. Signs shall be maintained in good repair at all times. Abandoned signs no longer in use shall be removed and the area returned to its natural state.
- G. A sign permit must be applied for and approved for signs being placed under subsections <u>9-29-3</u>C, D, E, F and I of this chapter. Criteria for these signs shall be found in the applicable subsections of sections <u>9-29-1</u> through <u>9-29-5</u> of this chapter.

H. No more than one freestanding sign may be placed on a parcel. (Ord. 2013-04, 11-12-2013; Ord. 2010-03, 1-19-2010; Ord. 77-5 as amended; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-29-3: PERMITTED SIGNS FOR USES CONDUCTED ON THE SAME PREMISES:

- A. Customary residential, professional and home occupation signs, not to exceed two (2) square feet in surface area, may be erected in any district.
- B. One single freestanding or wall sign, nonilluminated, not to exceed six (6) square feet in surface area, when advertising sale or rental of a lot, a business or home, may be erected in any district, farms and ranches may be advertised by "for sale" signs up to ten (10) square feet in area.
- C. One permanent, indirectly lit or unlit, identification sign with a surface area not to exceed fifteen (15) square feet, shall be allowed for a subdivision. Setbacks from Highway 75 or other arterials shall be a minimum of thirty five feet (35') from the adjacent edge of the right of way. Other road setbacks shall be as per this title.
- D. One identification sign per public use shall be allowed, provided such sign does not exceed twenty (20) square feet in surface area and is indirectly lit or unlit.
- E. One informational sign in conjunction with commercial or industrial uses, provided that the surface area of the largest side does not exceed twenty (20) square feet. Setback for light industrial zones is a minimum of thirty five feet (35') from the adjacent edge of the right of way.
- F. Agricultural businesses are allowed one sign not larger than twenty (20) square feet in surface area.
- G. Signs advertising the sale or rental of a lot, home or business abutting State Highway 75 may be located in any district with a twenty five foot (25') setback providing that only one sign per lot, home or business is used.
- H. A ranch identification sign incorporated into the entry gate shall be allowed.
- I. Posting notices may be erected anywhere on a parcel of land as long as they are spaced no closer than the minimum spacing provided by state of Idaho laws and the sign surface face does not exceed one square foot.
- J. One permanent, unlit sign with a surface area not to exceed fifteen (15) square feet when advertising all lots for sale in a specific subdivision shall be allowed in any district. The sign shall be temporary, and shall be located on the subdivision property. The sign shall meet requirements of section 9-29-5 of this chapter. Permission for the sign shall be granted by the administrator for a one year period, and may be renewed for one year additional periods. (Ord. 2010-03, 1-19-2010; Ord. 77-5 as amended; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-29-4: SIGNS PERMITTED AS A CONDITIONAL USE IN ANY DISTRICT:

Off site, nonilluminated directional signs for identification of commercial, residential, tourist, recreational or cultural uses as warranted by size and remote location of the use with a maximum of six (6) square feet. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-29-5: DIMENSIONAL, STRUCTURAL AND LOCATION REQUIREMENTS:

A. Signs shall be subject to the setback requirements of the use district in which they are located except as indicated in subsections <u>9-29-3</u>C, E, and G of this chapter.

- B. A freestanding sign shall not project above the building height of the nearest building to which the sign pertains. In no case shall the height of the sign exceed fifteen feet (15') from the ground level to sign top.
- C. No lettering on any sign, including cutout letter signs, shall exceed eighteen inches (18") in height.
- D. Projecting or wall signs shall not project above the eave line or parapet wall of the building to which they are affixed and shall be a minimum of eight feet (8') above grade when projecting over a pedestrianway. Such signs shall not project out more than two feet (2') from the front or face of the building, except where such a sign is an integral part of an approved awning or canopy.
- E. The area of a sign painted or imprinted on a wall, a sign composed of cutout letters or other type of sign whose background has no clearly defined dimension shall be equal to the smallest rectangular figure which can contain copy, insignia background and other graphic elements.
- F. Signs shall not be erected within ten feet (10') of a side or rear lot line.
- G. Sign surface area is defined in section 9-2-1 of this title. (Ord. 2010-03, 1-19-2010; Ord. 77-5 as amended)

9-29-6: NONCONFORMING SIGNS:

Each sign which is physically in place at the effective date hereof and which does not conform to the requirements of this chapter may be continued until the end of the following specified period of time, after which it shall be removed:

- A. In the case of a lessee of premises for the sole purpose of maintaining a sign: the expiration of the lease period or two (2) years from the effective date hereof, whichever comes first.
- B. In the case of a nonconforming on site sign, if such sign is leased from another person, the expiration of the lease period or two (2) years from the effective date hereof, whichever comes first.
- C. In the case of a nonconforming on site sign, if the sign is owned by the property owner and advertises interests which are on site, two (2) years from the effective date hereof. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-29-7: LIGHTING OF SIGNS:

- A. Indirect Lighting: Only indirect lighting may be used to illuminate a sign.
- B. Direct Lighting: Lighting by backlighted translucent materials shall be permitted in commercial zones only.
- C. Flashing Or Intermittent Lights: Flashing or intermittent lights, lights of changing degree of intensity or moving lights shall not be permitted. (Ord. 2010-06, 5-25-2010)

9-29-8: FENCES:

A. Sight Obscuring Fence Prohibited: Sight obscuring fences, hedges, walls, latticework or screens shall not be constructed in such a manner that vision necessary for safe operation of motor vehicles or bicycles is obstructed. In all districts, fences, hedges and walls shall not be located within seventy five feet (75') of the centerline of the intersection of two (2) streets.

B. Sight Obscuring Fence Required: A sight obscuring fence may be required by the commission for any conditional use which abuts any residentially zoned lot. In such a case, said fence shall be stained or painted a single solid color, shall not be used for advertising and shall be maintained in good repair. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 29A OUTDOOR LIGHTING

9-29A-1: PURPOSE:

The general purpose of an outdoor lighting ordinance is to protect and promote the public health, safety and welfare, while preserving and protecting the scenic and aesthetic values and natural resources of Blaine County by establishing regulations and a process for review of outdoor lighting. This chapter establishes minimum standards for regulating outdoor lighting. (Ord. 2010-06, 5-25-2010)

9-29A-2: NEW LIGHTING:

All outdoor lighting installed after the effective date of this chapter shall conform to the standards established by this chapter. (Ord. 2010-06, 5-25-2010)

9-29A-3: DEFINITIONS:

FLOODLIGHT: A lamp that is designed to flood a well defined area with light.

FULL CUTOFF LUMINAIRES: A luminaire designed and installed where no light is emitted at or above a horizontal plane running through the lowest point on the luminaire.

FULLY SHIELDED: The luminaire incorporates a solid barrier (the shield), which permits no light to escape through the barrier.

HOLIDAY LIGHTING: Strings of individual lamps, where the lamps are at least three inches (3") apart.

LAMP: The generic term for an artificial light source, to be distinguished from the whole assembly (see definition of Luminaire). Commonly referred to as "bulb".

LIGHTING: Any or all parts of a luminaire that function to produce light.

LUMINAIRE: A complete lighting unit, consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power. When used, includes ballasts and photocells. Commonly referred to as "fixture".

OUTDOOR LIGHTING: Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors. Luminaires that are indoors that are intended to light something outside are considered outdoor lighting for the purpose of this chapter.

PARTIALLY SHIELDED: A luminaire incorporating a semiopaque barrier or partial shield around the lamp that allows some light to pass through the barrier while concealing the lamp from the viewer.

SECURITY LIGHTING: Unshielded outdoor lighting for security purpose and not associated with an outdoor activity that requires illumination.

UPLIGHTING: Fully shielded lighting that is directed in such a manner as to shine light rays above the horizontal plane. (Ord. 2010-06, 5-25-2010)

9-29A-4: OUTDOOR LIGHTING STANDARDS:

- A. Outdoor Luminaires: All outdoor lighting shall not cause the lamp to shine directly on adjacent property or public rights of way. Outdoor lighting luminaires shall be one of the following:
 - 1. Full cutoff and fully shielded.
 - 2. Luminaires that are partially shielded provided that the lamp is not visible, and the luminaire has an opaque top or is under an opaque structure.
 - 3. Floodlights with external shielding shall be angled provided that no light is directed above a twenty five degree (25°) angle measured from a vertical line from the center of the light extended to the ground.

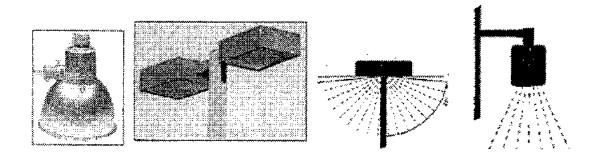
4. Holiday lighting from November 1 to March 1.

B. Height Of Luminaires:

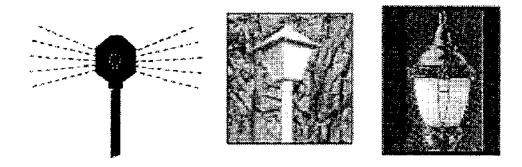
- 1. Parking area luminaires shall be no higher than seventeen feet (17') in height.
- 2. Freestanding luminaires in residential zones shall be no higher than fifteen feet (15') in height.
- 3. Streetlights used on arterial roadways shall be no higher than twenty feet (20') in height.
- 4. The height of any light fixture or luminaire shall be no higher than thirty feet (30') in height.

C. Examples:

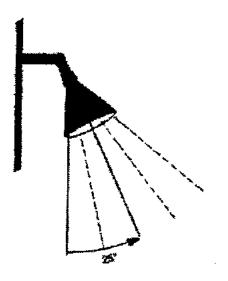
1. Full cutoff luminaires with the light source downcast and fully shielded.



2. Luminaires that are partially shielded with the lamp not visible and has an opaque top or is under an opaque structure.



3. Floodlights with external shielding shall be angled provided that no light is directed above a twenty five degree (25°) angle measured from a vertical line from the center of the light extended to the ground.



(Ord. 2010-06, 5-25-2010)

9-29A-5: PROCEDURE:

A. All applications for zoning, subdivision and building permits shall include lighting plans showing location, type and boundary of light.

- B. The administrator shall review any new lighting on the subject property that is part of an application for zoning permit, subdivision or building permit, to determine whether the lighting complies with the standards of this chapter. The administrator shall convey in writing a recommendation whether the lighting complies with the standards of this chapter to the building official, the board of county commissioners, planning and zoning commission or hearing examiner before issuing approval of any zoning permit, subdivision application, or certificate of occupancy.
- C. For all other lighting which must conform to the requirements of this chapter, the administrator shall issue a decision whether the lighting complies with the standards of this chapter. The administrator, prior to issuance of its decision, may request additional information from the applicant. (Ord. 2010-06, 5-25-2010)

9-29A-6: **EXEMPTIONS**:

The following forms of outdoor lighting are exempt from the provisions of this chapter and are not required to comply with its terms:

- A. Agricultural lighting when used for agricultural purposes. Security lighting needs to comply.
- B. Lighting required for safe nighttime operation in light industrial, heavy industrial, commercial, and agricultural zones. Security lighting needs to comply.
- C. A single light for the sole purpose of uplighting of a flag.
- D. Sports, recreation and entertainment lighting required for public events.
- E. Lighting that is required to meet the federal aviation authority's compliance standards.

- F. Traffic control, roadway, vehicular lights and all temporary emergency lighting.
- G. Lighting activated by a motion sensor with a cutoff timer set for five (5) minutes or less. (Ord. 2010-06, 5-25-2010)

9-29A-7: PENALTIES:

A violation of this chapter shall be a misdemeanor, and subject to penalty as provided in section 1-4-1 of this code. Each day that such a violation continues shall constitute a separate criminal offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may be found guilty of such a violation. (Ord. 2010-06, 5-25-2010)

Chapter 30 VARIANCES

9-30-1: **DEFINITION**:

"Variance" is defined as a modification of the requirements in this Title regarding lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space and location, height of buildings or other provisions affecting the size or shape of a structure or the placement of a structure upon lots or the size of lots.

A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and only when the variance will not conflict with the public interest. (Ord. 77-5, 3-28-77, eff. 4-7-77)

9-30-2: APPLICATION FOR VARIANCE:

- A. Form And Content: An application for a variance shall be filed with the Administrator by at least one holder of an interest in the real property for which such variance is proposed accompanied by the fee specified in Section 9-3-9 of this Title. This application shall include a map showing the lots and parcels of land within three hundred feet (300') of the exterior boundaries of the property in question, together with a list of the names and addresses of the owners of each parcel within the three hundred feet (300'). (Ord. 95-4, 3-20-95; Ord. 93-6, 7-19-93; Ord. 77-5, 3-28-77, eff. 4-7-77)
- B. Review: The Administrator shall review the application for general compliance with this Title and the County Comprehensive Plan. The Administrator may refer the application to the County Engineer for technical review. The cost of such review shall be at the applicant's expense and shall be paid prior to public hearing. (Ord. 93-6, 7-19-93)
- C. Concurrent Submission: A variance application may be submitted and reviewed concurrently with other applications affecting the same piece of property, with the approval of theAdministrator. The Administrator may require concurrent submission of a variance application with other land use applications affecting the same parcel(s) of property. Additional time for review of concurrent applications may be specified by the Administrator. Concurrent submissions will be voted on separately. (Ord. 95-2, 3-6-95; Ord. 93-6, 7-19-93)

9-30-3: PUBLIC HEARING AND NOTICE:

Each application will be reviewed at a public hearing, for which adequate public notice will be given.

A. Certification; Hearing:

- 1. Certification And Acceptance Of Application: Upon receipt of the application and all other required data, the Administrator shall certify the application as complete and affix a date of application acceptance thereon.
- 2. Scheduling Of Hearing:
 - a. Regular Meeting: Allowing sufficient time to conduct a site visit and write staff reports, the Administrator shall then schedule the application to be heard

by the Commission whenever the next regular agenda opening is available and the advertising requirements can be met.

- b. Special Meeting: If no regular meeting time is available within ninety (90) days of certification, the Administrator shall call a special Commission meeting, to be held not more than three (3) weeks after the end of the ninety (90) days, to hear the application.
- B. Notice: Notice of the time, date and place of the hearing and a summary of the proposal shall be given as follows:
 - 1. Publication: One publication in the official newspaper or paper of general circulation within the county's jurisdiction at least fifteen (15) days prior to the hearing.
 - 2. Notice To Property Owners: Notice to property owners or purchasers of record within:
 - a. The land being considered; and
 - b. Three hundred feet (300') of the external boundaries of the land being considered.
 - c. Notice to all Blaine County political subdivisions.
 - Supplying Of Names And Addresses: The applicant is responsible for providing the required names and addresses of property owners or purchasers of record to be notified.
- C. Continuance Of Hearing Without Notice: In any public hearing on a variance application the commission may order the hearing to be continued up to thirty one (31) days at the same place, in which case no further published notice shall be required. (Ord. 95-4, 3-20-1995; Ord. 92-3, 5-11-1992; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-30-4: CRITERIA FOR REVIEW:

The commission has the authority to grant variances and shall consider the following factors in ruling on a variance application:

- A. Whether the granting of the variance will conflict with the public interest as expressed in the Blaine County comprehensive plan.
- B. Whether there are exceptional conditions creating an undue hardship, applicable only to the property involved or the intended use thereof, which do not apply generally to the property or class of use in the zone or district.
- C. Whether the granting of such relief will be detrimental to the public health, safety or welfare.
- D. Whether the owner can derive a reasonable use of the owner's land without a variance.
- E. Whether the variance will effect a change in zoning.
- F. Whether the variance will be injurious to the property or improvements of others.
- G. If the applicant or landowner with respect to an application for a variance under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528. (Ord. 2001-03, 3-19-2001; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-30-5: ACTION BY COMMISSION:

The commission shall enter an order approving, conditionally approving or disapproving the application at the next regular meeting of the commission, together with the reasons therefor. In acting upon such applications, the commission may specify that approval shall be contingent upon the acceptance of conditions it deems necessary to protect the rights of all affected property owners and the general welfare. The application shall be denied upon a finding by the commission that granting such relief will be detrimental to the public health, safety or welfare. (Ord. 95-4, 3-20-1995; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-30-6: NOTIFICATION BY THE ADMINISTRATOR:

The administrator shall give the applicant written notice of the commission's decision by mail within ten (10) days after the commission has adopted the findings of fact and conclusions of law. (Ord. 92-3, 5-11-1992; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-30-7: APPEALS PROCESS:

A decision by the commission on a variance application may be appealed to the board through the procedure specified in section 9-32-4 of this title. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-30-8: RESUBMITTAL:

No application for a variance which has been denied by the commission or the board, or withdrawn by the applicant, may be resubmitted within less than one year of the final date of action thereon. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-30-9: **EXPIRATION**:

All variances shall expire one year after their issuance if a building permit has not been obtained for the purpose of exercising the variance. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 31 AMENDMENTS

9-31-1: GENERAL STATEMENT:

The text and maps of this title may be amended whenever the board deems that amendment is required for public convenience or necessity, or for the general welfare. All proposals to add, repeal or amend any of the provisions of this title shall be enacted pursuant to the provisions of this chapter and Idaho Code, section 67-6501 et seq., as it shall be amended from time to time; provided, that applications by property owners for reclassification of the zoning district to which their property is subject shall be governed by chapter 26 of this title. (Ord. 98-3, 4-13-1998; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-31-2: **DEFINITION**:

As used in this chapter, an "amendment" shall mean any change, supplement or repeal of the provisions of this title. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-31-3: AMENDMENT PROCEDURE:

- A. Initiation: Amendments to this title may be initiated by adoption of a motion by the commission or the board, or by the filing of an application with the administrator by any person.
- B. Application Requirements: Applications for amendments to this title submitted by any person shall contain at least the following information:
 - 1. Name, address and phone number of applicant;
 - 2. Proposed amendment;
 - 3. Present land use:
 - 4. Present zoning district and proposed zoning district;

- 5. Proposed use:
- 6. A vicinity map at a scale approved by the administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the administrator may require;
- 7. In the case of a proposed amendment involving a zoning district boundary change, a list of the names and mailing addresses of all property owners and purchasers of record within the land being considered, and within three hundred feet (300') of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission. When the land being considered is located in a wellhead protection area, the name and address and mailing label(s) shall be provided for all affected potable water source owners;
- 8. A statement of the extent and nature of the proposed amendment. Such statement shall include information on the effects of any proposed zone change upon the delivery of services by any political subdivision providing services, including school districts, within the planning jurisdiction, and a cost/benefit analysis of the impacts to residents and taxpayers of Blaine County. When the land being considered is located in a wellhead protection area, the applicant shall include a statement addressing how potable water source(s) will be affected by the proposed zone change;
- 9. Written agency comment shall be solicited and the request documented for input from Idaho department of environmental quality and, in addition, written comment from any other appropriate agency, including, but not limited to, owners of public water systems located within the wellhead protection area, if this is determined by the administrator to be necessary;
- 10. A statement of all facts bearing upon the determination that the proposed amendment is in accordance with the comprehensive plan. Such statement shall include a discussion of the manner in which the proposed amendment reflects the goals of, and takes into account the relevant factors in the comprehensive plan in light of the present factual circumstances surrounding the proposed amendment;
- 11. The application must be accompanied by a filing fee as provided by resolution or ordinance of the board. Advertising and notice costs hereunder are at the expense of the applicant, including the costs of any additional advertisements required by the administrator.
- C. Review By Administrator; Cost: The administrator shall review all text and map amendment applications for consistency with this title and the county comprehensive plan. The administrator may refer such application to the county engineer for technical review. Cost of such review shall be borne by the applicant and shall be paid prior to public hearing. (Ord. 2006-13, 10-26-2006; Ord. 98-3, 4-13-1998; Ord. 93-6, 7-19-1993; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-31-4: ACTION BY THE COMMISSION:

- A. Commission Evaluation Of Application: Proposed amendments to this title, by application or by motion of the commission or board, shall be submitted to the commission, which shall evaluate the facts and circumstances of the proposal to determine the nature and extent of the amendment, the reasons therefor, whether it is in accordance with the comprehensive plan, the effect on potable water sources, and the impacts of the proposal upon the delivery of services by any political subdivision providing public services, including school districts, within the county.
- B. Commission Recommendation: If the commission finds the proposal is in accordance with the comprehensive plan, and would not result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the county, the commission may recommend the proposed amendments to the board.
- C. Nonconformance With Comprehensive Plan: If the commission finds the proposal is not in accordance with the comprehensive plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the county, the commission shall notify the applicant of this finding and inform the applicant that applicant must successfully apply for an amendment to the comprehensive plan before the amendments requested in the proposal may be considered further.
- D. Commission Public Hearing: The commission shall hold at least one noticed public hearing on any proposed amendment to this title, in which interested persons shall have an opportunity to be heard.
 - 1. Notice For Public Hearing: At least fifteen (15) days prior to the noticed public hearing on any proposed amendment to this title, notice of time, date and place of the public hearing, and a summary of the proposed amendment shall be published in the official newspaper or paper of general circulation within the county. The commission shall also make available a notice to other newspapers, radio and television stations serving the county for use as a public service announcement. Notice of the proposed amendment shall be sent to all political subdivisions providing services within the county, including school districts, at least fifteen (15) days prior to the public hearing scheduled by the commission.
 - 2. Additional Notice Requirements For Zoning District Amendments: Where a proposed amendment to this title includes a proposal to rezone property or change a zoning district boundary, the following additional notice of public hearing shall be provided:
 - a. Posting Of Notice: A notice sign, as provided by the administrator, shall be posted on the premises not less than one week prior to the hearing. Where possible, the posting location should be on or near the property line closest to a public thoroughfare or, if no such thoroughfare exists, on or near the property line of the nearest adjoining property not owned by the applicant, of which neither the applicant nor the government has a proprietary interest.
 - b. Mailing Of Notice: Notice of the time, date and place of the public hearing and a summary of the proposal shall be provided by mail to all property owners and purchasers of record within the land being considered; within three hundred feet (300') of the external boundaries of the land being

considered; and within any additional area including a wellhead protection area that may be impacted by the proposed change as determined by the commission. When the land being considered is located in a wellhead protection area, notice shall be provided to all affected potable water source owners.

- 3. Alternative Forms Of Notice: When notice is required under this title to be given to two hundred (200) or more property owners or purchasers of record, alternative forms of notice in lieu of posted or mailed notice may be provided as follows:
 - a. In lieu of mailed notice, and in addition to any other required publication of notice, an additional notice of the time, date and place of the hearing, including a summary of the proposal, shall be published not less than one week prior to the hearing in the official newspaper and one additional newspaper of general circulation within the county; and publication in one such newspaper shall also include a reasonably sized advertisement, as determined by the administrator, which is not less than two (2) columns by two inches (2").
 - b. In lieu of posted notice on the premises, notices shall be posted, not less than two (2) weeks prior to the hearing, in not less than five (5) locations of high public use within the county, including locations such as post offices, and other government buildings open to the public; preference shall be given to posting at such locations within or near the affected areas of the county.
 - c. At least fifteen (15) days prior to the hearing, a notice shall be made available to other newspapers, radio and television stations servicing the county for use as a public service announcement.
- 4. Material Change By Commission: Following such public hearing, if the commission recommends a material change from what was presented at the public hearing, the commission may forward its recommendation to the board and notice of the original proposal before the commission and material change shall be included in the notice of public hearing provided by the board. If the commission determines additional hearing isnecessary or desirable, notice of hearing shall be provided as required by applicable code before a recommendation to the board is made.
- E. Transmittal Of Commission Recommendation: The commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied. Such recommendation shall be promptly transmitted to the board.
- F. Entry Of Order: The commission shall enter its written decision recommending for or against the proposed amendment at the conclusion of the noticed public hearing, or at its next regularly scheduled commission meeting after the conclusion of the public hearing.
- G. Maintenance Of Records: The administrator shall maintain a record of all public hearings, findings made, and actions taken by the commission. (Ord. 2006-13, 10-26-2006; Ord. 2001-02, 3-19-2001; Ord. 98-3, 4-13-1998; Ord. 92-3, 5-11-1992; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-31-5: ACTION BY THE BOARD:

- A. Hearing: The board, prior to adopting, revising or rejecting the amendment as recommended by the commission, shall conduct at least one public hearing using notice and hearing procedures set forth in section 9-31-4 of this chapter. The board shall not hold the public hearing, give notice of a proposed public hearing, or take action upon the proposed amendments until the recommendation has been received from the commission. Following consideration by the board, if the board makes a material change to the recommendation or alternatives contained in the recommendation by the commission concerning the proposed amendments, further notice and hearing shall be provided before the board amends this title.
- B. Passage Of Amendment: Upon approval of an amendment as recommended by the commission or as revised by the board, the board shall pass an ordinance making said amendment a part of this title. (Ord. 2001-02, 3-19-2001; Ord. 98-3, 4-13-1998; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-31-6: RESUBMISSION OF APPLICATION:

No application for a reclassification of any property which has been denied by the board shall be resubmitted in either substantially the same form or with reference to substantially the same premises for the same purposes within a period of one year from the date of such final action, unless there is an amendment in the comprehensive plan which resulted from a change in conditions as applying to the specific property under consideration. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

Chapter 32 ADMINISTRATION AND ENFORCEMENT

9-32-1: ADMINISTRATOR:

The board shall appoint an administrator to administer this title. The administrator may be provided with the assistance of such other persons as the board may direct. The administrator's duties include, but are not limited to, the following:

- A. Advise interested citizens of the zoning ordinance provisions.
- B. Inform the news media regarding land use and zoning matters of public interest, particularly the time and place of public hearings.
- C. Prepare the agenda for the monthly meetings of the commission.
- D. Aid applicants in the preparation of required forms and permit applications. Where practical, the administrator may combine related permits for the convenience of the applicant.
- E. Investigate all violations of this title and notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation.
- F. Receive, file and transmit to the commission or board all applications, petitions, transcripts and other communications on which they must act. Advise the commission and the board of pertinent provisions of the title regarding development proposals.
- G. Maintain permanent and current records of applications, reclassifications, variances and conditional use permits and of the hearings and actions thereon.
- H. Inspect and make recommendations upon all filed plats pursuant to title 10 of this code.
- I. Interpret boundaries of zone districts.
- J. Provide a liaison between the commission and the board. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-32-2: PLANNING AND ZONING COMMISSION1:

A. Established: A planning and zoning commission shall be established. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

B. Membership:

- 1. Appointment: The commission shall consist of seven (7) voting members, each appointed by the chairperson of the board of county commissioners and confirmed by the majority vote of the board.
- 2. Purpose: The board shall ensure that the interests of the entire county are broadly represented on the commission and shall select the members without respect to political affiliation.
- 3. Residency: Each member must remain a resident of the county during his/her service on the commission. Each member shall have lived in Blaine County for at least five (5) years prior to the commencement of membership on the commission. Not more than one-third (1/3) of the appointed members may reside within an incorporated city of one thousand five hundred (1,500) or more population in the county. Each city council shall have opportunity to submit nominations to the board for potential members from that city.
- 4. Term: Each member will serve for a term of three (3) years. Unexpired terms shall be filled in the same manner as the original appointments. Members may be removed for cause or have their term renewed, by a majority vote of the board. (Ord. 2008-01, 1-15-2008; 1996 Code; Ord. 90-7, 10-22-1990; Ord. 90-3, 4-9-1990; Ord. 77-5, 3-28-1977, eff. 4-7-1977)
- C. Conflict Of Interest: A member or employee of the commission shall not participate in any proceeding or actions when the member or employee (or his/her employer, business partner, associate or any person related to him/her by affinity or consanguinity within the second degree) has economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard. A

knowing violation of this subsection shall be a misdemeanor.

- D. Organization: The commission shall elect a chairperson and create any additional offices it may deem necessary. The commission may establish subcommittees, advisory committees or neighborhood groups to advise and assist in carrying out the responsibilities under this chapter. The commission may enact a set of bylaws to quide its operation.
- E. Meetings, Records And Voting: At least one regular meetingshall be held each month for not less than nine (9) months in a year; additional special or workshop meetings may be scheduled as necessary. All meetings and records shall be open to the public. A record of meetings, hearings, resolutions, studies, findings, permits and actions taken shall be maintained. All members shall have voting rights; a majority of the members of the commission shall constitute a quorum.
- F. Expenditures And Staff: With approval of the board, the commission may receive and expend funds, goods and services from the federal, state or local government agencies or from civic and private sources. Expenditures by the commission shall be within the amounts appropriated by the board. Within such limits, the commission is authorized to hire or appoint nonvoting technical advisors.
- G. Responsibilities And Duties: The commission shall hold public meetings, hearings, surveys, etc., to obtain input to the planning process. The commission may also conduct informational meetings to consult with public officials and agencies, civic or professional organizations, etc. As a result of such meetings, the commission may submit recommendations to the board concerning the planning process. Further, the commission shall:
 - 1. Initiate amendments to titles 9 and 10 of this code and the comprehensive plan.
 - 2. Periodically review all privately proposed amendments to this title and the comprehensive plan and make recommendations to the board.
 - 3. Review development proposals according to the process outlined in title 10 of this code.
 - 4. Review applications for zoning reclassifications and make recommendations to the board.
 - 5. Review conditional use permit applications and applications for variances.
 - 6. Hear and decide appeals when it is alleged that an error has been made by the administrator. (Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-32-3: APPEALS FROM DECISIONS OF THE ADMINISTRATOR:

- A. Appeal To Board: Any person aggrieved by a decision of the administrator made in interpreting or enforcing this title may appeal such a decision to the board by filing a notice of appeal with the board within twenty (20) calendar days of the date of such decision, stating the date and nature of the decision appealed from and the grounds for the appeal. The cost of an appeal from decisions of the administrator shall be in accordance with the schedule of fee requirements given insection 9-3-9 of this title. The appealant shall lodge all legal and factual material in support of the appeal with the administrator within fourteen (14) calendar days after the notice of appeal is filed. If any of such lodged material had not been submitted to the administrator prior to the administrator's decision, the board may remand the matter to the administrator for reconsideration in light of the new material.
- B. Hearing By Board: The board shall hold a public hearing on all appeals from decisions of the administrator during the next available date after the appellant has complied with the requirements of this section. The board shall base its decision upon the record before the administrator and any additional lodged material. However, the board may, in its discretion, allow additional material and evidence if there were good reasons for failure to submit the material and evidence within fourteen (14) calendar days of the filing of the notice of appeal, but any such additional written material and evidence shall be submitted to the board at least fourteen (14) days prior to the public hearing. Whenever an appellant lodges additional material or evidence with the board that was not submitted to the administrator prior to its decision, the administrator shall be entitled to lodge with the board prior to public hearing any additional material or evidence relevant to the appeal.
- C. Decision By Board: The board shall, within twenty eight (28) calendar days after the public hearing, enter a written order affirming, reversing or modifying the administrator's decision. The order shall also contain the reasons for the board's decision. On its own motion, the board may, within fourteen (14) calendar days of issuing a written decision, reconsider that decision. (Ord. 2008-06, 3-11-2008; Ord. 98-1, 1-7-1998; Ord. 94-3, 5-16-1994; Res. 93-6, 3-22-1993; Ord. 77-5, 3-28-1977, eff. 4-7-1977)

9-32-4: APPEALS TO THE BOARD:

A. Appeal; Rehearing: Any person aggrieved by any final action of the Commission may either:

1. Decision To Appeal: Appeal the Commission's decision to the Board by filing a notice of appeal within twenty (20) days of the Commission's final action; or

- 2. Request For Rehearing: At the applicant's option, may request a limit of one rehearing before the Commission to reconsider one or more of any conditions attached to the Commission's decision. The applicant will inform the Administrator of what changes are requested. The Administrator will confer with the Commission Chairperson and if the requested changes would not materially affect the Commission's decision, a rehearing would be permitted. If the rehearing is denied, the applicant may still exercise appellant's rights under the Board appeal process.
- 3. Notice Of Appeal: The notice of appeal shall state the date and the substance of the decision appealed from and state the grounds for the appeal.
- 4. Written Request; Fee: Reappearance before the Commission may be made by written request to the Administrator and shall include a fee in accordance with the schedule of fee requirements given in Section 9-3-9 of this Title. This fee shall be refunded if the reappearance is denied.
- 5. Filing Notice; Costs Of Appeal: Copies of the notice of appeal shall be filed with the Board and the Commission. In the case of a Board appeal, the Administrator shall provide any such aggrieved party with a written statement of the estimated cost of transcript preparation. The cost of an appeal shall be in accordance with the Schedule of Fee requirements given in Section 9-3-9 and shall include a base fee plus the cost of transcript preparation. The cost of such preparation shall be based on current costs of outside temporary employees to furnish such transcripts and the cost shall be borne by the appellant.
- B. Transmission Of Record: Within thirty (30) days after a notice of appeal is filed with the Commission, the Commission shall prepare three (3) copies of a summary of the proceedings appealed from and forward said summary to the Board. A transcript of the proceedings may be prepared, and such transcripts shall be prepared at the appellant's expense. The cost of the transcripts shall be paid in full before the transcript may be forwarded to the Board. The Commission shall serve one copy of the summary or transcript on the appellant and one copy on the attorney for the respondent. The Commission shall submit to the Board with the summary or transcript all documents, exhibits and orders pertinent to the appeal. The entire record shall be forwarded to the Board with a certificate signed by the Administrator listing alldocuments in the record in chronological order of filing together with the Administrator's certificate stating that the documents listed comprise the complete record of the Commission's proceedings. Depending on the level of need, a summary of the proceedings may include, but is not limited to, minutes of the proceedings and/or relevant portions of the transcript.

C. Briefs On Appeal:

- 1. Definition: For the purpose of this Section, "brief" is defined as any written document, regardless of form, outlining the parties' legal positions. Parties to an appeal are not required to file briefs. If a party chooses not to file briefs, the time restrictions under this subsection do not apply to that party. If a party chooses not to file a brief, the Administrator shall be notified in writing. The Administrator shall then schedule a hearing pursuant to Section <u>9-32-4D</u> of this Chapter.
- 2. Number Of Copies: The original and four (4) copies of all appellate briefs shall be filed with the Administrator.
- 3. Length Of Briefs: No brief in excess of ten (10) pages, exclusive of any addendum or exhibit, shall be filed without consent of the Administrator.
- 4. Time For Filing: The appellant's brief shall be filed within fourteen (14) calendar days of receipt of the transcript. The respondent's brief shall be filed within fourteen (14) calendar days from receipt of the appellant's brief. No briefs shall be accepted outside of the time periods described under this subsection. If the Commission is the only respondent, no respondent's brief is required.
- 5. Service Of Briefs: One copy of all appellate briefs shall be served upon each party to the appeal. If the Commission or Administrator is the only respondent, no further service other than that required under this subsection shall be necessary.
- D. Hearing By The Board: After the last brief is filed or if a party chooses not to file any responsive brief, the Board shall hold a hearing on the appeal. The Board shall publish a notice specifying the time, date and place of the hearing and stating the subject of the appeal. The notice shall be published once in the newspaper of general circulation at least fifteen (15) calendar days prior to the hearing. In addition, the same notice requirements as were applicable to the hearing, if any, at which the decision being appealed was made shall be met, including advising that materials submitted pertaining to the appeal are available for public inspection prior to the appeal hearing. No party may present more than five (5) minutes of oral argument to the Board unless otherwise allowed by the Chairperson. Other than exhibits and documents in the record, briefs and oral arguments, the Board shall not consider any other information.
- E. Decision By The Board: The Board shall enter an order within fifteen (15) calendar days after the hearing affirming, reversing or modifying the Commission's decision. The order shall contain a statement of the reasons for the Board's decision and shall be served on all parties to the appeal. On its own motion, the Board may, within fourteen (14) calendar days of issuing a written decision, reconsider that decision.
- F. Request For Rehearing On Board's Decision: An applicant aggrieved by any final action of the Board to which conditions were attached may request a limit of one rehearing before the Board to reconsider one or more of any conditions attached to the Board's decision. A written request for rehearing shall toll the time for filing an appeal. The applicant will inform the Administrator of what changes are requested. The Administrator will confer with the Board Chairperson and, if the requested changes would not materially affect the Board's decision, a rehearing would be permitted. If the rehearing is denied, the applicant may still exercise applicant's rights to further appeal the Board's decision. Reappearance before the Board may be made by written request to the Administrator and shall include a fee as adopted by the Board of Commissioners. This fee shall be refunded if the reappearance is denied. (Ord. 94-3, 5-16-94; Ord. 93-6, 7-19-93; Res. 93-6, 3-22-93; Ord. 77-5, 3-28-77, eff. 4-7-77)

9-32-5: ENFORCEMENT; PENALTY:

The provisions of this Title shall be enforced in the following manner:

- A. Violation: Whenever a violation of this Title occurs, or is alleged to have occurred, any person may file a written complaint with the Administrator stating the causes and basis thereof. The Administrator shall investigate and forward to the Blaine County Prosecuting Attorney the results of such investigation and the complaint.
- B. Criminal Penalty: A violation of this Title shall be a misdemeanor, and subject to penalty as provided in Section 1-4-1 of this Code. Each day that such a violation continues shall constitute a separate criminal offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may be found guilty of such a violation. (Ord. 77-5, 3-28-77, eff. 4-7-77)
- C. Civil Penalties: In addition to the criminal sanctions in subsection B above, whenever a violation of this Title occurs, the Board may institute proceedings in the District Court seeking civil penalties not to exceed one hundred dollars (\$100.00) per day. (Ord. 79-4, 9-11-79; Ord. 77-5, 3-28-77, eff. 4-7-77)
- D. Civil Action By County: Whenever it appears to the Boardthat any person has engaged or is about to engage in any act or practice violating any provision of this Title, the Board may institute a civil action in the District Court to enforce compliance with this Title.
- E. Civil Action By Private Citizen: Nothing herein shall be construed as preventing any private citizen from pursuing any available civil remedy for the prevention of any activity which constitutes a violation of this Title. (Ord. 77-5, 3-28-77, eff. 4-7-77)

Chapter 33 HEARING EXAMINER

9-33-1: QUALIFICATIONS AND DESIGNATION OF HEARING EXAMINERS:

The Board by resolution shall prescribe the minimum qualifications for hearing examiners, which shall include experience in the field of planning and zoning. The Board shall designate those persons who may be appointed by the Board as hearing examiners, shall determine compensation and other contractual terms with hearing examiners, and shall have the power, subject to any contractual terms, to dismiss any hearing examiner. (Ord. 97-4, 10-20-1997)

9-33-2: REFERRAL OF APPLICATIONS TO HEARING EXAMINERS:

- A. Notwithstanding any provision of this Title to the contrary, the Board by resolution shall designate those applications of a routine nature that do not require policy decisions which shall be referred to the hearing examiner.
- B. Applications which otherwise shall be referred to the hearing examiner may be heard by the Commission or Board when such applications are submitted concurrently with other applications which shall be heard by the Commission or Board.
- C. If no hearing examiner is appointed, the applications determined and defined by resolution of the Board shall be referred to the Commission. (Ord. 97-4, 10-20-1997)

9-33-3: CONFLICT OF INTEREST PROHIBITED:

The conflict of interest provisions of this Title and title 67, chapter 65, Idaho Code, shall apply to hearing examiners, and a hearing examiner shall not participate in the hearing of an application where a conflict of interest exists that would preclude participation under those provisions. The hearing examiner is further subject to the conflict of interest and other provisions contained in the by-laws of the Blaine County Planning and Zoning Commission, revised June 15, 1995. (Ord.97-4, 10-20-1997)

9-33-4: NOTICE, HEARING AND RECORDS:

Except as otherwise provided in this Chapter, the notice, hearing, and records for an application before the hearing examiner shall be as provided in this Code and State law for the hearing of such applications before the Commission. (Ord. 97-4, 10-20-1997)

9-33-5: DUTIES OF THE ADMINISTRATOR:

- A. Upon receipt of an application which shall be referred to the hearing examiner, the Blaine County Planning and Zoning Administrator (hereinafter referred to as "Administrator") or other Administrator's staff shall review the application for completeness. The Administrator may require additional information to be submitted by the applicant pursuant to provisions of this Title where such information is deemed necessary to further the evaluation by the hearing examiner. Upon finding that the application is complete, the Administrator shall certify same. The Administrator shall refer said certified application and all information attached thereto to the hearing examiner.
- B. Copies of all applications referred to the hearing examiner and the entire public record with regard thereto shall be kept in the Blaine County Planning and Zoning Department offices and shall be made available to the public for review for the period of time specified by State law and this Code prior to any hearings of the hearing examiner. All applications referred to the hearing examiner, hearing examiner reports, findings, decisions, records of hearings, and other documentation related to said applications shall be kept in the public records of the Blaine County Planning and Zoning Department. (Ord. 97-4, 10-20-1997)

9-33-6: CONDUCT OF HEARINGS:

The hearing examiner shall review all information supplied by the Administrator prior to the hearing. The hearing shall be conducted in accordance with this Title and applicable State law upon a finding that notice was adequate and in compliance with requirements contained in this Code and State law. Reasonable time limits may be established at the outset of the hearing, and both the applicant and other members of the public shall be given an opportunity to be heard. Hearings may be continued in accordance with this Title. All hearings shall be tape recorded. A transcribable record of all hearings before the hearing examiner shall be kept and maintained pursuant to Idaho Code by the Blaine County Planning and Zoning Department. (Ord. 97-4, 10-20-1997)

9-33-7: STANDARDS AND CRITERIA:

In hearing an application, the hearing examiner shall apply the standards and other criteria that are applicable under this Title, other ordinances, the Comprehensive Plan and State law to a direct review of such an application by the Commission. (Ord. 97-4, 10-20-1997)

9-33-8: HEARING EXAMINER'S FINDINGS AND DECISION:

- A. After a hearing is closed, the hearing examiner shall prepare a written document (hereinafter referred to as "findings of fact and decision") which shall include:
 1) a brief description of the application; 2) a summary of testimony received; 3) the ordinance and standards used in evaluating the application; 4) a finding as to the adequacy of notice; 5) findings of fact; 6) conclusions of law; 7) decision; 8) conditions of approval; and 9) the actions, if any, that the applicant could take to obtain a permit.
- B. The findings of fact and decision as prepared by the hearing examiner shall be signed and filed with the Administrator and shall be available to the applicant and the public no more than fourteen (14) days after the close of the hearing. (Ord. 97-4, 10-20-1997)

9-33-9: APPEALS FROM DECISIONS OF THE HEARING EXAMINER:

The findings of fact and decision of the hearing examiner may be appealed to the Board in the manner prescribed by Chapter 32 of this Title, provided a notice of appeal is timely filed as required by that Chapter. (Ord. 97-4, 10-20-1997)

Chapter 34

POWER ZONING OVERLAY DISTRICT

9-34-1: SHORT TITLE AND PURPOSE:

- A. This chapter shall be known as the BLAINE COUNTY POWER ZONING OVERLAY DISTRICT.
- B. It is the purpose of this chapter to promote the public health, safety, and general welfare, to minimize public and private losses due to the hazard effects caused by high voltage power transmission lines. Specific goals are to:
 - 1. Protect human life and health.
 - 2. Continue to provide reliable power service to county residents.
 - 3. Locate power corridors in areas of least impact to residents of the county.
 - Locate power corridors in areas of least impact to extraordinary natural, wildlife, historical, recreational, and cultural resources of the county. (Ord. 2008-18, 12-2-2008)

9-34-2: ESTABLISHMENT OF POWER ZONING OVERLAY DISTRICT:

There is hereby established a power zoning overlay district identified and described as all lands of the unincorporated areas of the county within Township 7 South, Ranges 26 & 27 East, and Township 8 South, Ranges 26, 27 & 28 East, B.M. where power transmission lines greater than two hundred thirty (230) kilovolts shall be located. (Ord. 2008-18, 12-2-2008)

9-34-3: CONDITIONAL USE PERMIT REQUIRED FOR CERTAIN USES:

Owners of private land within the power zoning overlay district shall be required to obtain a conditional use permit to site power transmission lines pursuant to the requirements of chapter 25 of this title. (Ord. 2008-18, 12-2-2008)

9-34-4: DEVELOPMENT STANDARDS:

All residential development shall be at a minimum setback three hundred fifty feet (350') from the outside line of transmission lines greater than two hundred thirty (230) kilovolts. (Ord. 2008-18, 12-2-2008)

Chapter 35 COMMUNITY HOUSING OVERLAY DISTRICT (CH)

9-35-1: PURPOSE:

The purposes of the community housing overlay district are:

- A. To identify areas that are considered suitable for the development of compact community and other housing given the proximity to centralized water and sewer services, transportation facilities and areas of employment.
- B. To provide for densities above that permitted in the underlying zoning district to encourage the provision of community housing in Blaine County.
- C. To promote a greater diversity of living environments by encouraging housing for a variety of socioeconomic households for sale and for rent, a variety of

residential densities, and a variety of housing types including manufactured housing.

D. To achieve certain aesthetic and design qualities through a planned unit development process. (Ord. 2013-01, 3-19-2013)

9-35-2: DEFINITIONS:

AREA MEDIAN INCOME (AMI): That income level in which half of the Blaine County population makes less and the other half makes more. The Blaine County AMI is issued by the U.S. department of housing and urban development (HUD) on an annual basis and can be found in the Blaine County community housing guidelines.

AVERAGE INCOME CATEGORY: The average household income level, according to the categories established in the community housing guidelines, which will be provided by the developer according to the community housing plan.

BASE DENSITY: The unit of measurement used to determine the number of possible free market units in a CH-PUD, provided all applicable standards of this chapter are met. If more than one subdistrict is involved, base density for the CH-PUD is the sum total of multiplying the number of acres within each subdistrict by the base density specified for each subdistrict.

BLAINE COUNTY HOUSING AUTHORITY (BCHA): The local governmental body which administers, monitors, and manages the community housing applicant database, the community housing stock and the inventory of deed restricted community housing in Blaine County. The term BCHA, for purposes of this chapter, includes all successor associations or entities that perform or assume the same, or similar, duties and functions as the BCHA in its present form.

COMMERCIAL UNIT: For the purpose of calculating community housing only, equivalent to two thousand five hundred (2,500) square feet of nonresidential (commercial) gross floor area, which accounts for one unit of developable density.

COMMON OPEN SPACE: An area held for the use and benefit of the owners of dwelling units or lots in a CH-PUD and which is devoid of streets, parking areas, and buildings not intended for recreational or community purposes. Common open space does not include any land within the required setback from State Highway 75 or within individual single-family or duplex lots.

COMMUNITY HOUSING (CH): Ownership and rental residential housing that is price restricted to remain affordable to persons working in Blaine County, retired from working in Blaine County, or other groups of eligible persons according to BCHA guidelines or other recognized affordable housing guidelines approved by BCHA.

COMMUNITY HOUSING GUIDELINES (CH GUIDELINES): The current regulations adopted by the BCHA and amended from time to time outlining the requirements and parameters related to the development, pricing, eligibility, and other administrative standards for all community housing projects that come under the purview of BCHA.

COMMUNITY HOUSING PLAN (CH PLAN): Documents submitted pursuant to community housing guidelines, section 6.3, as amended, which describe the calculations and method of meeting the community housing obligation in a CH-PUD.

COMMUNITY HOUSING PLANNED UNIT DEVELOPMENT (CH-PUD): An area of land developed primarily for residential use or a mixture of residential and nonresidential (commercial) uses, in which restriction of density, lot sizes, setbacks, and other bulk regulations may be adjusted in return for the provision of community housing units along with free market units and/or lots.

COMMUNITY HOUSING UNIT (CHU): A residential housing unit that is subject to a deed covenant as a long term rental unit or as a unit for sale to eligible persons and households, based on applicable income and residency requirements.

FREE MARKET UNIT: A unit permitted through the CH-PUD process, created for sale, rent or lease at free market rates and not restricted as a community housing unit or lot.

GROSS FLOOR AREA: The total of all floor areas as measured from the exterior face of the exterior walls. Exterior stairs that are not enclosed, unenclosed decks, and underground parking areas shall be excluded from the square footage calculation. When an attic roof truss system creates an unusable and inaccessible attic space between the interior and exterior wall, the floor area measurement shall be taken from the outside of the interior wall.

HUD: United States department of housing and urban development.

HOMEOWNERS' ASSOCIATION: An organization formed of the owners of a subdivision or planned unit development.

IHFA: Idaho housing and finance association.

MASTER PLAN: Map(s) and supporting documents that set forth approximate locations of and requirements for master planned infrastructure within the community housing overlay district. See exhibit B attached to the ordinance codified herein.

MASTER PLANNED RIGHT OF WAY (MP ROW): An area reserved for public access and functioning as the thoroughfare for vehicular or nonvehicular traffic to external outlets in agreement with the master plan. (Ord. 2013-01, 3-19-2013)

9-35-3: ESTABLISHMENT OF DISTRICT:

The "community housing overlay district" is hereby established and shall be defined as those areas identified on the community housing overlay map (exhibit A attached hereto and on file with the county). The community housing subdistricts are established as set forth in table 1 of this section:

TABLE 1

CH Subdistrict	Underlying Zoning
Community housing - commercial (CH-C)	Medium density residential (R4) and recreation development (RD)
Community housing - south (CH-S)	Residential/agricultural (R-5), low density residential (R-1), medium density residential (R4), and light industrial (LI)

(Ord. 2013-01, 3-19-2013)

9-35-4: DEVELOPER BENEFITS:

Benefits available for developers of approved CH-PUDs include:

- A. Additional allowable uses as set forth in sections <u>9-35-5</u> and <u>9-35-7</u> of this chapter.
- B. Increased developable density as set forth in section 9-35-9 of this chapter.
- C. Modification of certain bulk requirements from underlying zoning, as set forth in subsection 9-35-10B1 of this chapter.
- D. Further modification of bulk, parking, or open space standards as set forth in subsection <u>9-35-10</u>B of this chapter may be permitted, subject to such conditions, limitations, or additional development standards pursuant to section <u>9-35-11</u> of this chapter as the board may require to mitigate adverse impact or to ensure that the benefits derived from the development justify a departure from such standards.
- E. Reduced permitting fees for CH units as set forth in subsection <u>9-35-12B3a</u> of this chapter.
- F. Shortened time line for scheduling of public hearing following certification of complete application, as set forth in subsection <u>9-35-12</u>C1 of this chapter. (Ord. 2013-01, 3-19-2013)

9-35-5: PERMITTED USES:

Permitted uses shall include those listed as permitted in the underlying zoning district(s). Residential uses may be allowed through the CH-PUD process in detached single-family, duplex, multi-family, multi-unit townhouse or condominium, or combination thereof, housing types. Limited commercial uses may be allowed through the CH-PUD process in the following subdistrict only:

A. CH-C:

Convalescent care.

Daycare.

Health and wellness/alternative medicine facilities.

Healthcare related training facilities.

Hospice.

Hospital.

Medical and dental offices.

Medical labs.

Medical supply sales.

Nursing homes.

Pharmacies.

Public facility.

Rehabilitation and physical therapy facilities.

Research and development labs. (Ord. 2013-01, 3-19-2013)

9-35-6: ACCESSORY USES:

Permitted accessory uses are limited to the following:

Community or recreational facilities.

Garages and storage buildings.

Management, maintenance or utilities facilities which are related to the CH-PUD. (Ord. 2013-01, 3-19-2013)

9-35-7: CONDITIONAL USES:

Conditional uses shall be as follows:

Those uses listed as conditional in the underlying zoning district, which shall follow the evaluation process contained in chapter 25, "Conditional Use Permits", of this title.

Other conditional uses may be allowed, following the same process, in the following subdistrict:

A. CH-C:

Auto service not to exceed five (5) service bays.

Coffee shops.

Construction, landscaping, electrical, plumbing, and heating contractors not to exceed five thousand (5,000) square feet gross floor area and five thousand (5,000) square feet of unenclosed exterior parking area.

Convenience stores not to exceed two thousand five hundred (2,500) gross square feet.

Light manufacturing of medical supplies or related items.

Live-work.

Parking structures.

Unenclosed parking and storage shall be limited to licensed vehicles, not to include equipment such as backhoes, compaction equipment, dozers, excavators, graders, loaders, or other heavy equipment; such equipment, which shall not exceed fifteen thousand (15,000) gross vehicle weight, shall be enclosed within a solid screening fence not less than six feet (6') in height.

Existing uses listed in this subsection A may be expanded to a total floor area not to exceed the requirements set forth in that use, upon the approval of a
conditional use permit. For a proposed expansion of existing uses, a CH-PUD application is not required; however, community housing shall be provided
pursuant to subsection 9-35-10 A of this chapter. The CH obligation shall be calculated according to the expanded floor area, not existing floor area. (Ord.
2013-01, 3-19-2013)

9-35-8: GENERAL REQUIREMENTS FOR A CH-PUD:

A. Minimum CH-PUD Parcel Size: There is no minimum lot or parcel size for a CH-PUD. Individual lot sizes for free market and community housing units shall be determined through the CH-PUD evaluation process contained herein.

- B. General Requirements: All CH-PUDs are subject to the following:
 - Community housing shall be provided through any of the alternative methods set forth in subsection <u>9-35-10</u>A of this chapter. The Blaine County housing authority (BCHA) shall be the responsible local governing agency for ensuring compliance with the community housing requirements. Alternatively, rental community housing units may be provided in compliance with HUD low income rental limits for Blaine County and IHFA management and compliance guidelines.
 - 2. All units within a CH-PUD shall be connected to a central water system and a central sewage disposal system meeting Idaho DEQ standards. Easements for water and/or sewer main lines shall be required to provide interconnection of these utilities to adjacent parcels in all subdistricts in accordance with the master plan.
 - 3. Master planned ROW shall be provided as follows: Vehicular and nonvehicular interconnectivity with adjacent parcels within all developments bounded by State Highway 75 and Broadway Run in accordance with the master plan. In certain locations, a nonvehicular trail separated from the roadway shall be provided in accordance with the master plan.
 - 4. Common open space shall be provided as set forth in subsection 9-35-10B4 of this chapter. (Ord. 2013-01, 3-19-2013)

9-35-9: DEVELOPABLE DENSITY:

- A. Developable Density Of Underlying Zoning District: For land developed within this overlay and not proposing a CH-PUD, the total developable density and other zoning regulations shall be those of the underlying zoning district.
- B. Developable Density For CH-PUD: Total developable density for a CH-PUD shall be the base density plus CH units as provided pursuant to subsection 9-35-10A of this chapter.
- C. Base Density: Maximum and minimum base density for residential units in a CH-PUD are set forth in table 2 of this section:

TABLE 2

Subdistrict	Maximum Base Density Per Acre	Minimum Base Density Per Acre	
CH-C	12	6	
CH-S	10	6	

- D. Calculation Of Base Density: Base density shall be calculated for the gross acreage of the parcel outside the twenty five percent (25%) slopes in the mountain overlay district.
- E. Fractions: In calculating units of base density, fractions of 0.5 and greater shall be rounded to the next higher whole number and fractions of less than 0.5 shall be rounded to the next lower whole number. In calculating CH units, fractional units may be rounded up to the next whole unit or the fractional CH obligation may be met by payment of cash in lieu. In calculating land area, no rounding shall occur. (Example: lot area = 25,000 square feet = 0.57 acres x 12 units/acre = 6.8 units, which rounds up to 7 base units.) (Ord. 2013-01, 3-19-2013)

9-35-10: STANDARDS FOR EVALUATION:

The county shall review the particular facts and circumstances of each proposed CH-PUD application utilizing the following standards and shall find adequate evidence in the record that the proposed CH-PUD at the proposed location complies with each standard. These standards shall apply and supersede subdivision standards of title 10 of this code where such standards may conflict. Certain standards or parts thereof may not be applicable to particular applications upon specific finding by the county.

A. Community Housing Standards: The applicant shall meet the community housing obligation through one of the following methods: constructed on site, constructed off site, through land conveyance, or cash in lieu. Other methods of meeting the CH obligation may be considered only if recommended by

BCHA. A CH plan shall be created following a preapplication meeting with BCHA regarding options for fulfillment of the community housing obligation, pursuant to subsection <u>9-35-12</u>A of this chapter.

1. Constructed (Or Provided) By Applicant On Site Or Off Site: The CHUs may be for sale, for rent, or a mix of ownership and rental units. The applicant shall submit a CH plan based on input from BCHA that outlines the location, number, size and targeted average income category of the units based on evidence of current need. Units need not be of new construction, but shall meet all applicable standards as recommended by BCHA and approved by the board. On site CHUs may be provided in addition to the number of free market units calculated at the base density. The percentage of CH required is set forth in table 3 of this section:

TABLE 3

Average Income Category	Percentage CH Required
1 (up to 50% AMI)1	15% of units
2 (50% - 60% AMI)1	17% of units
3 (60% - 80% AMI)	21% of units
4 (80% - 100% AMI)	25% of units

Note:

1. Categories 1 and 2 are often provided as rental units and not ownership units.

(On site residential example: 5 acre lot x 12 units per acre base density = 60 units. If CHUs average category 4: 60 units x 25% = 15 CHUs. 60 free market units shall be allowed plus the 15 CHUs.)

(On site commercial example for CH-C subdistrict: 25,000 commercial square feet proposed. 25,000/2,500 = 10 commercial units. If CHUs average category 2: 10 commercial units x 17% = 1.7 CHUs required.)

The community housing units (CHU) shall be generally comparable in appearance to the free market units in the subject development and shall meet the minimum construction standards of BCHA. The minimum size of CHUs shall be as set forth in the provisions of section 6.5 of the CH guidelines, as amended. The number of CHUs may be adjusted pursuant to section 6.5 of the CH guidelines, subject to approval through the CH-PUD process.

2. Land Conveyance: Land may be conveyed to a housing entity as recommended by BCHA and approved by the board, for the construction of CHUs by affordable housing development entities. Land to be conveyed may be located on or off site, as acceptable to BCHA. The area of land conveyed on site shall be twenty percent (20%) of the gross land area of the CH-PUD, which shall not be deducted from the total gross land area for the purpose of calculating the allowable density for the free market units. For CH-PUDs not developing to the maximum density, the land area conveyed shall be a minimum of seven hundred twenty six (726) net square feet per approved free market unit. Basic infrastructure including roads and water and sewer main lines shall be available or installed by the developer to, but not within, the conveyed land. The area of land conveyed off site shall be zoned to allow for single-family or multi-family dwellings as appropriate, be served by all necessary utilities and services, and as determined by BCHA have the same or greater impact on communitywide affordable housing needs. The minimum conveyed land area shall be of adequate size to accommodate at least one CHU. Land conveyed may only be utilized for the development of CH, and any recorded development agreement or plat shall include this restriction.

TABLE 4

Subdistrict	Base (Free Market) Density Per Acre	CH Density Per Acre (On Land Conveyed On Site)	Overall Maximum Density
CH-C	12	15	15
CH-S	10	13	13

(On site land conveyance example: 5 acre parcel x 12 units per acre = 60 units. Land conveyed for CHUs shall be 5 acres x 20% = 1 acre. 60 free market units shall be allowed on the remaining 4 acres. On the 1 acre conveyed: 1 x 15 CH units per acre = 15 CHUs. The resulting overall average density for 75 total units on 5 acres is 15 units per acre.)

- 3. Cash In Lieu: The amount to be paid shall equal twenty percent (20%) of the appraised value of the gross land area. The date of the certified real estate appraisal shall be within six (6) months of the date of the CH-PUD application. Cash in lieu shall be deposited into the housing trust fund administered by BCHA.
- 4. Timing Of CH: When CHUs are to be provided on site, off site, or by cash in lieu, the timing shall be as set forth in the approved CH plan. When the CH obligation is met by conveyance of land, the land shall be conveyed prior to issuance of the first building permit within the development.
- 5. Maintaining Affordability Of CH: A deed covenant, community trust land lease, or other document shall be recorded for all rental or ownership community housing units, which shall be in a format acceptable to BCHA and shall set forth eligibility requirements and income categories served, with pricing established according to the CH guidelines. Alternatively, rental community housing units may be provided in compliance with HUD low income rental limits and IHFA management and compliance guidelines.
- Homeowners' Associations: Homeowners' association regular dues and special assessments affect the initial selling price of a CHU according to BCHA pricing guidelines. CC&Rs shall allow future increase of dues and assessments only in accordance with BCHA guidelines to ensure the ongoing affordability of the CHUs.

B. Bulk, Parking And Open Space Standards:

1. Setbacks And Building Height: Setbacks and building height standards are set forth in table 5 of this section.

TABLE 5

Subdistrict	Minimum Setback From Highway 75	Minimum Setback From Broadway Run	Minimum Setback From Exterior Property Lines	Internal Setbacks ¹	Maximum Building Height
CH-C	25'	n/a	As approved	As approved	42' (20' within 50' of Hwy. 75)
CH-S	100'	50'	20'	As approved	Per underlying zoning

Note:

- 1. As approved through CH-PUD process and pursuant to fire district requirements.
- 2. Building Footprint: The maximum residential building footprint shall be ten thousand (10,000) square feet, including all enclosed space measured from exterior building walls.
- 3. Parking Standards: Parking standards shall be as established in chapter 28, "Off Street Parking And Loading Facilities", of this title except as follows:

Light industrial uses: 1 space per 1,000 gross square feet.

Uses not listed: 1 space per 500 gross square feet.

Multi-family developments shall provide bicycle parking at a ratio of at least 1 space per 2 units.

- 4. Common Open Space Standards:
 - a. A minimum of seven hundred fifty (750) square feet per free market unit shall be reserved for common open space. Common open space shall be convenient to and usable by residents of the development rather than existing as unrelated, isolated fragments, and shall include at a minimum finished grading and ground cover, trees and shrubs, trash containers and park bench(es).
 - b. Developments with more than twenty (20) free market units shall provide common open space at a rate of seven hundred fifty (750) square feet per free market unit and shall include at a minimum finished grading and ground cover, trees and shrubs, trash containers, park bench(es), and picnic tables and other active park space or recreational improvements.
 - c. Dedicated common open space located off site, within or directly adjacent to the overlay district and with improvements noted in subsection B4a or B4b of this section, may be permitted, subject to such conditions or limitations as the board may require to mitigate adverse impact or to ensure that the benefits derived from the proposed open space are of comparable value and benefit to residents of the community housing overlay district.
 - d. Additional improvements such as sports facilities may be considered in lieu of open space area when determined to be of equal value as recommended by the Blaine County recreation district (BCRD) and approved by the board.
 - e. All common open space and on site or off site improvements shall be maintained by the homeowners' association unless agreements are provided for maintenance by the BCRD or other public entity.

C. Design Standards:

- 1. Architectural Design:
 - a. Consider natural light reaching public streets, sidewalks and open spaces.
 - b. Provide continuity of materials, colors and signing within the project; use primarily nonreflective materials and avoid colors that conflict with the natural surrounding setting.
 - c. Provide undulation/relief in building walls, thus reducing the appearance of bulk and flatness.
 - d. Give multi-unit structures the appearance of small neighborhood units; provide a mix of housing types and styles.
 - e. Design roofs to minimize the visual impact of the structure using nonreflective materials. Exception to the use of nonreflective materials may be made when use of solar panels is proposed.
 - f. Include weather protection which prevents water and snow from dripping and sliding onto areas where pedestrians gather and circulate or onto adjacent properties.
 - g. Provide enclosed or covered storage areas for household goods, bicycles, boats, recreational vehicles, trailers on site for each residential unit, according to CH guidelines, and/or provide plan for storage which may include requirement to store large items off site. Screen view of storage areas from public roads and from adjoining properties. Overhead doors should not face a public street.

h. All exterior lighting shall comply with the outdoor lighting requirements of chapter 29A of this title.

2. Site Design:

- a. Preserve the site's significant natural features such as hillsides, natural drainage features, mature trees and landscaping. Minimize cuts and fills and conceal with landscaping. Natural drainage through the site shall be maintained; drainage from constructed improvements shall be retained on site.
- b. Avoid repetitious design including streetscape setbacks, driveways, elevations, and landscaping. Provide a mix of lot sizes.
- c. Locate storage areas for minimum adverse impact upon living areas and adjacent properties. Screen storage areas with fencing or landscaping.
- d. Open space design shall facilitate wildlife passage where appropriate.

3. Circulation Design:

- a. Provide vehicular and nonvehicular access which is adequate to satisfy demands relative to development size. These accesses shall be located to connect with existing and anticipated transportation networks, including public transit, easements and pathways. Walkways, pedestrian paths and bicycle paths should link residences with parking areas, recreation facilities, open spaces, existing bike paths, surrounding trails, and transit stops. Sidewalks (5 foot minimum width) shall be located along all MP ROWs and on at least one side of interior streets serving more than four (4) dwelling units.
- b. Minimize access to Highway 75, eliminating highway access when access to Broadway Run or Hospital Drive is available and feasible.
- c. Provide locations for school bus or other transit stops or shelters as needed by the school district or Mountain Rides.
- d. Locate parking areas for minimum adverse impact upon living areas within the proposed development and upon adjacent properties with regard to noise, lights and visual impact. Break up large expanses of parking lots. All surface parking lots with more than thirty (30) vehicle spaces shall be divided into separate areas by landscaped areas of at least ten feet (10') in width. Parking lots shall not dominate the street frontage and shall generally not be located in front yards.
- e. Provide adequate unobstructed access for emergency vehicles, snowplows, garbage trucks, and similar service vehicles to all necessary locations within the proposed project.
- f. Provide snow storage areas for snow cleared from the parking areas, roadways, sidewalks, and transit stops within the project, at a rate of thirty five percent (35%) of these surfaces.
- g. Locate large outdoor trash/solid waste receptacles on concrete or asphalt pads large enough to accommodate easy truck access not in conflict with residential parking or through traffic. Screen receptacles from view.

4. Landscape Design:

- a. Provide substantial landscaping which is in scale with the development and which provides relief from and screening of hard surfaces.
- b. Use landscaping to provide a substantial buffer and visual screening from neighboring properties and along major transportation corridors.
- c. Utilize best practices to conserve the quantity of water used, maintain the quality of water returning to the ground/aquifer, minimize future maintenance and operation expenses, utilize low combustible plant species conforming to "firewise" recommendations (www.firewise.org), utilize native or native compatible and drought tolerant vegetation, and to conform to Blaine County water policy.

D. General Standards:

- Maintenance: Design and construction materials to be used in commonly owned areas shall be durable and offer cost efficient management and
 maintenance. Responsibility for long term management and maintenance of common open space, amenities, and infrastructure is adequately defined in
 the CC&Rs, other owners' documents, and/or agreements with BCHA or other entities, and include initial developer responsibility, timing of change over to
 homeowners' association or other managing organization, and funding of said management and maintenance.
- 2. Phased Development: If the project is planned to be constructed in phases, the phasing plan shall include a schedule for the provision of community housing when CHUs are to be provided on site, off site, or by cash in lieu. The community housing obligation shall be reviewed at the end of each phase and prior to final plat if applicable. When the CH obligation is met by conveyance of land, the land shall be conveyed prior to issuance of the first building permit in the first phase. Project phases shall be self-sufficient in the event future phases are not constructed. Central water system and sewer system shall be complete and functional prior to sale of any lot or rental or sale of any community housing unit. Blaine County has full discretion to determine what improvements are appropriate for bonding and construction at a later date, if any.
- 3. Public Facilities And Services: The CH-PUD will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, schools, drainage structures, refuse disposal, water and sewer; or the developer and as necessary thereafter the residents of the CH-PUD shall be able to provide adequately any such services. The CH-PUD will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. Providers of essential public facilities and services have reviewed and approved or provided comment that the CH-PUD can be adequately served at build-out. The developer has mitigated impacts on such facilities and services that cannot be met by providers and has demonstrated the ability to construct necessary improvements, facilities or infrastructure in the development schedule.
- 4. Detrimental Uses Prohibited: The CH-PUD will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of noise, smoke, fumes, glare, dust, odors, vibration, or water pollution.
- 5. State's Plans And Needs: The CH-PUD has taken into account the state's plans and needs. If the applicant or landowner with respect to an application for

a CH-PUD under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, the commission or the board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the state, or any agency, board, department, institution or district thereof, as required by Idaho Code section 67-6528. (Ord. 2013-01, 3-19-2013)

9-35-11: CONDITIONS THAT MAY ATTACH:

The county may attach to the approval of a CH-PUD the following and/or any other conditions it deems necessary to protect the public health, safety and welfare and to support findings made on evaluation criteria. These are advisory as to the types of conditions that may be attached. They are not intended to decide in advance what conditions will ultimately be attached to the approval of any given CH-PUD.

- A. Minimize Adverse Impact: Minimizing adverse impact on other development, such as:
 - 1. Hours of construction of infrastructure.
 - 2. Hours of operation of nonresidential uses that may be approved as part of the CH-PUD.
- B. Development Period: Controlling the sequence, timing, and duration of development, such as:
 - 1. Provide evidence that the applicant has sufficient control over the subject land and that the project shall commence with a defined time period after final approval or the approval shall be null and void.
 - 2. Provide for ability of applicant to request in writing an extension, up to two (2) years, to begin the project.
 - 3. Provide a financial guarantee acceptable to the board in a specified percent of estimated construction costs of improvements in common open space, amenities and/or infrastructure. This cost estimate shall be provided by the project engineer and checked by the county engineer. If the improvements are completed in accordance with the approved plan, the bond shall be released.
- C. Maintenance: Assuring that development is maintained properly, such as:
 - 1. Maintenance Responsibility: The owner/developer is required to maintain common open space and common facilities until seventy five percent (75%) of the proposed lots or units have been sold or are occupied. The developer must specify maintenance responsibility after this period of time and provide documentation to assure same in the future.
 - 2. Failure To Maintain: The board may specify the penalties for failure of the applicant to adequately maintain their responsibilities under the development agreement.
- D. Public Facilities: Requiring the provision of on site or off site public facilities, services, or easements, including easements for water and/or sewer main lines to provide interconnection of these utilities to adjacent parcels in all subdistricts in accordance with the master plan.
- E. Delivery Of Public Services: Requiring mitigation of effects of the proposed development upon the delivery of public services within the planning jurisdiction. The developer shall finance the improvement of the road, public transit improvements, if any, and nonmotorized network outside of the CH-PUD where traffic generated by the increased densities makes such improvements necessary. A traffic signal at the southern intersection of State Highway 75 and Broadway Run has been identified as required mitigation. Contribution to the installation of a traffic signal shall be considered a required off site improvement.
- F. Other Conditions: Other conditions that benefit public health, safety and welfare, or otherwise required by law, such as: execution of a development agreement drafted and proposed by the applicant and approved by the board. (Ord. 2013-01, 3-19-2013)

9-35-12: APPLICATION/APPROVAL PROCEDURE:

- A. Preapplication Meetings And Requirements:
 - 1. Administrative Meeting: Prior to submitting a CH-PUD application, the developer shall meet with the administrator to discuss the comprehensive plan and this chapter, and to familiarize the developer with the standards and governing regulations contained therein. The developer shall submit as many details of the proposal available at that time.
 - 2. Blaine County Housing Authority (BCHA) Meeting: The developer shall meet with the director of the BCHA to discuss options for fulfillment of the community housing obligation. The CH plan shall be created subsequent to this preapplication meeting with BCHA. The developer shall obtain a formal written recommendation from BCHA on the CH plan prior to any public hearing.

3. Review By Agencies: The applicant shall submit copies of the application and plans of the proposed development to agencies required by the administrator, including, but not limited to, water and sewer regulatory agency, Ketchum rural fire district, and county building official. The administrator shall receive written agency recommendations prior to certification, except as noted herein. If a recommendation from any agency (except water, sewer, and fire protection agencies) has not been received within four (4) calendar weeks from submittal of the application, then the administrator shall consider this to be a nonresponse from that agency. Mitigation of impacts on public facilities or the environment, as identified by agencies in the following areas, shall be addressed by the applicant prior to or as a condition of approval:

- a. Public facilities:
 - (1) Roads, traffic, and motorized, nonmotorized, and alternate transportation systems as evidenced in a traffic impact study when required;
 - (2) Schools
 - (3) Police and fire protection;
 - (4) Utilities such as power, gas, phone, cable;
 - (5) Sewer facilities;
 - (6) Water source and distribution systems, including irrigation and domestic water rights and hydrologic impact to ground and surface water;
 - (7) Public easements created, threatened, removed;
 - (8) Parks and recreation facilities.
- b. Environment:
 - (1) Existing vegetation;
 - (2) Wildlife habitat and migration;
 - (3) Wetlands;
 - (4) Land unsuitable for development due to potential hazards not limited to landslides, subsidence, high water table, or other severe development limitations:
 - (5) Avalanche hazard (no building shall be located within any blue or red avalanche hazard determined by specific on site study);
 - (6) Drainage, as it relates to existing natural drainage course(s) and how they are impacted by the proposal.
- 4. Review By City Of Ketchum: The CH overlay district is located within the city of Ketchum's area of city impact. As such, the applicant shall submit copies of the application and plans of the proposed development to the city of Ketchum planning manager. The city may provide recommendations to the county on the design standards set forth in subsection <u>9-35-10</u>C of this chapter as well as comments on the proposed community housing, density, parking, etc. If a recommendation has not been received within four (4) calendar weeks from submittal of the application, then the administrator shall consider this to be a nonresponse from the city of Ketchum. Comments and recommendations received shall be considered by the commission and board.

B. Application Requirements:

 Ownership/Land Control: Application may be filed by at least one holder of an interest in the real property. The entire project shall be under the same ownership or controlling interest and evidence of title to the property shall be submitted with the final plat application for a CH-PUD, when applicable. Applications submitted by the BCHA or licensed nonprofit housing agencies may proceed to final plat hearing(s) prior to ownership upon approval by the administrator.

2. Concurrent Submittal:

- a. Subdivision: CH-PUD plans that contemplate sales of lots and/or townhouse sublots and/or condominium units and therefore require a subdivision plat shall apply for preliminary plat simultaneously with application for CH-PUD following the procedures set forth in title-10, "Subdivision Regulations", of this code
- b. Conditional Use Permit: CH-PUD plans that include uses listed as conditional uses in the underlying zoning district or in section 9-35-7 of this chapter shall apply for a conditional use permit simultaneously with application for CH-PUD following the procedures set forth in chapter 25, "Conditional Use Permits", of this title.
- 3. Minimum Application Submittal Requirements:
 - a. Application And Fees: Completed application on form provided by the county, including payment of fees as set by resolution of the board. All county permitting fees for community housing units will be reduced by half. All free market lots and units shall be assessed fees according to the fee schedule.
 - b. CH Plan: All components of the CH plan as set forth in section 6.3 of the CH guidelines, as prepared based on input from BCHA.
 - c. Statistics: A tabulation of the numbers including, but not limited to:
 - (1) Acres and percent of total land area in street rights of way, including MP ROW, and in common open space;
 - (2) Maximum developable density per section <u>9-35-9</u>, table 2 and section <u>9-35-10</u>, table 4 of this chapter if applicable;
 - (3) Number of housing units proposed, by type (detached single-family, duplex, multiple-unit, free market, community housing);

- (4) Estimated residential population by housing type;
- (5) Community housing required per section 9-35-10, table 3 of this chapter.
- d. Site Plan For Existing Uses And Conditions: Existing uses and conditions site plan including adjacent parcels and descriptions of how the proposal relates thereto. Scale of plan to be approved by the administrator and shall include, but not be limited to:
 - (1) Buildings and other structures;
 - (2) Streets, roads, and rights of way for motorized and nonmotorized transportation;
- (3) Unique site features including natural drainage features;
- (4) Utilities underground and overhead (any utilities to be moved shall be highlighted);
- (5) Easements (any change to easements shall be highlighted);
- (6) Vegetation.
- e. Site Plan For Proposed Uses: Proposed uses site plan at a scale approved by the administrator including, but not limited to, showing location and dimensions of:
 - (1) Common open space;
 - (2) Common recreation areas and facilities;
 - (3) Structures and buildings to be constructed by developer with use identified;
 - (4) Streets, parking, pedestrian, bicycle and public transit circulation system, identifying MP ROW;
 - (5) Snow storage management plan;
 - (6) Lighting plan for all parking and other outdoor areas and buildings/structures;
 - (7) Landscaping and revegetation plans with irrigation system(s) including plan for water conservation and management and noxious weed control and prevention;
 - (8) Plans for storage of personal goods including, but not limited to, vehicles, boats, RVs, trailers, household and sporting goods;
 - (9) Preliminary grading and drainage;
 - (10) Easements.
- f. Architectural Drawings And Sketches: Architectural drawings and sketches including building elevations and floor plans sufficient to demonstrate the design, dimension and character of the proposed development and its visual effect on the neighboring land uses. Exterior lighting plan for circulation corridors and buildings. Other depictions such as installation of story poles and building outlines on the property may be required.
- g. Infrastructure Plans:
 - (1) Roads: Plans for roads, paths and other circulation systems, including all MP ROW, with evidence of compliance with county road standards contained in title 6, chapter 1 of this code and design and improvement standards contained in the subdivision regulations, subsections 10-5-1H, I, and J, and 10-5-3N and O of this code. Evidence of curtailment of ingress/egress upon Highway 75, or request to continue current use.
 - (2) Utilities: Plans for installation underground by the applicant of gas, electric power, telephone, and cable TV. Said installations shall include stub ins to the property line of each lot.
 - (3) Domestic Water System: Plans that demonstrate the following:
 - (A) That the water source meets state and federal standards;
 - (B) That abandoned wells are sealed to prevent contamination of groundwater;
 - (C) That the requirements of Idaho Code section 42-111 for domestic water limits and section 50-1334 for subdivision water systems are satisfied;
 - (D) That a public central water system approved by Idaho department of environmental quality (IDEQ) and any other applicable agency shall serve the proposal;
 - (E) That a water district or other licensed, certified operator acceptable to IDEQ shall exist for the operation, maintenance and ongoing monitoring/testing of the water and water system.
 - (4) Irrigation Water System: Plans, if any irrigation water right exists on the property, that demonstrate the following:
 - (A) That irrigation water, on site surface or ground water rights, shall be converted to domestic and landscaping needs before any new water right is sought for said purposes in conformance with Blaine County's public interest water policy;
 - (B) That all new wells are metered at the time of installation;
 - (C) That a plan for a central delivery system for irrigation water rights has been submitted in compliance with Idaho Code; and

- (D) That there are no decorative ponds or surface water features.
- (5) Sewer System: Plans for all phases of the required central sewer system that demonstrate the following:
 - (A) That a central public sewer system approved by IDEQ shall serve the proposal; and
 - (B) That a sewer district or other licensed, certified operator acceptable to IDEQ shall exist for the operation, maintenance and ongoing monitoring of the sewer system.
- (6) Solid Waste: Plan for removal of solid waste and yard waste from households and common areas that demonstrate acceptability to disposal provider.
- h. Review Letters: Copies of letters to agencies requesting review and comment (see preapplication requirements in subsection A3 of this section). Provide copies of agency responses as received.
- i. Traffic And Transportation Study: Traffic and transportation study including study of public transit modes in sufficient detail related to the size and scope of the project by an engineer having expertise in the field, as required by the Idaho transportation department.
- j. CC&Rs: Draft proposed restrictive covenants (CC&Rs) for the homeowners' association and any other documents proposed to govern the control and maintenance of all common areas and facilities such as, but not limited to, snow removal, landscape maintenance, and sewer and water systems. Such documents shall include the period of responsibility of the developer to operate and maintain such facilities, the establishment of financial plan to support such operation and maintenance, warranty of improvements by the developer, and consequences for failure to maintain such facilities.
- k. Development Schedule And Phasing Plan: Development schedule and phasing plan for the project and all self-contained phases that shall include all infrastructure and provisions of community housing.
- I. Requested Information: Any additional information that may be requested by the administrator and BCHA to demonstrate compliance with each standard for evaluation.

C. Commission And Board Notice And Hearing Procedure:

- 1. Certification Of Complete Application: Allowing sufficient time to review the application and write a staff report, the administrator shall then schedule the completed application to be heard by the commission or the board at the next available regular agenda at which noticing requirements can be met. If no hearing time is available within forty five (45) days of certification, the administrator shall call a special commission meeting, to be held not more than three (3) weeks after the end of the forty five (45) days, to hear the application.
- 2. Commission Hearing: The planning and zoning commission (commission) shall hold a public hearing following notice procedures contained in section <u>9-25-4</u> of this title, and following notice procedures contained in subsection <u>10-4-3</u>D of this code when concurrent subdivision application is made.
- 3. Board Hearing: The board shall hold at least one hearing following the same notice procedures contained in subsection C2 of this section.

D. Action By The Commission And Board:

- 1. Commission Action: The commission upon hearing and evaluation shall make specific written findings with regard to each standard of evaluation contained in this chapter, and shall formulate a written recommendation to the board for approval, approval with conditions and/or modification and/or development agreement, or denial of the proposed CH-PUD and simultaneous preliminary plat application, if any. Said written findings and recommendation shall be presented to the board at the next regularly scheduled meeting following execution of the written document by the commission.
- 2. Board Action: The board upon hearing and evaluation shall consider the application(s), the recommendations and record from the commission, public comment, comments from public and other agencies, and may accept, accept with modification, or reject the recommendations of the commission and shall make the final decision with regard to the CH-PUD and any concurrent preliminary plat subdivision application. (Ord. 2013-01, 3-19-2013)

9-35-13: SPECIAL PROVISIONS:

- A. Appeals Process: A decision by the county on an application for a CH-PUD may be appealed through the process specified in chapter 32 of this title.
- B. Nonbinding Precedent: The approval of a CH-PUD shall not be considered a binding precedent for the approval of other CH-PUD applications.
- C. Nontransferable: A CH-PUD approval is not transferable from one parcel of land to another.

D. Amendment Of CH-PUD:

1. The holder of an approved but uncompleted CH-PUD may apply to the board for amendment of the approved CH-PUD insofar as the amendment relates to the community housing within the CH-PUD. Such a request may concern the number, classification, location, construction, method of provision, or any other aspect relating to community housing within the approved development, but shall not create new lots or increase the overall density within the CH-

PUD. The hearing shall be noticed in the same manner as the original application and a public hearing shall be held before the board. The community housing aspects of the proposed amendment shall be reviewed by the board using subsection 9-35-10A of this chapter in effect at the time the application for amendment is filed. The board may approve the amendment if it makes a positive finding that: a) the amendment does not materially compromise the board's findings on the original CH-PUD relating to community housing; and b) the community housing provided in the CH-PUD, as amended, complies with the requirements of this chapter. No amendment shall be approved that would extinguish the deed covenant on an already completed community housing unit.

- 2. Minor changes in the location, siting or architectural details of buildings, structures, or landscaping may be authorized by the administrator, if required by engineering or other circumstances not foreseen at the time the CH-PUD was approved. Minor changes may include exterior colors/materials or window placements that do not significantly affect project design, appearance or function; changes to site plans that do not significantly change parking or driveway/road alignment; changes to landscape plans that do not decrease the amount of landscaping; changes to dumpster enclosures; changes to exterior lighting. All such requests shall be in writing supported by such documentation as reasonably required by the administrator. No change shall be authorized by the administrator except in writing and shall not increase the size of any building or structure, or building envelope concept, nor change the location of any building or structure outside of an approved building envelope. If the administrator determines any proposed change may have a significant impact on the approved project, the administrator may decline to administratively approve such change and shall forward same to the board for consideration.
- E. Chapter Review: This chapter shall be reviewed on a biennial basis. During each review, the board shall take public comment on potential changes so as to ensure that the purpose and provisions of this chapter remain valid and attainable. (Ord. 2013-01, 3-19-2013)