

ORDINANCE NO. 290

AN ORDINANCE REPEALING, REDESIGNATING AND ENACTING CERTAIN CHAPTERS OF TITLE 9 OF THE SUGAR CITY, IDAHO, CODE AS FOLLOWS: CHAPTERS 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, AND 13 OF TITLE 9 ARE REPEALED; CHAPTER 7 OF TITLE 9 IS REDESIGNATED AS CHAPTER 6 OF TITLE 8; CHAPTER 9 OF TITLE 9 IS REDESIGNATED AS CHAPTER 8 OF TITLE 9, AND CHAPTER 15 OF TITLE 9 IS REDESIGNATED AS CHAPTER 9 OF TITLE 9. THIS ORDINANCE AMENDS TITLE 9 WITH REGARDS TO ADMINISTRATION OF THE PLANNING AND ZONING ORDINANCE INCLUDING THE CITY PLANNING AND ZONING COMMISSION, AMENDING, ADDING AND DELETING DEFINITIONS OF CERTAIN TERMS USED IN TITLE 9; AMENDING THE PROCEDURES FOR ANNEXATION AND RECLASSIFICATION OF LAND; AMENDING THE PROCEDURES FOR CONSIDERING SPECIAL USE PERMITS AND VARIANCES; AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SUGAR CITY, IDAHO:

SECTION I. SAVINGS CLAUSE. All appointments, decisions, actions and permits made, granted or issued prior to the effective date of this ordinance are hereby declared to continue to be valid and in force, subject to the provisions of this title.

SECTION II. REDESIGNATION OF CHAPTERS: Certain chapters of title 9 of the Sugar City, Idaho, Code are hereby redesignated as follows:

- Chapter 7 of title 9 to be chapter 6 of title 8 of the Sugar City, Idaho, Code;
- Chapter 9 of title 9 to be chapter 8 of title 9 of the Sugar City, Idaho, Code; and
- Chapter 15 of title 9 to be chapter 9 of title 9 of the Sugar City, Idaho, Code.

SECTION III. REPEAL OF CERTAIN EXISTING CHAPTERS OF TITLE 9: Chapters 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, and 13 of title 9 of the Sugar City, Idaho, Code are hereby repealed.

SECTION IV. ENACTMENT OF CERTAIN NEW CHAPTERS OF TITLE 9. the following is hereby enacted as chapters 1, 2, 3, 4, 5, 6, and 7 of title 9 of the Sugar City, Idaho, Code.

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TITLE 9, ZONING:

CHAPTER 1

ADMINISTRATION

SECTION:

- 9-1-1: Title
- 9-1-2: Purpose, Intent, And Authority
- 9-1-3: Administrator
- 9-1-4: Planning And Zoning Commission
- 9-1-5: Applications
- 9-1-6: Penalty, Complaint
- 9-1-7: Appeal
- 9-1-8: Amendment

9-1-1: TITLE:

This title shall be known as the "Sugar City Zoning Ordinance."

9-1-2: PURPOSE, INTENT, AND AUTHORITY:

- A. Purpose: The purpose of this title is to promote the health, safety, morals, and general welfare of the people of Sugar City by fulfilling the purposes and requirements of the Local Planning Act and implementing the City's Comprehensive Plan. Specific statements of purpose accompany selected provisions of this ordinance, but the comprehensive plan provides the full statement of the City's purpose and intent in planning and zoning activities.
- B. Intent: The intent of this title is to separate land uses that might be incompatible with one another and to ensure public services sufficient to support the land uses permitted. Zoning policy and implementation should uphold the comprehensive plan and fulfill the purposes stated above.
- C. Applicability: This title shall apply, to the extent permitted by law, to all lands and uses within the jurisdictional boundaries of Sugar City and the lands and uses within the Sugar City Area of City Impact.
- D. Minimum Requirements: In their interpretation and application, provisions of this title shall be held to be minimum requirements. Whenever any of the requirements of this title conflict with other ordinances of Sugar City, the most restrictive provision shall apply.
- E. State Law/Private Restrictions: The intent of this title is not to interfere with state statutes or with private restrictions. Where differences exist, the more restrictive standard shall prevail.
- F. Continuation of Nonconforming Uses: Grandfather Provision (see also 9-3-9):
 - (1) The owner of a lawful nonconforming use has the right to continue in that use despite the subsequent enactment of conflicting zoning ordinances.
 - (2) In order to be lawfully nonconforming there must not have been any ordinance in effect at the time the use was commenced that did not permit the use.
 - (3) If such an ordinance was in existence at the time the use commenced, the use is not lawfully nonconforming and must be abated if not subsequently permitted or allowed as a variance under this ordinance.

(4) In the event a nonconforming use is discontinued for a period of at least one year, the City may, in writing, require the owner to declare his intention regarding the continued nonuse of the improvements. The owner must respond within twenty-eight days of receipt of the request. To continue the nonuse beyond one year but retain the right to resume the use, the owner must notify the city of his intention and must post the property with notice of his intent to continue nonuse of the Improvements. The owner must also publish notice of his intent to continue nonuse in a newspaper of general circulation in the county where the property is located. If the owner complies with these requirements he may retain the right to resume the use of the property.

(5) In the event a nonconforming use is discontinued for more than 3 years, the use shall be deemed not lawfully nonconforming and the owner shall not thereafter have the right to resume that use.

(6) State law shall apply in all cases involving nonconforming uses.

- G. Authority: This ordinance is adopted pursuant to authority in title 67 chapter 65 (Local Land Use Planning Act) of the Idaho Code; title 50 chapter 13 (Plats and Vacations) of the Idaho Code; title 50 section 222 (Annexation by Cities) of the Idaho Code, and Article 12 Section 2 (Local Police Regulations Authorized) of the Idaho Constitution: all as currently comprised or subsequently amended.

9-1-3: ADMINISTRATOR:

- A. Unless the mayor, with the consent of the City Council, appoints another person as planning and zoning administrator, the administrator shall be the city clerk. The administrator may be provided with the assistance of such other persons as directed by the mayor with approval of City Council.
- B. The administrator shall provide for:
1. Information and advice concerning this title;
 2. Notification to news media regarding matters of public interest;
 3. Aid to applicants in preparation and expedition of applications;
 4. Receipt of applications and fees;
 5. On-site inspection (with permission of the owner) of properties subject to application;
 6. Collection, filing, and distribution of materials relevant to applications;
 7. Coordination with other Sugar City departments and public agencies concerning applications and permits.
 8. Preparation of planning and zoning meeting agendas;
 9. Issuance of permits, notifications, letters, and similar items;
 10. Investigation of violations and written communications with violators; and
 11. Assistance to the Planning and Zoning Commission and City Council in carrying out provisions of this title.

9-1-4: PLANNING AND ZONING COMMISSION:

- A. Membership: The Planning and Zoning Commission shall consist of not fewer than three nor more than twelve voting members. The administrator or his or her assistant and a member of the City Council acting as liaison to the commission are nonvoting members. The following provisions apply to the voting members.

1. Proportionate Representation: Members shall be apportioned to give proportionate representation to the incorporated city and the area of city impact, based on respective populations, as provided in IC 67-6526(g). City Council shall review the apportionments from time to time and adjust the membership as needed.

2. Conditions of Membership: The following conditions are intended to carry out IC 67-6504(a).

a. A member shall have resided in the area he represents (city or impact area) for at least two years prior to his appointment, and must remain resident during his service on the commission.

b. Members are appointed by the Mayor with the consent of the City Council. The Mayor may seek recommendations from the Madison County Commission as to who should be members representing the impact area. The areas and interests within the City and Area of City Impact should be broadly represented on the commission.

c. The term of office shall be for three calendar years, with appointments staggered. No person shall serve more than two full consecutive terms without concurrence by two-thirds of the City Council, adopted by resolution and recorded in the minutes. A vacancy occurring other than through the expiration of the term shall have someone appointed, in the same manner as the original appointment, to complete the unexpired term. Members may be removed for cause by a majority vote of the City Council.

3. Conflict of Interest/Ex Parte Contacts: A member or employee of the City Council or Planning and Zoning Commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest or *ex parte* contact should be disclosed at or before a meeting at which the relevant action is being heard or considered, and be noted in the minutes. A knowing violation of this section shall be a misdemeanor subject to penalties as provided by law. Illegal participation voids any action taken as a result. Further explanation appears in IC 67-6506.

B. Operation of the Commission: Operations are governed by IC 67-6504 and other applicable statutes.

1. Organization: The commission shall elect a chairman and create and fill any other office it deems necessary. To advise and assist in carrying out its responsibilities, the commission may appoint nonvoting *ex officio* advisors and establish subcommittees, advisory committees, and neighborhood groups. Committees and groups shall comply with open meeting laws and maintain records of their activities as required by law.

2. Rules: Modified parliamentary rules approved by City Council will govern conduct of meetings. Agendas will be prepared and meetings conducted in accordance with the Open Public Meetings Act, IC 67-2340 - 2345. In case of a tie vote, the chairman will declare the action tabled until a subsequent meeting. In case of tabling an action because of a tie vote, the deadline for action shall be extended until the next regular meeting if such extension is needed. An applicant may be asked to revise his application in the interim. If the tie is not broken at the second meeting, the Planning and Zoning Commission shall forward the application to the City Council with no recommendation.

3. Records: A record of meetings, hearings, resolutions, studies, findings, permits, and actions taken shall be maintained. Written minutes must contain members present, all motions, orders, resolutions, ordinances proposed and their disposition, and results of all votes, and if requested, by roll call. The written minutes shall be

subject to approval by vote at a subsequent meeting. A transcribable verbatim record shall be kept of public hearings for at least six months after final action on the matter. Minutes shall be available to the public within a reasonable time after the meeting. A person who desires individual copies may be required to make written request, pay the cost of copies, and wait until copies can reasonably be made.

4. Meeting Frequency: At least one regular meeting shall be held each month for not fewer than nine months in each year.

5. Quorum: A majority of currently appointed voting members of the commission shall constitute a quorum.

C. Powers and Duties: The commission shall exercise the powers and duties provided in IC 67-6507 through 6511, and such other duties as assigned by City Council. Powers and duties include, but are not limited to:

1. Carry out the planning duties set forth in Idaho Code Section 67-6508.

2. Make recommendations to the City Council for the adoption, amendment and repeal of the City's comprehensive plan. The commission shall not recommend amendments to the land use map component of the comprehensive plan more frequently than once every six months. The commission may recommend amendments to the text of the comprehensive plan at any time.

3. Recommend implementing materials, that is, documents that contain details of or authorization for implementation of the comprehensive plan to the City Council.

4. Consider amendments to this title and other relevant titles and make recommendations to City Council.

5. Consider subdivision applications and make recommendation to City Council.

6. Consider applications for annexation, reclassification (zone change), planned unit development, special use permits, and other applications that relate to land use, and make recommendation regarding these applications to the City Council.

7. Consider and decide applications for variances.

8. Hear and decide appeals from an action or decision of the planning and zoning administrator.

9. Assist potential applicants in understanding the comprehensive plan, ordinances, and standards.

10. Other duties as assigned by City Council.

D. Area of City Impact: Under Idaho Code Section 67-6526, the City's land use ordinances apply to the area of city impact. The City's ordinances regarding the area of city impact are administered by Madison County. When the county refers applicants or forwards applications to the Sugar City Planning and Zoning Commission, the commission shall consider the application, make its recommendation to the county, and report its action to the City Council.

9-1-5: APPLICATIONS: Applications and the process for consideration of special use permits is set forth in the Chapter entitled Special Use Permit (title 9 chapter 6).

A. Permits Required:

1. Except by permit from the city, no use of land shall be established or changed, nor shall a facility, building, or other structure be erected, moved, added to, or structurally altered.

2. Failure to obtain required permits shall be a violation of this title. Work or use undertaken that does not comply with permits and relevant requirements shall be a violation of this title. (see 9-1-5-C-2)
3. Criteria for issuance and exercise of permits shall be as set forth in titles 8 (Building Regulations), 9 (Zoning), and 10 (Subdivision and Platting) of this code and in other applicable statutes and regulations.
4. Application forms shall be approved by the City Council. Application forms shall include:
 - a. Such information about the project as is required in this code and as City Council requires;
 - b. Signature and date blanks;
 - c. Dates and conditions of expiration and/or revocation.
5. Action on applications shall be based on criteria and standards in the comprehensive plan, this title, and other relevant statutes, so as to represent reasoned decisions. Quasi-judicial actions shall be followed by a written statement to the applicant specifying the ordinance and standards used in weighing the application, reasons for approval or denial, and actions, if any, that the applicant could take to obtain approval (see Idaho Code Section 67-6519).
6. The administrator shall retain copies of applications and notifications of actions on them.
7. In case of need for posting a notice on the property which is the subject of an application, the administrator shall provide the applicant with the necessary placard and verify that a placard containing the necessary information is posted in a timely fashion on the property.
8. The administrator shall forward permits to the Madison County Assessor as required in Idaho Code Section 67-6522.

B. Fees:

1. Fees are as established by resolution of the City Council.
2. The fee schedule shall be posted in the office of the administrator.
3. In addition to the base fee, the City may require that the applicant pay the actual expenses incurred in processing an application, such as for advertising, postage, and other out of pocket costs.
4. Fees must be paid in full, or arrangement for payment agreed to by City Council, before the application is considered complete or administrative action undertaken.
5. Fees pertaining to the Area of City Impact shall be handled as agreed between Sugar City and Madison County.

C. Expiration/Revocation of Permits:

1. If the permitted work is not begun within one year of its being issued, it will terminate at that time, unless the administrator, for good cause shown, extends the permit. Unless a permit is issued for a longer period, work allowed by the permit must be completed within two years of the permit being issued. Extension of a permit beyond two years shall be as determined by City Council, with or without recommendation from the Planning and Zoning Commission.
2. Work or use undertaken that does not comply with any permit, or with conditions or standards of any permit, shall constitute grounds for a stop work order and/or revocation of the permit. Failure to obtain any relevant permit, or any other violation

of this chapter, shall constitute a misdemeanor. The City Council, may also order such use to cease and/or abatement of such work with or without recommendation from the Planning and Zoning Commission. (see 9-1-5-A-2)

9-1-6: PENALTY, COMPLAINT:

A. Penalty:

1. Violations of this title shall be misdemeanors.
2. Each day a violation continues shall be a separate misdemeanor.
3. Any participating person—landowner, tenant, developer, builder, public official, or any other person who commits, participates in, or maintains a violation—may be found guilty of a separate offense.
4. Nothing herein shall prevent any person from taking such lawful action as is necessary to restrain or prevent violation of this title.

B. Complaint:

1. Any person may file a written complaint with the administrator relative to a permit or land use. The document should state the nature of the complaint, explain the basis for it, and be signed (with mailing address included) and dated.
2. The administrator shall receive the complaint, place it on the agenda of the appropriate city instrumentality, and mail notice of action to the person who filed the complaint.
3. The instrumentality concerned shall review the complaint within a reasonable time of its receipt and provide a written response to the person submitting it in which it shall find no violation of City ordinances or explain what enforcement action has or will be taken or recommended, or explain what other action has or will be taken or recommended.

9-1-7: APPEAL:

A. Filing an Appeal: Any decision/action of the administrator or Planning and Zoning Commission may be appealed.

1. An appeal of a decision/action of the administrator should be addressed to the Planning and Zoning Commission.
2. An appeal of a decision/action of the Planning and Zoning Commission should be addressed to City Council.
3. An appeal is commenced by written notice, dated and signed, with return mailing address, to the administrator and/or an officer of the instrumentality to whom the appeal is addressed.
4. The appeal should state to which instrumentality the appeal is addressed, the action being appealed and its date, the grounds for the appeal, and may contain names of other affected persons with their mailing addresses.
5. An appeal must be physically filed with the City Clerk within 21 days of the decision/action being appealed.

B. Stay of Proceedings: A pending appeal shall stay all proceedings in furtherance of the action appealed, except in case of a determination that the stay would cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by a restraining order issued by a court having proper jurisdiction.

C. Administrative Procedures:

1. The Planning and Zoning Commission shall hear appeals from decisions/actions of the Administrator. The City Council shall hear appeals from decisions/actions of the Planning and Zoning Commission.
2. The administrator shall place the appeal on the agenda of the next regular meeting of the body addressed and transmit to the members of that instrumentality copies of all materials relevant to the appeal.
3. At least one week prior to the appeal hearing, the administrator shall notify by mail the appellant and all persons required to be notified by mail of the original application.
4. If the appellant or his representative does not appear at the appeal hearing, the body hearing the appeal may continue the appeal to the next regular meeting or decide the appeal on the record before it, including the testimony/evidence received from any affected persons.
5. At the appeal hearing the instrumentality addressed shall allow the appellant and affected persons to be heard. The procedure for hearing shall be as provided in title 1 chapter 8 of this code, with these modifications:
 - a. The requirement for notice shall not be greater than in Paragraph 3 of this subsection. Upon opening the hearing, the presiding officer shall determine whether proper notice has been provided. If proper notice has not been provided, the hearing shall be rescheduled to the next regularly scheduled meeting;
 - b. The presiding officer may state that testimony should relate to principles and standards in the comprehensive plan and city code, or to other legal or practical concerns;
 - c. The appellant occupies the role of applicant; and
 - d. Persons who are not affected persons (see AFFECTED PERSON) may be heard at the discretion of the presiding officer. The record should reflect whether each person who testifies is an affected person.
6. A decision on the appeal must be approved by the board within a reasonable period of time. In any event the board will approve a decision by the next regular meeting after hearing the appeal, unless the time for decision is extended for good cause or mutual agreement with the appellant. The hearing board shall specify in writing:
 - a. The ordinances and standards used in weighing the appeal; and
 - b. The facts relied upon.
 - c. The reasons for approval or denial.
7. In the event the board cannot arrive at a decision by a majority vote, the decision/action being appealed is deemed affirmed.
8. The administrator shall notify the appellant and other affected persons of the decision by first class mail within 15 consecutive days of approval of the decision by the board.
9. A decision by the Planning and Zoning Commission may be further appealed to City Council within 21 days after the decision by the Planning and Zoning Commission.

9-1-8: AMENDMENT:

- A. The City Council shall not amend this title until it has received a recommendation regarding the amendment from the Planning and Zoning Commission.
- B. Prior to recommending an amendment to this title, the Planning and Zoning Commission shall conduct at least one public hearing.
- C. If the Planning and Zoning Commission recommends a material change to a proposed amendment or the City Council materially changes a proposed amendment after a public hearing (either before the Planning and Zoning Commission or the City Council), another public hearing shall be held before taking final action.

CHAPTER 2

DEFINITIONS

SECTION:

9-2-1: General Provisions

9-2-2: Definitions

9-2-1: GENERAL PROVISIONS:

- A. For the purpose of this title, certain terms are defined as set forth in this chapter.
- B. Unless the construction of the sentence indicates otherwise, verbs in the present tense include the future tense, the plural includes the singular, and the singular includes the plural.
- C. Applicants are advised to see definitions in title 1 chapter 2 of this code and in other titles of this code that are relevant to their applications.

9-2-2: DEFINITIONS:

ABUT: To touch or adjoin; to share a common boundary.

AFFECTED PERSON: One having an interest in real property, which interest may be adversely affected by the issuance or denial of a permit authorizing a particular use or development. Those persons who must be notified by mail of the filing of an application for a land use permit or variance. (see title 1 chapter 3).

AGRICULTURE: Farming, cultivation, pasturage, animal or poultry husbandry, and their customary accessory uses; but excluding slaughter, packing, and similar processing; further, any use which conforms to the intent of this definition as decided by the Planning and Zoning Commission or state law. See Idaho Code, Section 39-4116.

ANNEXATION AGREEMENT: A contract between the city and property owner(s). The agreement contains general and specific conditions of a proposed annexation.

APARTMENT: In a multifamily dwelling, one or more rooms designed as one separate housekeeping unit to be rented, including permanently installed kitchen and bathroom.

ASSISTED LIVING FACILITY: The same as NURSING HOME, except not administering medical care; not a SHELTER HOME as provided in IC 67-6530 – 6532.

AUTOMOTIVE GARAGE: Premises used primarily for the repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning.

AUTOMOTIVE SALES YARD: Premises on which new and/or used passenger automobiles, trailers, mobile homes, or trucks, in operating condition, are displayed for sale or trade.

AUTOMOTIVE SERVICE STATION/SERVICE STATION: Premises used primarily for the retail sale and delivery of motor fuel and/or lubricating oils, tires, and incidental vehicular lubrication and related services, including automotive repair.

AUTOMOTIVE WRECKING YARD: Outdoor premises on which two (2) or more motor vehicles not in operating condition are standing more than thirty (30) days, or on which used motor vehicles or parts thereof are dismantled or stored.

BED AND BREAKFAST: An owner-occupied facility with no more than eight guestrooms providing overnight accommodation and food service.

BLOCK: A tract or a group of lots enclosed by streets, streams, railroads, or other natural or manmade boundaries.

BOARDING HOUSE: A building other than a hotel or restaurant where meals are offered for compensation for at least three but not more than 12 residents who are not members of the householder's family.

BUILDING: A structure with substantial walls and roof securely affixed to the ground and structurally separate on all sides from any other building; arranged for the shelter or enclosure of persons, animals, or objects.

BUILDING, ACCESSORY: A detached building which is subordinate and incidental to the principal building on the same lot; not any building containing a dwelling unit.

BUILDING ENVELOPE: The area on a lot or parcel suitable for building. Ownership of the building envelope may not include the entire lot or parcel, parts of which may be owned by a homeowners' association, an individual, or a partnership or organization.

BUILDING, NONCONFORMING: A building which does not conform to the requirements of this code.

BUILDING, PRINCIPAL: The building most directly connected with the principal use of the lot.

CENTRAL SEWER SYSTEM: A system that receives blackwaste or wastewater in volumes exceeding 2,500 gallons per day; a system which receives blackwaste or wastewater from more than two dwelling units or more than two buildings under separate ownership.

COMMON AREA: An area, substantially open to the sky, which is owned by a group or association. Buildings may abut the area without setbacks.

CONDITIONAL APPROVAL: Approval that is and remains contingent on the fulfillment of conditions specified.

CONDITIONAL USE: Use of a structure or land different from what is normally permitted in its zoning district; also called special use (see title 1 chapter 3).

CONDOMINIUM: A multifamily dwelling containing more than two units arranged for individual ownership; a unit in such a dwelling.

CONSERVATION EASEMENT: A legal restriction on property, which for a term certain or in perpetuity prohibits some or all development of that property and whose purpose is to conserve open space or natural resources.

DAYCARE FACILITY: A place or facility providing daycare services for compensation.

A. **DAYCARE, HOME:** A home, place, or facility providing daycare services for compensation for six or fewer children.

B. **DAYCARE, GROUP:** A home, place or facility providing daycare services for compensation for seven to 12 children.

C. **DAYCARE CENTER:** A place or facility providing daycare for compensation for 13 or more children.

DENSITY: The number of dwelling units allowed per acre.

DETENTION FACILITIES: Facilities providing housing, care, and supervision for persons confined by law.

DEVELOPMENT AGREEMENT: An agreement between the city and the owner or developer concerning the use or development of the subject parcel created and in a form provided for in this title. (See Idaho Code, Section 67-6511A)

DISTRICT: A category of land use provided in this code; a zone or zoning district.

DRIVE-IN: Other than an automotive service station, an establishment arranged to serve patrons who are inside motor vehicles.

DWELLING: A building or portion thereof arranged primarily for residential use, excluding hotels, hospitals, clubs, tents, travel trailers, and the like.

DWELLING UNIT: One or more rooms, as within a multifamily dwelling, arranged as a separate housekeeping unit, including permanently installed kitchen and bathroom.

ENTERTAINMENT FACILITY: A for-profit facility for entertainment.

A. **ENTERTAINMENT FACILITY, INDOOR:** An indoor facility used for public entertainment, including, but not limited to, bowling alleys, dance halls, theaters, and arcades.

B. **ENTERTAINMENT FACILITY, OUTDOOR:** An outdoor facility used for public entertainment, including, but not limited to, golf courses, drive-in theaters, raceways, and riding courses.

FAMILY: An individual; or two or more persons related by blood, marriage, or adoption; or a group of not more than three persons who are not related: residing together.

FEEDLOT: A facility, other than a kennel, where animals are confined and fed from an outside source.

FLOOD PLAIN: An area designated by the Army Corps of Engineers as a flood plain.

FRONTAGE: The line where a parcel abuts one street or public right of way and which is designated as the front of the parcel.

HEIGHT, BUILDING: The vertical distance from the average grade at the front of a building to its highest point.

HOUSEHOLD: All persons residing in one dwelling or dwelling unit.

IMPACT AREA: The area of city impact designated by an agreement between the City and the Madison County Commission in accordance with Idaho Code, Section 67-6526.

INDUSTRY: The making of a product, especially by machinery and on a large scale, including assembling, fabricating, processing, and/or refining.

INNER SIDE/INNER WALL: A side or wall facing an abutting parcel, for example the sides of a building on an interior lot. Front and rear are distinct from inner sides, as are outer sides and outer walls.

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

LOAN FIRM (SMALL OR SHORT-TERM LOANS): A business offering small or short-term loans collateralized by auto titles, checks, or personal property; a pawnshop; a business essentially resembling these.

LOT: A parcel of land recorded with the county.

LOT COVERAGE: The area of a lot occupied by the principal building and accessory buildings, as expressed by a percentage.

LOT FOOTPRINT: In a multiple-use district or in a planned unit development, the parcel of land for a single-family home, twin home, or townhome, which usually is immediately beneath, in front of, and behind the dwelling unit.

LOT FRONTAGE: The line where a lot abuts one street or public right of way and which is designated as the front of the lot.

LOT LINE: The boundary property line encompassing a lot.

LOT, MINIMUM AREA: Minimum lot areas are computed after excluding any portions of streets or public rights of way that may be part of the legal description; also excluding the "flagpole" of a flag lot (see LOT TYPES).

LOT TYPES:

- A. **Corner Lot:** A lot located at a street intersection and with an external angle of not more than 135°.
- B. **Flag Lot:** A lot located behind another lot and accessing the street by means of a narrow corridor, or "flagpole." The corridor is not counted in computing minimum lot size. The front of a flag lot is designated by the owner and does not include the access corridor.
- C. **Interior Lot:** A lot abutting only one street.
- D. **Right-angle Lot:** A lot on which frontage is at a right angle to the general pattern in the area.
- E. **Through Lot:** A lot abutting streets on at least two nonadjacent sides.

LOT, USABLE AREA: That portion of a lot that is usable according to the zoning district and building regulations.

LOT WIDTH: The length of the lot's frontage line.

MANUFACTURED HOME: A single-family dwelling fabricated in one or more sections at a location other than the home site, each section bearing a label certifying compliance with Federal Manufactured Home Construction and Safety Standards, June 15, 1976, also meeting HUD and Uniform Building Code standards.

MANUFACTURED HOME PARK: A parcel retained under one ownership for the purpose of lease or rental of spaces for manufactured homes.

MANUFACTURED HOME SUBDIVISION: An area subdivided according to this code to provide for the sale of individual lots for the purpose of placement of manufactured homes.

MANUFACTURING: The making of a product, especially by machinery and on a large scale, including assembling, fabricating, processing, and/or refining.

MASTER DEVELOPMENT PLAN: A plan for a large, unusual, or complicated development whose final platting is expected in stages, as in a major subdivision or planned unit development.

MOBILE HOME: A manufactured, relocatable single-family dwelling made prior to June 15, 1976, or which does not meet the Federal Manufactured Home Construction and Safety Standards of June 15, 1976, or HUD and Uniform Building Code standards.

MOBILE HOME PARK: A parcel retained under one ownership for the purpose of lease or rental of spaces for the placement of mobile homes or manufactured homes as defined in this chapter.

MOBILE OFFICE/TEMPORARY OFFICE: A detached mobile unit intended to be used as an office, not for occupancy as a dwelling unit.

MONUMENT: A marker as described in IC 50-1303.

MULTIFAMILY DWELLING: A detached building containing two or more dwelling units. Under this definition, twin homes, townhouses, condominiums, and apartments are multifamily dwellings, as are duplexes, three-plexes, six-plexes, etc.

NONCONFORMING USE: A use that does not conform to current regulation but that lawfully existed prior to the enactment of a zoning ordinance and is maintained after the effective date of the ordinance.

NURSING HOME, CONVALESCENT HOME: A facility, however named, whether operated for profit or not, that provides residence and medical services for two or more persons requiring care incident to illness, injury, deformity, or advanced age; not a SHELTER HOME as provided in IC 67-6530 – 32.

OPEN SPACE: Land substantially open to the sky, and so recorded, exclusive of streets. Computation of open space requirements does not include wetland areas, drainage spaces, irrigation facilities, or similar features.

OPEN ZONE: A zoning district; distinct from common area and open space.

OUTER SIDE/OUTER WALL: A side or wall facing a street or public right of way, such as on a corner lot. Front and rear are distinct from outer sides, as are inner sides and inner walls.

PATIO HOME: A single-family dwelling on a small lot, often with one wall of the home abutting the property line. Patio homes have no common structural walls with adjoining structures, but their zero lot line wall may form part of a neighbor's back or side yard fence/wall. The lot may have a small back or side yard suitable for a patio or garden.

PAWN SHOP: See LOAN FIRM (SMALL OR SHORT-TERM LOANS).

PEDESTRIAN WAY: A walkway providing access to or through a school, park, recreation area, shopping center, or the like.

PERFORMANCE/SURETY BOND: A financial guarantee by a developer to the city, guaranteeing the completion of development according to plans and specifications and/or the operation of said development according to provisions required by the city and/or reclamation of said development site as agreed with the city.

PLANNED UNIT DEVELOPMENT: A development project in which a variety of uses are accommodated in accordance with this code.

PLAT: The drawing, map, or plan of a cemetery, subdivision, or some other tract of land, or replatting of such, including certifications, covenants, descriptions, dedications, and approvals, in accordance with Idaho Code, Section 50-1301, et. Seq.

A. Preliminary Plat: A plat setting forth the basic information necessary for the planning and zoning commission to determine if the subdivision plan generally complies with the applicable requirements.

B. Final Plat: The plat that incorporates all the conditions of the preliminary plat and the Idaho Code for final approval.

C. Recorded Plat: A plat that has received final approval and been recorded by the county.

PRESCHOOL: A facility providing care for compensation, with instruction, for more than six children of preschool age.

PUBLIC ACCESS: Accessibility to the public of publicly owned parks, offices, schools, and like facilities, not including publicly owned facilities that restrict public access.

PUBLIC USE FACILITIES: Public parks, schools, churches, administrative or cultural buildings, and like facilities, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials.

QUASI-PUBLIC ACCESS: Accessibility to the public of privately owned facilities used for religious, philanthropic, educational, or other non-profit purposes.

RESERVE STRIP: A strip of land between a dedicated street or half street and adjacent property, which is reserved or held in public ownership for future street extension or widening.

RESIDENCE: A single-family dwelling or a dwelling unit in a multifamily dwelling.

ROADSIDE STAND: A structure or vehicle designed or used for the temporary display and sale of retail items.

ROOMING HOUSE: See BOARDING HOUSE.

SET-ASIDE LAND: A general term for land that is not to be developed; may include land such as open zone, open space, common area, unbuildable land, or land subject to conservation easement.

SETBACK: The minimum distance allowed between a property line and the nearest drip line of the eave of a building, including any projection thereof, excluding uncovered steps,

which may extend into the front and rear setback up to one-third of the required setback distance.

SETBACK AREA: The area on a lot required to be left open and unoccupied by buildings or structures by the front, side, or rear yard requirements of this title or by delineation on a recorded subdivision.

SEXUALLY ORIENTED BUSINESS/ADULT BUSINESS: A business offering materials or performances that depict, describe, or relate to sexual subjects or activities, such as are popularly considered "adult."

SHELTER HOME: A residence for mentally and/or physically handicapped and/or elderly persons as provided in Idaho Code, Section 67-6530, 6531, and 6532.

SIGN: An object used to display an announcement, direction, or advertisement; not a flag or other insignia of government or notice of event by a nonprofit organization.

SINGLE-FAMILY DWELLING: A detached building arranged as one dwelling unit.

SPECIAL USE: Use of a structure or land different from what is normally permitted in its zoning district; also called conditional use (see title 1 chapter 3).

STRUCTURE: Anything constructed or erected, except a fence, which requires permanent location on the ground or is attached to something having permanent location on the ground.

SUBDIVISION: The division of any tract of land into more than two parts for the purpose of transfer of ownership or development; an area so divided.

TAVERN/LOUNGE/BAR: A building where the principal business is serving alcoholic beverages for consumption on the premises, not including restaurants.

TOWNHOUSE: A multifamily dwelling with more than two units that share common walls; a unit in such a dwelling.

TRAVEL TRAILER: A vehicle equipped with wheels capable of unrestricted highway use, intended for temporary human occupancy and for vacation travel or recreational purposes; includes, but not limited to, travel trailers, motor homes, and camper units.

TRAVEL TRAILER PARK: A parcel intended for rental of spaces for temporary placement of travel trailers.

TRUCK STOP: Premises suitable for servicing long-haul trucks and used primarily for the retail sale and delivery of motor fuel and/or lubricating oils, tires, and incidental vehicular lubrication and related services, including repair.

TWIN HOME: A multifamily dwelling containing two units that share a common wall with or without connecting passageway(s); a unit in such a dwelling.

USE: The operation or activity for which land or a facility is occupied or maintained.

A. **Primary Use:** The predominant use of the premises.

B. **Accessory Use/Auxiliary Use:** A use incidental and subordinate to the primary use of the premises.

VARIANCE: A modification of requirements of this code as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other

provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots; as provided in Idaho Code, Section 67-6516.

VERTICAL MIXED USE: Varied uses of different stories in a building, such as residential above commercial.

VICINITY MAP: A drawing showing the location of a parcel in relation to a larger area.

WAREHOUSING AND STORAGE:

A. Limited: Storage space for personal property or commercial goods in an enclosed area without direct public access to individual storage spaces. Excludes operations such as wholesaling, distribution, limited access ministorage, and vehicle storage.

B. Ministorage: Storage space for personal property or commercial goods with direct public access to individual storage spaces. May include a maximum of 20 percent of the site area for vehicle storage; more than 20 percent of the area for vehicle storage constitutes a use other than warehousing and storage.

YARD: Lot area surrounding the principal building.

A. Front Yard: That portion of yard located between the lot frontage line and the principal building's front line extended from side to side of the lot.

B. Inner-side Yard: That portion of yard extending from the principal building to the lot lines of adjacent lots between the lines that establish front and rear yards.

C. Outer-side Yard: That portion of yard extending from the principal building to a side street between the lines that establish front and rear yards.

D. Rear Yard: That portion of yard located between the rear lot line and the principal building's rear line extended from side to side of the lot.

ZONE: See DISTRICT.

ZONING MAP: A map incorporated into this code, designating land use districts or zones.

CHAPTER 3

ZONING DISTRICTS AND LAND USE

SECTION:

- 9-3-1: Purpose and Intent
- 9-3-2: Zoning Districts
- 9-3-3: Zoning Upon Annexation
- 9-3-4: Zoning Map
- 9-3-5: General Provisions
- 9-3-6: Land Use Schedule
- 9-3-7: Area, Frontage, Setback, and Height
- 9-3-8: Development Standards
- 9-3-9: Nonconforming Uses
- 9-3-10: Objectionable Conditions

9-3-1: PURPOSE AND INTENT:

- A. The purpose of this chapter is to establish zones for specific types of land use, consistent with Idaho statutes, the comprehensive plan, and this code.
- B. The intent of this chapter is to describe these districts and the land uses allowed in them and to set forth development standards and related regulations.

9-3-2: ZONING DISTRICTS:

- R1 Single-Family Residential (R1): Provides stable neighborhoods of detached, single-family dwellings on larger lots, medium-to-large landscaped yards, low building heights, ample setbacks and side yards, predominantly off-street parking, low traffic volumes, and low nuisance potentials. Maximum density shall be four dwellings per acre.
- R2 Medium-Density Residential (R2): Provides stable neighborhoods of detached, single-family dwellings and/or twin homes on smaller lots compatible with medium-to-small landscaped yards, low building heights, ample setbacks and side yards, predominantly off-street parking, low-to-medium traffic volumes, and low nuisance potentials. Maximum density shall be five dwelling units per acre.
- R3 High-Density Residential (R3): Provides for high-density residential use typically located near collector and arterial streets and characterized by multifamily dwellings, ample off-street parking, higher traffic volumes, open space, and low nuisance potential. Maximum density shall be 12 dwelling units per acre.
- MU Multiple Use (MU): Provides for a mixture of uses such as residential coupled with business and commercial. This district is intended to permit diversity within a planned community or set of uses and to encourage open space and other amenities. Maximum density shall be eight dwelling units per acre.
- O Open (O): Provides for parks, walking trails and other recreational facilities, conservation of land and natural resources, and preservation of historic or scenic sites.
- CD Downtown Commercial (CD): Provides for preservation and redevelopment of the city's historic center and a compact commercial space emphasizing pedestrian friendliness and a traditional downtown atmosphere. Business units are relatively small and tightly clustered.
- C1 Neighborhood Commercial (C1): Provides for local commercial services at the perimeter of residential neighborhoods and with a primarily local clientele, for example at a street intersection or as a modestly sized strip mall. C1 districts are relatively small and businesses in them are generally small and few in number.
- C2 Community Commercial (C2): Provides for general shopping and business needs. All businesses permitted in C1 are also permitted in C2, as are larger businesses and some that entail relatively more intense uses.
- C3 Highway Commercial (C3): Provides for travel-related uses such as hotels and motels, service stations, truck stops, drive-in restaurants, and offices; also limited warehousing, commercial services, and retail sales. C3 districts are located on or near major roads to serve the motoring public.

BP Business Park (BP): Provides for technical laboratories, research and development facilities, offices and office complexes, and limited manufacturing, including small-scale production, storage, and distribution. Support activities may also be permitted. Business parks are free of hazardous or objectionable levels of such elements as noise, odor, dust, smoke, or glare. Work is conducted indoors and generates minimal industrial traffic.

M1 Light Manufacturing (M1): Provides for manufacturing and wholesale establishments that are free of hazardous or objectionable levels of such elements as noise, odor, dust, smoke, or glare, that are operated indoors, and that generate little industrial traffic. Limited office and commercial development may be permitted as ancillary uses.

M2 Heavy Manufacturing (M2): Provides for large-scale manufacturing, processing, warehousing, and major research and testing. Operations are free of hazardous or objectionable levels of such elements as noise, odor, dust, smoke, or glare. Limited office and commercial development may be permitted as ancillary uses.

9-3-3: ZONING UPON ANNEXATION: Prior to annexation of land, the Planning and Zoning Commission shall recommend to City Council how the land should be zoned. Concurrently with or immediately after the adoption of an ordinance of annexation, City Council shall amend the comprehensive plan and the zoning ordinance, showing on maps all lands annexed and designating zoning classifications for all lands annexed.

9-3-4: ZONING MAP:

- A. Zoning Map: Boundaries of the zoning districts shall be indicated on a zoning map on file in city hall and on the city Web site, if any.
- B. Amendments: Amendments to the zoning map shall be by the procedures set forth in this title as they relate to annexation and reclassification.
- C. Uncertainty of District Boundaries: Where uncertainty exists as to the boundary of a zoning district shown on the zoning map, the following rules shall apply:
 - 1. Street, Alley, or Public Way: Where the boundary line is indicated as following a street, alley, or public way, it shall be construed the middle or center of such street, alley, or public way.
 - 2. Lot Line: Where the boundary line is indicated as approximately following a lot line, the lot line shall be construed the boundary.
 - 3. Parallel to Center Lines: Where the boundary line is indicated as approximately parallel to the centerline of a street or highway, the boundary shall be construed as being parallel to the centerline and at such distance away as indicated on the zoning map. If no distance is given, dimensions shall be determined by use of the scale shown on the zoning map.

9-3-5: GENERAL PROVISIONS:

- A. Frontage: To ensure orderly development and to provide access for firefighting equipment and other services, no building shall be erected or moved onto any parcel of land unless the parcel has frontage on a public right of way.
- B. Access to Arterials and Collectors: Individual lots in platted developments shall not have direct access onto an arterial or major collector, but onto a local street or minor collector. Established preexisting access may remain in use (see definitions in title 10).
- C. Property Lines: The property owner shall be responsible for determining property lines by survey.
- D. Exclusions: All land in the city is zoned, and all uses are subject to regulation. However, some uses are also regulated in titles or chapters of this code other than this chapter. Uses regulated in other places in this code or by state law include, but are not limited to, home occupation and home business (see chapter titled Home Business of this title), kennels (see title 4, chapter 1 of this code), wind turbines (see title 8, chapter titled Wind Turbines), wireless telecommunications facilities (see title 8, chapter titled Wireless Communications) and Manufactured and Mobile Home Parks, (see title 11 of this code).

9-3-6: LAND USE SCHEDULE:

Y – permitted
 S – permitted only by special use permit
 (Blank) – not permitted

	R1	R2	R3	MU	O	CD	C1	C2	C3	BP	M1	M2
AGRICULTURE-RELATED												
Structure or Building				S					S		S	S
Other agriculture-related use	S	S	S	S	S		S	S	S	S	S	S
RESIDENTIAL												
Condominium		S	S	S								
Manufactured home (see 9-3-8-E)	Y	Y	Y	S								
Manufactured home park (title 11)			S ¹	S ¹								
Mobile home (see title 11)			S ¹	S ¹								
Multifamily dwelling of just two units; Twin home	S	Y	Y	S								
Multifamily dwelling of more than two units			Y	S			S					
Planned unit development		S	S	S			S	S	S			
Rooming/Boarding house		S	S				S	S				
Shelter home (8 or fewer residents)	Y	Y	Y	S								
Single-family dwelling	Y	Y	Y	S								
Patio home		Y	Y	S								
Townhouse		S	Y	S								
Vertical mixed use				S		S	S	S	S			
Other residential		S	S	S		S	S	S	S			
BUSINESS/COMMERCIAL												
Assisted living facility			S	S			S					
Auction establishment				S		S	S	S	S	S		
Automotive body shop									S		Y	
Automotive service station				S		S	S	Y		S		
Automotive repair							S	Y		Y		

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	R1	R2	R3	MU	O	CD	C1	C2	C3	BP	M1	M2
Automotive sales/parts store							S	Y	S	Y		
Automotive storage								Y		Y		
Bakery/baked goods store				S		Y	Y	Y	Y	S	Y	
Bank, savings and loan				S		Y	Y	Y	Y	Y		
Barber, beauty shop				S		Y	Y	Y	Y	S		
Bed and Breakfast				S		S	S	S	S			
Bowling alley				S				Y	Y			
Building supply outlet								S	Y		Y	Y
Car wash				S		S	S	Y	Y		Y	
Cleaning, dry				S		S	Y	Y	S	S		
Contractor office				S		Y	Y	Y	Y	Y	Y	Y
Convalescent/nursing home			S	S			S					
Convenience store				S		Y	Y	Y	Y		S	S
Convenience store with fuel service				S		S	Y	Y	Y		S	S
Dance, music, voice studio				S		Y	Y	Y	S	S		
Daycare, Home	Y	Y	Y	S		S	S	S	S	S	S	S
Daycare, Group	S ²	S	S			S	S	S			S	S
Daycare Center				S		S	S	S	S	S	S	S
Detention facilities											S	S
Drive-in restaurant				S				Y	Y	S		
Drug store				S		Y	Y	Y	Y			
Electronic/video sales/rental				S		Y	Y	Y	Y			
Entertainment facility, indoor				S		S	S	S	S			
Entertainment facility, outdoor				S				S	S		S	S
Equipment rental/sales				S			S	S	Y	S	Y	Y
Farm equipment sales/service									Y	S	Y	Y
Food store				S		Y	Y	Y	S			
Frozen food locker				S				S	Y	S	Y	S
Furniture repair/refinishing				S				S	Y	Y	Y	Y

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	R1	R2	R3	MU	O	CD	C1	C2	C3	BP	M1	M2
Furniture store				S		S	S	Y	Y			
Gift/flower shop				S		Y	Y	Y	Y			
Health club, spa, reducing salon				S		S	S	Y	S	S		
Hotel/Motel				S		S		S	Y			
Kennel, Commercial								S	S		S	S
Laboratory: medical, dental, optical				S		S	Y	Y	S	Y		
Laundromat, self service				S		S	Y	Y	Y			
Laundry, commercial				S				S	Y	Y	Y	Y
Liquor store									S			
Live entertainment event				S	S	S	S	S	S			
Loan firm (small or short term loans)									S			
Lumber yard, retail								S	Y		Y	Y
Massage, tanning salon				S		Y	Y	Y	S	S		
Mortuary				S			Y	Y	S			
Nursery, plants and flowers				S			S	Y	Y		S	S
Office, professional				S		Y	Y	Y	Y	Y		
Parking facility				S		S		Y	Y	Y	Y	Y
Pharmacy				S		Y	Y	Y	Y	S		
Photographic studio				S		Y	Y	Y	S	Y	S	
Preschool	S ²	S		S		S	S	S	S	S	S	S
Printer				S		S	S	Y	Y	Y	Y	Y
Restaurant				S		S	Y	Y	Y	S	S	S
Retail stores and services				S		S	Y	Y	Y	S		
RV, trailer park									S			
RV, trailer sales/service									Y	S	Y	Y
Sexually oriented/adult business									S			
Sign shop				S			S	S	S	S	Y	Y
Storage, enclosed building				S						S	Y	Y
Storage, fenced area				S							S	Y

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	R1	R2	R3	MU	O	CD	C1	C2	C3	BP	M1	M2
Theater, indoor				S		S	S	Y	Y			
Tire shop, repair and sales				S				S	Y		Y	Y
Truck stop									S		S	S
Veterinary clinic – livestock									S		S	Y
Veterinary clinic – small animal				S			S	S	Y	S	Y	Y
Other business/commercial				S	S	S	S	S	S	S	S	S
INDUSTRIAL												
Asphalt plant												
Beverage bottling plant											Y	Y
Cabinet shop									S	S	Y	Y
Cement or clay products												S
Chemical storage/manufacturing											S	Y
Cold storage plant											Y	Y
Concrete batch plant												
Concrete mixing: 2 cu. yds. max.								S	Y		Y	Y
Contractor storage yard									S		S	Y
Dairy products processing											S	S
Food processing plant											S	S
Grain elevator												S
Grain storage											Y	Y
Junkyard												
Machine shop									S		Y	Y
Meat packing plant											S	S
Metal fabrication									S	S	Y	Y
Monument works, stone								S	Y	S	Y	Y
Petroleum storage												Y
Public utility yard												Y
Railroad yard or shops												Y
Recycling operation												S

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	R1	R2	R3	MU	O	CD	C1	C2	C3	BP	M1	M2
Sanitary landfill												
Terminal yard, trucking												Y
Truck and tractor repair									S		S	Y
Warehousing, wholesaling									S	S	Y	Y
Wood processing plant												S
Wrecking yard												S
Other industrial								S	S	S	S	S
AUXILIARY USES												
PERSONAL WIRELESS SERVICE FACILITY (BY TYPE OF SUPPORT STRUCTURE)												
Virtually invisible on building or alternate support structure			S	S	S	Y	Y	Y	Y	Y		
Visible on building or alternate support structure				S	S	S	S	S	S	Y		
Leased utility pole			S	S	S	Y	Y	Y	Y	Y		
Stealth tower			S	S	S	S	S	S	Y	Y		
Monopole tower				S	S				S	Y		
Lattice frame tower												
Guyed support tower												
WIND TURBINE	S	S	S	S	S	S	S	S	S	S	S	S
OTHER AUXILIARY USE	S	S	S	S	S	S	S	S	S	S	S	S
PUBLIC/QUASI-PUBLIC ³												
Cemetery		S	S									
Church	S	S	S	S			S	S	S			
City park	S	S	S	S	Y	S	S	S	S	S	S	S
Golf course	S	S	S	S	S				S	S		
Governmental or public service	S	S	S	S	S	S	S	S	S	S	S	S
Hospital			S	S				S	S	S		
Library		S	S	S		S	S	S	S	S		
Museum		S	S	S		S	S	S	S	S		
School	S	S	S	S		S	S	S	S			
Waste treatment plant												S
Other public or quasi-public	S	S	S	S	S	S	S	S	S	S	S	S

¹Subject to approval and licensing as provided in Title 11 of this code.

²The maximum number of children at a given time is 12.

³A public or quasi-public facility is sometimes desirable in a zoning district whose description it does not fit. These facilities may be permitted as indicated.

9-3-7: AREA, FRONTAGE, SETBACK, AND HEIGHT:

A. Schedule for Districts Other Than Multiple Use (see definitions in section 9-2-2 of terms in column headings below):

Zoning District	Area: Lot Size		Frontage	Setback Minimum in Feet					Height
	Min. Interior (sq. ft.)	Min. Corner (sq. ft.)	Min. Frontage (ft.)	Front	Rear	Inner Side	Outer Side	Alley Side	Max. (ft.)
R1	10,000	10,000	100 ¹	20	20	5/10 ²	20	5	35
R2	8,000	10,000	80 ¹	20	15	5	20	5	35
R3	7,000	8,500	70 ¹	20	15	5	15	5	35
O	-	-	-	20	20	5	20	5	35
CD	-	-	25	-	10	-	-	5	35/40 ³
C1	2,500	2,500	25	-	10	-	-	5	35
C2	-	-	-	-	-	-	-	-	45
C3	-	-	-	20	15	-	20	5	45
BP	7,500	7,500	75	20	-	5	20	5	35
M1	-	-	50	20	-	-	20	5	45
M2	-	-	50	20	-	-	20	5	45

Notes:

1. A lot in a cul-de-sac shall have a minimum frontage of 50 feet; normal setbacks apply.
2. One side setback shall be at least 10 feet unless an alley allows access to the rear yard.
3. Maximum for parapet or front eave is 35 feet; maximum for ridgeline parallel with Center Street is 40 feet.

B. Schedule for Multiple Use District (see definitions in section 9-2-2 of terms in column headings below):

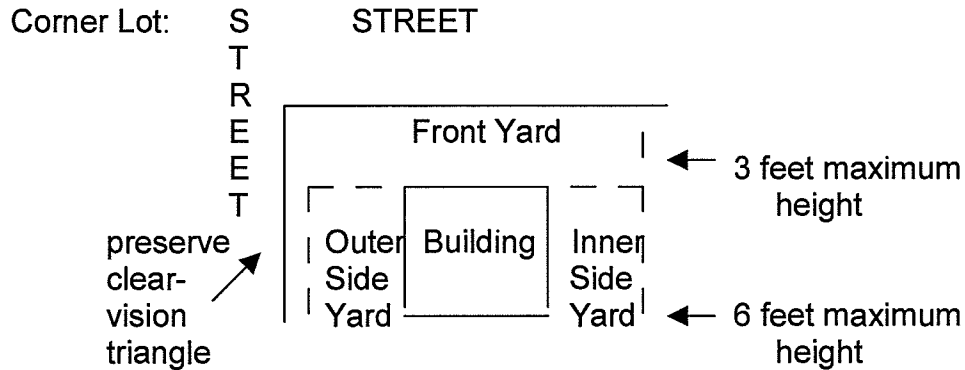
Building Type	Lot Footprint			Setback Minimum in Feet					Height
	Minimum Width (feet)	Minimum Depth (feet)	Minimum Area (sq. ft.)	Front	Rear	Inner Side	Outer Side	Alley Side	Maximum (feet)
Single-Family Dwelling	35	50	3,200	15	10	5	15	5	35
Twin Home	45	70	5,200	15	10	5	15	5	35
Multifamily Dwelling				15	10	5	15	5	35
Vertical Mixed Use									35
Commercial									35

9-3-8: DEVELOPMENT STANDARDS:

A. Setbacks (see definition in section 9-2-2):

1. Setback is to the nearest structural projection of the building.
2. Open structures such as porches, canopies, balconies, platforms, covered patios, and similar architectural projections are considered part of the building to which they are attached.
3. For a multistory building in an R1 district, the front setback shall be an additional five feet per floor above the ground floor.
4. When a commercial or manufacturing use abuts a residential district, its setback(s) along the abutting residential boundary(ies) shall be the same in the residential district.
5. The clear-vision triangle shall be preserved.
 - a. The clear-vision triangle is defined by a straight line connecting points 40 feet back from roadway and/or railroad edges where they cross each other at the intersection. Trees shall be pruned so as to not obstruct the clear-vision triangle. Shrubs and ground covers within the vision triangle shall not exceed 42 inches in height at maturity.

b. Front and outer side setbacks of 20 feet allow for the full triangle. When setbacks are less than 20 feet, the triangle shall be preserved to the extent feasible.



6. Uniform front setbacks may be established by ordinance and an amendment to the zoning map when adjacent zoning districts are provided different front setbacks in section 9-3-7 of this chapter.

B. Height:

1. Height is the vertical distance from the average grade at the front of the structure to the highest point of the structure.
2. A building shall not exceed three stories, except by special use permit.
3. Maximum height may be increased by special use permit.

C: Lot Size:

1. Lot Larger Than Minimum: Lots may need to be larger than minimum to meet requirements for parking, setback, and/or open space.
2. Undersized Parcel: A parcel of less than the minimum width or area specified for its zoning district shall not be created and recorded unless it is zoned or rezoned Open and has covenants (a written agreement) recorded providing for its maintenance.
3. Planned Unit Development: In a planned unit development, lot sizes may be decreased if there is an increase in open space (see title 10, Subdivision).
4. Lots Not Meeting Zoning District Requirements: Any lot or parcel of land, which was of record in the Madison County recorder's office at the time its zoning district was determined but does not meet the requirements of the zoning district in which it is located for minimum lot width and/or area, may be utilized if all requirements of this title are met other than for minimum lot width and/or area.

D. Except as provided in Title 11 of this code for dwellings in Manufactured Home Parks, single-family dwellings, patio homes, and twin homes:

1. Shall enclose a space of at least 1,000 square feet on the main level and have an interior width of not less than 20 feet (per each dwelling unit).
2. Shall be placed on an excavated and backfilled permanent foundation.

3. Shall have a pitched roof with a slope of at least 3/12 and an eave projection of at least six inches.

4. Shall have exterior wall surfaces that are typical of residential neighborhoods, including, but not limited to, masonry, clapboard or cement-simulated clapboard, vinyl or metal siding, wood shingles or shakes, or similar materials. Surfaces shall not have a high-gloss finish and shall not be composed of metal or plastic panels.

E. Manufactured Homes:

1. Shall enclose a space of at least one thousand 1,000 square feet on the main level and have an interior width of at least 20 feet.

2. When placed on an individual lot, shall meet the standards for a single-family dwelling, plus the following standards:

a. The home shall be of multisectional construction and constructed after 1976.

b. Hitch, axles, and wheels shall be removed and the foundation fascia shall be similar in appearance and durability to the masonry foundation of site-built homes.

3. Existing manufactured homes not meeting the above standards may be permitted in established manufactured-home subdivisions or manufactured home parks.

F. Accessory Buildings:

1. Are permitted in all zoning districts;

2. Shall not intrude into a front yard or front setback;

3. If smaller than 200 square feet and not on a permanent foundation, may be placed adjacent to the rear property line, along an inside property line, or along the alley if on a corner lot;

4. If larger than 200 square feet or on a permanent foundation:

a. Shall meet similar design standards as principal buildings and resemble them in exterior materials and color;

b. Shall observe setbacks of at least five feet;

c. Shall not occupy area greater than 25 percent of the rear yard (accessory buildings individually or collectively); and

d. If openings face an alley, shall comply with county fire codes.

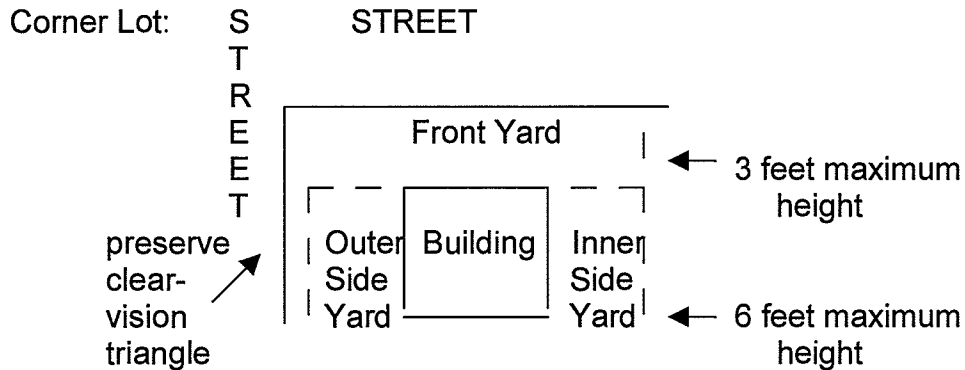
G. Temporary Buildings: A temporary office or office building may be permitted as an accessory building on a construction site for up to one year. One-year extensions may be granted.

H. Commercial Abutting Residential: Where a commercial or business use abuts a lot in a residential zone, the commercial or business entity shall provide a shrubbery buffer not less than four feet high and four feet wide or a slightly, solid fence between five and eight feet high.

I. Lots Lying in Multiple Zoning Districts: When a lot is located so that it extends into more

than one zoning district, the most restrictive requirements among the zoning districts shall apply.

- J. **Outdoor Storage:** Machinery, inoperable vehicles, inventory materials, and unsightly items stored outdoors shall be enclosed by solid fencing or vegetation so as to be screened from view. Composition, dimensions, and extent of screening shall be as required by City Council to suit the situation.
- K. **Fences, Walls, and Hedges:** Fences, walls, and hedges are allowed by permit in any required yard or along the edge of any yard. Except when screening commercial or business from residential (see subsections H and J of this section), maximum height shall be three feet around a front yard and six feet on back yards and side yards. No fence, wall, or hedge shall obstruct the clear-vision triangle. No fence, wall, or hedge shall be placed in a right of way required by the city.



9-3-9: NONCONFORMING USES (see also 9-1-2-F)

- A. **Continuation:** Established nonconforming uses are permitted to continue as provided in Idaho Code, Section 67-6538.
- B. **Maintenance:** Nothing in this section shall be deemed to prohibit routine maintenance or to prohibit restoration necessary for safety.
- C. **Enlargement:** A nonconforming use may not extend or enlarge its facilities, or add new facilities.
 1. Moving a nonconforming use into existing facilities or onto land where it is not already established is not permitted.
 2. Exterior remodeling for cosmetic or advertising purposes is not permitted.
 3. Changing from an existing nonconforming use to a different nonconforming use is not permitted.
- D. **Discontinuation:** When a nonconforming use is discontinued or abandoned for more than one year (except when governmental action impedes access to the premises), the use may not thereafter be resumed except as provided in 9-1-2-F.
- E. **Residences:** An existing single-family dwelling or twin home in a zoning district where it is not permitted, or on a substandard lot of record, is permitted to continue,

and customary accessory buildings may be erected, notwithstanding other limitations in this section.

9-3-10: OBJECTIONABLE CONDITIONS

- A. **Objectionable Conditions Not Relating to Animals or Livestock:** No permit shall be issued for use or improvement of land if it shall be used or improved in a manner that creates dangerous, injurious, noxious, or otherwise objectionable conditions affecting surrounding areas, except that any permitted use may be undertaken if acceptable measures are taken to mitigate such conditions. Determinations and measurements should be by recognized standards, such as those published by the American National Standard Institute, the Manufacturing Chemists' Association, Inc., the U.S. Bureau of Mines, and the State Health Authority. Objectionable conditions include but are not limited to the following:
1. **Fire Hazard:** Flammable or explosive material shall be protected by adequate safety equipment and procedures. Such material shall be held adequate distances from surrounding premises and activities. Standards of the latest Uniform Fire Code and National Safety Foundation shall be observed.
 2. **Radioactivity; Electromagnetic:** Emission of radioactivity or electromagnetic interference that causes adverse effects beyond the boundaries of the premises is not permitted.
 3. **Air Pollution:** Standards of relevant health authorities and the U.S. Environmental Protection Agency shall be observed.
 4. **Water Pollution:** Standards of relevant health authorities, relevant water authorities, and the U.S. Environmental Protection Agency shall be observed.
 5. **Erosion:** Erosion causing adverse effects beyond the boundaries of the premises is not permitted.
 6. **Vibration:** Vibration that is readily discernible without instruments beyond the boundaries of the premises is not permitted.
 7. **Noise:** Noise of objectionable volume or quality is not permitted.
 8. **Glare:** Objectionable glare is not permitted.
 9. **Odor:** Objectionable odor is not permitted.
- B. **Objectionable Conditions Relating to Animals or Livestock:** See the chapter of this title on Area of City Impact; also title 4 of this code.
- C. **Objectionable Conditions Relating to Home Business:** See the chapter of this title on Home Business.
- D. **Complaints about Objectionable Conditions:** Complaints regarding objectionable conditions relative to existing uses and improvements shall be addressed the Planning and Zoning Commission. It shall consider such complaints and recommend any action it may deem appropriate to the City Council . The City Council may pursue any action permitted by the City Code or state law. (see 9-1-6-B, Complaint).

CHAPTER 4

ANNEXATION

SECTION:

9-4-1: Purpose and Intent

9-4-2: Application and Procedure

9-4-1: PURPOSE AND INTENT:

- A. The purpose of this chapter is to provide for annexation of lands by the city, consistent with Idaho Code, Sections 50-222 and 67-6525 and the comprehensive plan.
- B. The intent of this chapter is to set forth the application process and administrative procedure for annexing land by the city.

9-4-2: APPLICATION AND PROCEDURE: Application and procedure for annexing lands into the city shall be as follows.

- A. An application for annexation may be initiated by a property owner(s) or by the city. Prior to annexation of an unincorporated area, City Council shall request and receive a recommendation from the Planning and Zoning Commission on the proposed comprehensive plan and zoning ordinance changes for the unincorporated area (IC 67-6525). The City Council shall approve an application form and fee schedule.
 - 1. The application shall indicate whether, according to Idaho Code, Section 50-222(3), the annexation is Category A, Category B, or Category C, and must provide written evidence of compliance with applicable provisions of Idaho Code, Section 50-222, in so far as they can be complied with prior to the submission of an application.
 - 2. The application shall include reasons for annexation and proposed zoning classification(s).
- B. The procedure for zoning the property proposed for annexation shall comply with Idaho law and the Sugar City Code.
- C. The city and the landowner may enter into an annexation agreement that addresses conditions specific to the property to be annexed. Such an agreement becomes part of the application and is subject to public hearing and rules for administrative action.
- E. Planning and Zoning Commission:
 - 1. The Planning and Zoning Commission shall conduct at least one public hearing in compliance with the notice and hearing requirements of Idaho Code, Sections 67-6509 and 67-6511.
 - 2. The Planning and Zoning Commission shall conduct a public hearing on zoning the property proposed for annexation within 63 days of determining that the application is complete. The Planning and Zoning Commission shall recommend the zoning for the property proposed for annexation within 35 days after its final public hearing, unless this time limit is extended by mutual agreement with property owners.
 - 3. Within 14 days after action, the Planning and Zoning Commission shall report its recommendation to City Council.
- G. City Council:
 - 1. City Council may hold public hearings additional to those required by law. Within 35 days after its final public hearing or within 35 days after receiving the

recommendation of the Planning and Zoning Commission, whichever is later, City Council shall approve or deny the application, unless this time limit is extended by mutual agreement with property owners.

2. Annexation shall be concluded with the passage of an ordinance of annexation and with recording of the annexation by the county recorder.

3. Concurrently with or immediately following the adoption of an ordinance of annexation, City Council shall amend the comprehensive plan and the zoning ordinance, including maps of all lands annexed and designating zoning classifications for all lands annexed.

4. Written consent to annex lands must be recorded in the county recorder's office to be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the consent (Idaho Code, Section 50-222(4)).

CHAPTER 5

RECLASSIFICATION – ZONE CHANGE

SECTION:

9-5-1: Purpose and Intent

9-5-2: Application and Procedure

9-5-1: PURPOSE AND INTENT:

- A. The purpose of this chapter is to provide for reclassification of zoning districts, that is, zone changes, consistent with IC 67-6509 and 67-6511, the comprehensive plan, and this code.
- B. The intent of this chapter is to set forth the application process and administrative procedure for zoning land.

9-5-2: APPLICATION AND PROCEDURE: Application and procedure for reclassification of zoning districts, or changing zones, shall be as follows.

- A. An application for reclassification may be initiated by a property owner(s), the Planning and Zoning Commission, or City Council. City Council shall approve an application form and fee schedule.
- B. The application shall include reasons for reclassification, discussion of zoning classification(s), and agreements as set forth in the city code to allow inspection, pay costs, provide mailing labels, and post notice.
- C. Planning and zoning procedures shall comply with IC 67-65 with regard to comprehensive planning policies, where necessary, and zoning classifications.
- D. The city and the landowner(s) may enter into a development agreement that addresses conditions specific to the property to be reclassified. Such an agreement becomes part of the application and is subject to public hearing and rules for administrative action.
- E. Notice shall be posted on the property at least one week prior to each public hearing. The administrator shall issue a suitable placard to the applicant. The applicant shall be responsible for posting the placard on the property.
- F. Planning and Zoning Commission:

1. The Planning and Zoning Commission shall conduct at least one public hearing in compliance with the notice and hearing requirements of IC 67-6509 and 67-6511. These statutes require notification by letter of owners of land within 300 feet of the land being considered, or by publication in the newspaper in case of 200 or more such owners. In addition to notice required in IC 67-6509 and 67-6511, owners of lands that abut the lands to be reclassified or are located directly across a public right of way from them shall be notified by letter regardless of the number of landowners and regardless of jurisdictional boundaries.
2. The Planning and Zoning Commission shall conduct a public hearing within 63 days of determining that the application is complete. The Planning and Zoning Commission shall recommend approval or denial within 35 days after its final public hearing, unless this time limit is extended by mutual agreement with property owners.
3. Within 14 days after action, the Planning and Zoning Commission shall report its recommendation to City Council, including:
 - a. Documentation of the ordinances and standards used in weighing the application;
 - b. The reasons for approval or denial; and
 - c. Actions, if any, that the applicant could take to obtain approval.

G. City Council:

1. City Council may hold public hearings additional to those required by law.
2. City Council shall not overrule or materially change the recommendation of the Planning and Zoning Commission without having held a public hearing.
3. Within 35 days after its final public hearing or after receiving the recommendation of the Planning and Zoning Commission, whichever is later, City Council shall approve or deny the application, unless this time limit is extended by mutual agreement with property owners.

CHAPTER 6

SPECIAL USE PERMIT

SECTION:

- 9-6-1: Purpose And Intent
- 9-6-2: Application
- 9-6-3: Criteria For Consideration
- 9-6-4: Conditions
- 9-6-5: Administrative Action

9-6-1: PURPOSE AND INTENT:

- A. The purpose of this chapter is to make possible certain land uses not routinely permitted. Applications for such uses receive individual consideration, consistent with IC 67-6512, the comprehensive plan, and this code.
- B. The intent of this chapter is to set forth the procedures for applying for and deciding an application for a special use permit.

9-6-2: APPLICATION:

- A. Application Form: The City Council shall approve an application form, requiring the following information:
 - 1. Name and contact information of the applicant, with spaces for signature and date.
 - 2. Agreements to allow inspection, pay costs, provide mailing labels, and post notice.
 - 3. Street address and legal description of the property, zoning classification, description of existing use, description and plan of proposed use, and evaluation of effects on adjacent properties and to the neighborhood.
 - a. As applicable, plans should show such facilities as structures, access and parking, open space and landscaping, service areas, utilities, signs, and lighting.
 - b. As applicable, effects on other properties should include such potential nuisances as noise, air pollution, vibration, and excessive hours of operation.
 - 4. Dates and conditions of expiration and/or revocation of the permit.
- B. Fees: Fees are established by resolution of the City Council.
 - 1. The fee schedule shall be posted in the office of the administrator.
 - 2. Fees may include actual expenses, such as for advertising, postage, and administrative costs.
 - 3. Fees must be paid in full, or arrangement for payment agreed to by City Council, before the application is considered complete or administrative action is undertaken.
- C. Effect of Permit:
 - 1. A special use permit shall expire one year from the date of final approval if the permitted use is not begun by that time. The permit shall remain in force for so long as the permittee continues to use the property as allowed under the permit and in accordance with all standards and conditions of the permit.
 - 2. Work or use undertaken that does not comply with the permit, or with conditions or standards of the permit, shall constitute grounds for revocation of the permit. The permittee shall be given written notice of any violation of the permit. If the violation is not corrected within 30 days, the City Council may terminate the permit.

9-6-3: CRITERIA FOR CONSIDERATION:

- A. Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use (IC 67-6512(e)), or other additional information may be required. In case of such requirement, the time period for action shall start upon submission of the additional information. If the applicant does not submit the required information within 90 days of the request, the application shall become null and void.
- B. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one parcel of land to another (IC 67-6512(e)).
- C. Governmental instrumentalities shall use the following criteria in considering an application, as applicable:
 - 1. Consistency with special use provisions on the land use schedule;
 - 2. Completeness and applicability of information in the application;

3. Principles and standards in state statutes, the comprehensive plan, and the city code;
4. Reports from experts, departments, and agencies;
5. Testimony from public hearing;
6. Characteristics of the proposed use;
7. Potential impacts on the neighborhood;
8. Considerations inherent to the locale, including, but not limited to, the transportation plan, water and utilities, and adjacent land uses; and
9. Other relevant considerations.

9-6-4: CONDITIONS:

- A. Upon the granting of a special use permit, conditions may be attached, including, but not limited to, those (IC 67-6512(d)):
 1. Minimizing adverse impact on other development;
 2. Controlling the sequence and timing of development;
 3. Controlling the duration of the development;
 4. Ensuring that development is maintained properly;
 5. Designating the exact location, nature, and scope of development;
 6. Requiring the provision for on-site or off-site public facilities or services;
 7. Requiring more restrictive standards than those generally required in this code;
 8. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, that provides services within the city; and
 9. Requiring a bond or other financial surety.
- B. Conditions must be sufficiently explicit to make compliance and enforcement feasible.

9-6-5: ADMINISTRATIVE ACTION:

- A. Administrator:
 1. Review by Departments and Agencies: Within 10 days of receipt, the administrator shall transmit copies of an application to any concerned departments and agencies for their review. The administrator shall notify the Planning and Zoning Commission which departments and agencies are queried, and shall place replies in the applicant's file. Failure to reply in writing within 15 days implies acceptance by a given department or agency. Possible concerned departments and agencies include, but are not limited to, city departments (e.g., streets, water, sewer, engineer), District 7 Health, school district, Idaho Transportation Department and/or Madison County Roads, utility companies, Soil Conservation Service, emergency services, and irrigation districts.
 2. Agenda: After review by departments and agencies, the administrator shall place the application on the agenda of the next regularly scheduled meeting of the Planning and Zoning Commission.

3. Notice of Public Hearing: The administrator shall provide notice of public hearings as required in IC 67-6512.
4. Posting on Site: In case site posting is required, the administrator shall issue placards to the applicant. The applicant shall be responsible for posting placards on all external boundaries of the site at least 15 days prior to the public hearing.
5. Notification of Action: Within 10 days after action by City Council, the administrator shall notify the applicant of the action, including documentation of the ordinance and standards used in weighing the application, reasons for approval or denial, and actions, if any, that the applicant could take to obtain approval (IC 67-6519).
6. Permits to Assessor: The administrator shall forward permits to the Madison County Assessor in accordance with IC 67-6522.

B. Planning and Zoning Commission:

1. The Planning and Zoning Commission shall conduct a public hearing in accordance with IC 67-6512 within 49 days of determining that the application is complete. The Planning and Zoning Commission shall recommend approval, conditional approval, or denial within 35 days after its final public hearing, unless this time limit is extended by mutual agreement with the applicant(s).
2. Within 14 days after making its decision regarding its recommendation, the Planning and Zoning Commission shall report its recommendation to City Council, including documentation of the ordinance and standards used in weighing the application, reasons for approval or denial, and actions, if any, that the applicant could take to obtain approval (IC 67-6519).

C. City Council:

1. City Council may hold public hearings additional to those required by law.
2. City Council shall not take an action that differs materially from the recommendation of the Planning and Zoning Commission without having held a public hearing.
3. Within 35 days after its final public hearing or after receiving the recommendation of the Planning and Zoning Commission, whichever is later, City Council shall approve, conditionally approve, or deny the application, unless this time limit is extended by mutual agreement with the applicant(s).

CHAPTER 7

VARIANCE

SECTION:

- 9-7-1: Purpose And Intent
- 9-7-2: Application
- 9-7-3: Administrative Action

9-7-1: PURPOSE AND INTENT:

- A. The purpose of this chapter is to provide for variance permits, consistent with IC 67-6516, the comprehensive plan, and this code. IC 67-6516 includes these provisions:
 1. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting

the size or shape of a structure or the placement of the structure upon lots, or the size of lots.

2. 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 that the variance is not in conflict with the public interest.

- B. The intent of this chapter is to set forth the procedures for applying for and deciding an application for a variance permit.

9-7-2: APPLICATION:

- A. Application Form: The City Council shall approve an application form, requiring the following information:

1. Name and contact information of the applicant, with spaces for signature and date.
2. Agreements to allow inspection, pay costs, and provide mailing labels.
3. Street address and legal description of the property, zoning classification, description of existing development, description and plan of proposed development.
4. Information showing undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.
5. Certification that the applicant has read and understood IC 67-6516.
6. Dates and conditions of expiration and/or revocation of the permit.

- B. Fees: Fees are established by resolution of the City Council.

1. The fee schedule shall be posted in the office of the administrator.
2. Fees may include actual expenses, such as for advertising, postage, and administrative costs.
3. Fees must be paid in full, or arrangement for payment agreed to by City Council, before the application is considered complete or administrative action is undertaken.

- C. Effect of Permit:

1. A variance permit shall expire one year from the date of final approval if work on the permitted variance is not begun by that time. The permit shall remain in force for so long as the permittee continues to use the property as allowed under the permit and in accordance with all standards and conditions of the permit.
2. Work or use undertaken that does not comply with the permit, or with conditions or standards of the permit, shall constitute grounds for revocation of the permit. The permittee shall be given written notice of any violation of the permit. If the violation is not corrected within 30 days, the City Council may terminate the permit.

9-7-3: ADMINISTRATIVE ACTION:

- A. Administrator:

1. Review by Departments and Agencies: Within 10 days of receipt, the administrator shall transmit copies of an application to any concerned departments and agencies for their review. The administrator shall notify the Planning and Zoning Commission which departments and agencies are queried, and shall place replies in the applicant's file. Failure to reply in writing within 15 days implies acceptance by a

given department or agency. Possible concerned departments and agencies include, but are not limited to, city departments (e.g., streets, water, sewer, engineer), District 7 Health, school district, Idaho Transportation Department and/or Madison County Roads, utility companies, Soil Conservation Service, emergency services, and irrigation districts.

2. Agenda: After review by departments and agencies, the administrator shall place the application on the agenda of the next regularly scheduled meeting of the Planning and Zoning Commission.

3. Notice: At least seven days before the meeting of the Planning and Zoning Commission, the administrator shall notify by mail the owners of lands that abut the parcel under consideration or are located directly across a public right of way from them, regardless of the number of landowners (in this chapter, Affected Persons, in addition to others who may be affected), and regardless of jurisdictional boundaries.

4. Notification of Action: Within 10 days after action by the Planning and Zoning Commission, the administrator shall notify the applicant of the action, including documentation of the ordinance and standards used in weighing the application, reasons for approval or denial, and actions, if any, that the applicant could take to obtain approval.

5. Permits to Assessor: The administrator shall forward permits to the Madison County Assessor in accordance with IC 67-6522.

B. Planning and Zoning Commission:

1. The Planning and Zoning Commission shall allow affected persons to be heard. The procedure for hearing shall be as provided in title 1 chapter 8 of this code, with these modifications:

a. The requirement for notice shall not be greater than in Paragraph 9-7-5-A-3 of this section. Upon opening the hearing, the presiding officer shall determine whether proper notice has been provided. If proper notice has not been provided, the hearing shall be rescheduled to the next regularly scheduled meeting;

b. The presiding officer may state that testimony should relate to principles and standards in state statute, the comprehensive plan, and city code, or to other legal or practical concerns;

c. Persons who are not affected persons may be heard at the discretion of the presiding officer. The record should reflect whether each person who testifies is an affected person.

2. No later than at the next regular meeting after the hearing, the Planning and Zoning Commission shall approve, approve conditionally, or deny the permit, unless this time limit is extended by mutual agreement with the applicant(s).

3. Within 14 days after action, the Planning and Zoning Commission shall report its decision to City Council, including documentation of the ordinance and standards used in weighing the application, reasons for approval or denial, and actions, if any, that the applicant could take to obtain approval (IC 67-6519).

C. A decision by the Planning and Zoning Commission may be appealed to City Council within 21 days after the decision.

SECTION V. EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage, approval, and due publication.

September 23, 2010 – draft approved by City Council

Enacted by the City Council and approved by the Mayor, on the 14th
day of October, 2010.

CITY OF SUGAR CITY, IDAHO

Glenn W. Darling
GLENN W. DALLING, MAYOR

ATTEST:

Sharon L. Bell
SHARON L. BELL, CITY CLERK

(SEAL)