

TITLE 9

LAND USE CODE

Chapter 1: Title

Chapter 2: Definitions

Chapter 3: Land Use Administration

Chapter 4: Permits, Fees and Enforcement

Chapter 5: Amendments, Reclassification and Annexation

Chapter 6: Conditional-Use Permit

Chapter 7: Nonconforming Uses

Chapter 8: Appeal and Variance

Chapter 9: Public Hearing Procedure

Chapter 10: Zoning Regulations

Article 02: Zoning Districts

Article 03: Scenic Corridor and Natural Open Space

Article 04: Land Use Schedules

Article 06: Regulations

Article 08: Off-Street Parking and Loading

Article 10: ImpactArea

Chapter 11: Subdivision

Article 02: Title, Purpose and Jurisdiction

Article 04: Procedure, Fees and Permits

Article 06: Subdivision Standards

Article 08: Requirements and Improvements

Article 10: Vacations and Dedications

Article 12: Planned Unit Development

Article 14: Manufactured Home Park

Article 16: Special Developments

Chapter 12: Standards

Article 02: Design Review

Article 04: Design Standards

Article 06: Sign Standards

CHAPTER 1

TITLE

- 9-1-1: TITLE
- 9-1-2: AUTHORITY
- 9-1-3: PURPOSE
- 9-1-4: VESTING RULE

9-1-1: TITLE

This Title shall be known and cited as the TETONIA LAND USE CODE. (Ord. 2008-4) 9-

1-2: AUTHORITY

This Title is adopted pursuant to authority granted by title 67, chapter 65 and title 50, chapter 13; and title 31, chapter 7, of the Idaho Code, article 12, section 2, Idaho Constitution, as amended or subsequently codified. In the interpretation and application of this Title, the provisions contained herein are declared to be minimum requirements. (Ord. 2008-4)

9-1-3 : PURPOSE

The purpose of this Title is to promote the orderly development of the city and the area of impact of the city; to conserve and stabilize the value of property; and otherwise to promote public health, safety, convenience, morals and general welfare of the people of Tetonía; and, to avoid undue concentration of population. It is the intent of this Title to regulate the use of land and guide development in the city in harmony with the policies and guidelines of the officially adopted Tetonía Comprehensive Plan and to achieve the following objectives:

- A. Encourage orderly growth and development of land.
 - 1. Mitigate adverse impacts upon the water supply, sewage disposal, public safety and emergency services, educational facilities; and
 - 2. Mitigate the unnecessary imposition of expenditures of public funds for the delivery of such services as listed in Section 9-1-3(A)(2), above.
- B. Encourage proper distribution and compatible integration of agricultural, residential, commercial and manufacturing uses within designated areas and protect these areas from unreasonable intrusion of incompatible uses.
- C. Provide for appropriately located residential areas with opportunities for a variety of dwelling types and densities.
- D. Provide for adequate parking on and off street.
- E. Encourage variety, excellence and creativity in the design of development, preservation of critical open space areas and preservation of the natural beauty of the area.
- F. Provide the manner and form for preparing and processing applications for modification of and variances from zoning regulations.

TITLE 9 LAND USE CODE - CHAPTER 1 TITLE

- G. Ensure that additions and alterations to or remodeling of existing buildings or structures is completed in accordance with the restrictions and limitations imposed in this Title. (Ord. 38, 11-5-1984; Ord. 2008-4)

9-1-4 : VESTING RULE

The vesting (grandfather) rule will apply to all existing lands or businesses as of the date of publication of this code. Owners can operate their farm or business, including the additions of improvements as they now do or until they elect to change to a different land or business classification. Should the land or business pass to the heirs, the grandfather rule will apply unless said heirs elect to enter a different classification. The grandfather rule will apply to the sale of property if the classification and use remain unchanged. (Ord. 2008-4)

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

CHAPTER 2

DEFINITIONS

9-2-1: DEFINITIONS

9-2-1: DEFINITIONS

For the purpose of this Title, certain terms are defined as set forth in this Chapter.

All words in the present tense include the future tense; the plural includes the singular, and all words in the singular include the plural, unless the nature of construction of the sentence indicates otherwise.

ABUT: The joining, reaching, or touching of adjoining land. Abutting pieces of land have a common boundary.

ACREAGE: Any tract or parcel of land that has not been subdivided and platted, in common ownership and having an area of one acre or more.

ACCESSORY BUILDING: A building which is subordinate to and incidental to the principal building on the same lot, but does not include any building containing a "dwelling unit," as defined in this Section.

ACCESSORY USE: A use incidental and subordinate to the principal use of the premises.

ADMINISTRATOR: An official having knowledge of the principles and practices of zoning who administers this Title.

ADULT BUSINESS: Establishments based primarily on materials or performances that depict, describe, or relate to specified sexual activities. Adult businesses must be a minimum distance of one-half (1/2) mile from any church, school, day-care facility, or other organization or use which is primarily intended for individuals under the age of eighteen (18) years old. The distance shall be measured in a direct line from the front door of the adult business to the front door of said organization or use.

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

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

AGENT:	A person that legally represents the developer and the owner and such legal authorization shall be on file, in writing, with the administrator.
AGRICULTURE:	A Land primarily used for farming, dairying, pasturage, cultivation, animal or poultry husbandry and the necessary accessory use for packing, treating or storing produce; provided: 1 The operation of any such accessory use shall be secondary and supportive to that of normal agricultural activity; and 2 The tract of land is used to produce organic goods for sale or animal feeding from which significant economic gain or saving is derived. B. Any agriculture use or uses not herein listed which, in the judgment of the planning and zoning commission, conform to the intent of this definition are allowed.
AGRICULTURAL BUILDING:	A structure designed and constructed to house automobiles, trucks, farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation, nor shall it be a place used by the public.
APPLICANT:	A person or persons who file an application with the city seeking relief or authority under this Title.
APPLICATION:	A document submitted to the city to apply for a permit to fulfill the requirements of the city code with regard to land use.
AIRPORT:	Any area of land or water which is used or intended for use by aircraft and including the necessary accessory structures or facilities located thereon.
AMUSEMENT FACILITY, INDOOR:	An enclosed facility used for public entertainment, including, but not limited to, bowling alleys, dance halls, theaters and skating rinks.
AMUSEMENT FACILITY, OUTDOOR:	A site, which may contain accessory buildings, used for public entertainment, including, but not limited to, golf courses, drive-in theaters, raceways, riding arenas.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

ANNEXATION AGREEMENT:	A contract between the city and property owner(s). The agreement shall outline general and specific conditions of the annexation.
ANIMAL CLINICS:	Any building or portion thereof designed or used for the care and treatment of cats, dogs and other animals.
ANTENNA:	Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and multi-directional antennas, such as whip antennas.
APARTMENT:	A rented or leased room or suite of rooms in a multiple-unit dwelling which is arranged, designed or used as a single housekeeping unit and has complete kitchen and sanitary facilities permanently installed.
AUTOMOTIVE REPAIR:	Premises used primarily for the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning of vehicles.
AUTOMOTIVE SALES:	Premises on which new and/or used passenger automobiles, trailers, mobile homes or trucks in operating condition are displayed in the open for sale or trade.
AUTOMOTIVE 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 motor vehicle repair.
AUTOMOTIVE WRECKING YARD:	Any use of premises, excluding fully enclosed buildings, 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.
AWNING:	Any stationary structure, other than a window awning, for the purpose of providing shelter from the elements and having a roof with supports and not more than one wall or storage cabinets substituting for a wall.
BED AND BREAKFAST FACILITY:	An owner-occupied facility providing overnight accommodations and breakfast food service to

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

no more than twelve (12) guests at any one time. No cooking shall be allowed in guest rooms and only breakfast food shall be provided to guests. Bath facilities shall be shared by no more than two (2) guest rooms, and one off-street parking space for each guest room and employee shall be provided and maintained by the applicant.

BICYCLE PARKING RACK:

Secured framing, usually metal, for holding and locking bicycles.

BLOCK:

A piece of land or group of lots entirely surrounded by public streets, streams, railroads, parks, canals or natural or artificial boundary, or combination thereof.

BOARDING HOUSE:

A building, other than a hotel or restaurant, where meals and rooms are provided for compensation to three (3) or more persons, but not more than twelve (12) persons, who are unrelated and no cooking or dining facilities are provided in individual rooms.

BUILDING:

Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows or opening, which is designed or intended for the shelter, enclosure or protection of persons, animals, chattels or property of any kind.

BUILDING, DETACHED:

A building surrounded by open space on the same lot as another building.

BUILDING ENVELOPE:

The area on a lot or parcel intended for a building footprint. Ownership of the building envelope is separate from the remaining lot or parcel, which may be owned by a homeowner's association, an individual, partnership or organization.

BUILDING FOOTPRINT:

The area occupied by a building.

BUILDING, GOVERNMENT:

A building owned or used by the Federal, State, County or city government, or any political subdivision, agency or instrumentality thereof.

BUILDING, NONCONFORMING:

Any building, which does not conform to the requirements of this Title.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

BUILDING PERMIT:	A permit to be obtained before any construction begins.
BUILDING, PRINCIPAL:	A building in which is conducted the main or principal use of the lot on which said building is situated.
BUSINESS OR COMMERCE:	The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, or the ownership or management of office buildings, offices, recreation or amusement enterprises or the maintenance and use of offices or professions and trades rendering service.
CARPORT:	A stationary structure consisting of a roof with its supports and not more than three (3) walls and used for sheltering a motor vehicle.
CEMETERY:	Land used or intended to be used for the burial of human dead and dedicated for cemetery purposes, for which perpetual care and maintenance is provided, including mausoleums if operated in connection with and within the boundaries of said cemetery.
CENTRAL SEWER SYSTEM:	Any system that receives blackwaste or wastewater in volumes exceeding two thousand five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership.
CHILD-CARE FACILITY:	Any facility where children regularly receive care and supervision, usually unaccompanied by the children's parents, guardians or custodians, and regardless of whether the facility does or does not provide any instruction. This use excludes the case of (a) the operator's children or legal wards or children related by blood or marriage, (b) occasional personal guests, and (c) children aged twelve (12) years and over. Any home, place, or facility providing overnight custodial services for lodging or boarding for the occupants therein shall not be considered a child-care facility. There are three (3) types of child-care facilities:

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

1 Family Day-Care: A child-care facility for six (6) or fewer children as an accessory use to residential uses.

2 Group Day-Care: A child-care facility for seven (7) to twelve (12) children.

3 Day-Care Center: A child-care facility for thirteen (13) or more children.

CITY:

Tetonia, Idaho, or its city council.

CITY CLERK:

Clerk of the City of Tetonia, Idaho.

CITY COUNCIL:

The city council of the City of Tetonia, Idaho.

CLINIC:

A building used for the care, diagnosis and treatment of ill, infirm or injured person, but which building does not provide board and room or regular hospital care and services.

CLUSTER HOUSING:

A development of land consisting of separate residential lots of record where conventional setbacks, lot sizes or density may be varied with adjacent land held in common, usually as open space, and where said common land is maintained by the city, private management or a homeowner's association.

COMMON GREEN:

A common area substantially open to the sky which is owned and maintained by a group or association. Building clusters may abut the area without extensive setback requirements.

COMPREHENSIVE PLAN:

The plan or any portion thereof, adopted by the city, which includes all land within the jurisdiction of the city.

CONDITIONAL APPROVAL:

An affirmative action by the planning and zoning commission indicating that approval will be forthcoming upon satisfaction of certain specified stipulations.

CONDITIONAL USE:

Use of a structure or land in a district even though it is not a principally permitted use in that district. This use requires a "special use permit" from the planning and zoning commission and is subject to the limitations and conditions specified herein and thereon. Also called a conditional use.

CONDOMINIUM:

Dwelling units in a multi-unit dwelling where each unit is individually owned and the common Land Use Municipal Code

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

	areas such as hallways and recreational facilities are jointly owned (usually as "tenants in common") by all the unit owners in the building.
CONVENIENCE STORE:	Retail sales of food, beverages and small convenience items typically found in establishments with long or late hours of operation.
COUNTY:	Teton County, Idaho, or its governing board.
COVENANT:	A written promise running with the ownership of a lot in a recorded plat by virtue of its being included in the written documents recorded with and made a part of the plat.
CULVERT:	A drain that channels water under a bridge, street, road or driveway.
DEDICATION:	The setting apart of land or interests in land for use by the public by ordinance, resolution or entry in the official minutes or by the recording of a plat showing such dedication. Dedicated land becomes public land upon the acceptance by the city council or other governmental unit.
DENSITY:	A unit of measurement; the number of dwelling units per a specified area of land.
DENSITY GROSS:	The number of dwelling units per acre of the total land to be developed including land dedicated to public use.
DENSITY NET:	The number of dwelling units per acre of land devoted to residential uses only and excluding land dedicated to public use.
DESIGN REVIEW ORDINANCE:	An ordinance to establish basic design standards for new developments and renovations in the city.
DETENTION FACILITIES:	Publicly owned and operated facilities providing housing, care, and supervision for persons confined by law.
DEVELOPER:	A person who subdivides land or an authorized agent of a subdivider.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

DEVELOPMENT AGREEMENT:	A contract between a developer and the city secured by lien against the real property of the proposed development.
DEVELOPMENT MASTER PLAN:	A plan for development with platting in progressive stages, as in a subdivision or planned unit development.
DISTRICT:	A category of land use designated on the zoning map.
DRIVE-IN:	An establishment, other than an automobile service station, which is designed to accommodate the motor vehicles of patrons in such a manner as to permit the occupants of such vehicles, while remaining therein, to make purchases or receive services.
DWELLING:	Any building or portion thereof designated or used exclusively for residential purposes. This definition does not include tents, travel trailers, motels, hotels, hospitals, nursing homes, clubs, and lodging/boarding houses.
DWELLING GROUP:	Two or more multifamily dwellings
DWELLING UNIT:	One or more rooms located within a dwelling designed for or occupied by one family for living or sleeping purposes and having at least one, but not more than two, permanently installed kitchens.
EASEMENT:	Authorization by a property owner for the use of any designated part of his property by another for a specified purpose.
EASEMENT ROAD:	An access to or from an approved county road or city street.
EASEMENT, UTILITY:	An access required by a utility or canal company.
ENGINEER:	Any person licensed by the State of Idaho to practice professional engineering.
ENGINEERING PLAN:	Plans of a proposed subdivision executed by an engineer.
ENTERTAINMENT FACILITY:	Any profit-making activity generally related to the entertainment field such as motion picture theaters, performing arts theaters, sports
City of Tetonia	Land Use Municipal Code

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

	stadiums and arenas, amusement parks, bowling alleys, billiard parlors, poolrooms, dance halls, ice/roller skating rinks, health/fitness clubs, recreation clubs, arcades, and similar entertainment activities.
FAMILY:	An individual, or two or more persons related by blood, marriage, or adoption, or a group of not more than three persons (excluding servants) who are not related, living in a single-family dwelling or in a multifamily dwelling unit as a single housekeeping entity and using common cooking facilities.
FEEDLOT:	An area of land with fenced corrals where fifty (50) or more animals are stored during at least eight (8) months of the year and fed from an outside source.
FLOOD PLAIN:	The relatively flat area or low land adjoining the channel of a river, stream or other body of water which has been or may be covered by water of a flood of 100-year frequency. The flood plain includes the channel, floodway and floodway fringe as established by the Army Corp of Engineers.
FLOOR AREA, GROSS:	The sum of the gross horizontal areas of the several floors, including the exterior walls, of a building.
FLOOR AREA, NET:	That portion of the gross floor area of a building occupied by the listed use or uses and including hallway, storage and packaging space, dressing or restrooms and laboratory or workrooms; provided however, that floor space within a building reserved for parking or loading of vehicles and basement space used only for building maintenance and utilities shall be excluded.
FRONTAGE:	Property width abutting an approved right of way measured at the minimum required setback line.
FRONTAGE ROAD:	A road which has unlimited access to collector and access streets but has limited access to arterial streets. Access onto arterial streets is limited to one thousand five hundred feet (1,500') between access points.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

GOVERNMENT FACILITY:	A Federal, State, County or City agency using a building for such programs as schooling, training, rehabilitating, storage, maintenance, etc.
GREENWAY:	(1) A linear open space established along either a natural corridor, such as a riverfront, stream valley, or ridge line, or over land along a railroad right-of-way converted to recreational use, a canal, a scenic road, or other route; (2) any natural or landscaped course for pedestrian or bicycle passage; (3) an open-space connector linking parks, natural reserves, cultural features, or historic sites with each other and with populated area; (4) locally, certain strip or linear parks designated as a parkway or greenbelt.
GRID:	A framework of parallel or crisscrossed streets intersecting at right angles.
HEALTH AUTHORITY:	District Health Department of the State Department of Health and Welfare.
HEIGHT:	The height of personal wireless facilities, spires, poles, antennas, steeples, towers, and similar structures shall be determined by measuring the vertical distance from the point of contact with the ground to the highest point of the structure, including any vertical projection thereof. When mounted upon other structures, the combined height of the personal wireless facility, spire, pole, antenna, steeple, tower, and/or similar structure, including the height of the structure mounted upon, shall be used to determine height.
HEIGHT, BUILDING:	The vertical distance from the grade to the highest point of the coping or a flat roof or to the deck line of a mansard roof or the average height of the height of the highest gable of a pitch or hip roof.
HOME BUSINESS/ OCCUPATION:	An occupation engaged in by an occupant of a dwelling unit for gainful employment.
HOUSEHOLD:	All persons living in one house or dwelling unit.
INDUSTRY:	See definition of Manufacturing.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

IRRIGATION FACILITIES:	Includes canals, laterals, ditches, conduits, gates, pumps and allied equipment necessary for the supply, delivery and drainage of irrigation water.
KENNEL:	Any lot or premises or portion thereof on which more than two dogs, more than four (4) months of age, are maintained, boarded or bred.
LANDSCAPE:	(1) An expanse of natural scenery, (2) lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.
LOADING AND UNLOADING SPACE:	An open off-street area of land other than a street or public way, the principal use of which is for standing, loading and unloading of motor vehicles and tractors and/or trailers in order to avoid undue interference with public streets and alleys.
LOT:	A unit of land, meeting minimum zoning requirements, described by metes and bounds or a part of a recorded subdivision so recorded for transfer of ownership.
LOT COVERAGE:	The area of a lot occupied by the principal building(s) 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 of a single-family home, twin home or townhome, which usually is immediately beneath, in front of and behind the unit.
LOT FRONTAGE:	The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner and through lots, all sides adjacent to a street may be considered for frontage designation; however, when a building is placed on a lot, one side shall be designated as the yard front and lot frontage requirements shall apply to that street.
LOT LINE:	The boundary property line encompassing a lot. The front lot line is the boundary line which

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

abuts a public street. For a corner lot, the owner may select either street line as the front lot line. The rear lot line is the lot line most nearly parallel to the most remote from the front property lines. An interior lot line is a side line in common with another lot.

LOT, MINIMUM AREA:

The area of a lot which is computed exclusive of any portion of the right of way of any public or private street or road.

LOT OF RECORD:

A lot which is described by metes and bounds and which has been recorded with the County.

LOT TYPES:

A. Corner Lot: A lot located at the intersection of two (2) or more streets with an external angle of not more than one hundred thirty five degrees (135°).

B. Double Frontage Lot: A lot which is not a corner lot and abuts two or more streets, with possible vehicular access to both streets.

C. Flag Lot: Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.

D. Interior Lot: A lot with only one frontage on a street.

E. Reversed Frontage Lot: A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

F. Through Lot: A lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage lots.

MANUFACTURED HOME:

A single-family dwelling fabricated in one or more sections at a location other than the home site. Every section shall bear a label certifying that it is built in compliance with Federal Manufactured Home Construction and Safety Standards, June 15, 1976, and it shall also meet HUD and Uniform Building Code standards. A manufactured home may be

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

	designed to be towed on its own chassis or it may be site delivered by alternative means.
MANUFACTURED HOME PARK:	A parcel of ground retained under one ownership for the purpose of lease or rental of spaces for the placement of manufactured homes.
MANUFACTURED HOME SUBDIVISION:	A tract of land subdivided to provide for the sale of individual lots for the express 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 refining.
MASTER PLAN:	A comprehensive, long-range plan intended to guide the growth and development of a community or region for a set period of time and which typically includes inventory and analytic sections leading to recommendations for the community's land use, future economic development, housing, recreation and open space, transportation, community facilities and community design, all related to the community's goals and objectives for these elements.
MAY:	A permissive requirement.
MOBILE HOME:	A manufactured relocatable single-family dwelling made prior to June 15, 1976 which does not meet the Federal Manufactured Home Construction and Safety Standards. A structure transportable in one or more sections which is eight (8) body feet or more in width and is thirty two (32) body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.
MOBILE HOME PARK:	A parcel of ground retained under one ownership for the purpose of lease or rental of spaces for the placement of "mobile homes" or

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

"manufactured homes," as defined in this Chapter.

MOBILE OFFICE:

A detached mobile unit not intended for occupancy as a dwelling unit designed to be transported after fabrication on its own wheels or on flatbed or other trailers or detached wheels. Use of a mobile office at other than a construction site requires a special use permit.

MONUMENT:

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

MOTEL:

A building or group of buildings on the same premises, whether detached or connected, containing sleeping or dwelling units independently accessible with garage space or parking space located on the premises and designed for or occupied by the public.

MOTHER-IN-LAW APARTMENT:

An accessory dwelling unit or a secondary suite that is associated with the primary residence. These sorts of dwelling units are primarily constructed with a separate entrance, kitchen, bathroom and a living area. The primary objective of constructing such a dwelling unit is to provide accommodation to an elderly relative who is unable to lead life on their own.

MULTI FAMILY DWELLING:

A detached building arranged or designed to contain two or more dwelling units. Under this definition, twin homes, townhouses, condominiums and apartments are multifamily housing, as are duplexes, three-plexes, six-plexes, etc.

NATURAL RESOURCE:

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

NONCONFORMING USE:

A building or use of land existing at the time of enactment of the Ordinance codified herein which does not conform to the regulations of the district in which it is situated. Any use lawfully occupying a building structure or land at the effective date hereof or of subsequent

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

amendments thereto, which does not conform to the regulations for the district in which it is located.

NONPROFIT REHABILITATION CENTER: Facilities operated by established nonprofit organizations such as goodwill industries, salvation army, etc., which are intended to provide employment and training for handicapped persons. Such facilities may include, but are not limited to, activities such as light assembly of products, training, administrative office, repair and sale of secondhand clothing, furniture and appliances, and may include certain facilities for persons with profound mental retardation. This use does not include homeless shelters or other forms of transient or permanent residential accommodation.

NURSERY, PLANT: Land, structure or a combination thereof for the storage, cultivation or transplanting of live trees, shrubs or plants offered for sale on the premises, including products used for gardening and landscaping.

NURSING/CONVALESCENT HOME: A building housing any facility, however named, whether operated for profit or not, the purpose of which is to provide skilled nursing care and related medical services for two (2) or more individuals suffering from illness, disease, injury, deformity or requiring care because of old age.

NURSING HOME, REST HOME: The same as a nursing home, except that medical care is not administered therein.

OPEN SPACE: A common area platted as a separate lot, provided within a recorded easement, or dedicated to and accepted by the city. The area shall be substantially open to the sky, exclusive of streets, and shall be designated and intended as a usable and convenient amenity to any proposed development. Wetland areas, drainage ditches, irrigation ditches, and similar features shall not be considered as a part of the minimum area of open space required.

ORIGINAL PARCEL: A lot or tract of land as recorded on any plat or recorded in the county recorder's office as of the effective date hereof.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

PARKING LOT:	An open, graded and surfaced area, other than a street or public way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles and available to the public, whether for compensation, free or as an accommodation to clients or customers.
PARKING SPACE:	Usable space within a public or private parking area or building for the storage of a single automobile or commercial vehicle.
PARKING SPACE, OFF-STREET:	An area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. The space shall be located totally outside of any street or alley right of way.
PAVEMENT WIDTH:	The designated finished horizontal distance measured from one side of the street to the other including back of curb to back of curb.
PEDESTRIAN WAY:	A public walk dedicated to providing access to or through a school, park, recreation area or shopping center.
PERFORMANCE/SURETY BOND:	A financial guarantee by a subdivider or developer to the city, guaranteeing the completion of physical improvements according to plans and specifications, and/or the operation of said development according to the provisions required by the city and/or reclamation of said development site as agreed with the city.
PERSON:	Includes a single individual, firm, association, organization, partnership, trust, company or corporation, as well as an individual.
PERSONAL WIRELESS FACILITIES:	Facilities necessary for the provision of personal wireless services (i.e., towers, support buildings, etc.).
PERSONAL WIRELESS SERVICES:	Commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

PLANNED UNIT DEVELOPMENT:	An area of land in which a variety of residential, commercial, industrial and/or recreational uses developed under single ownership or control are accommodated in a preplanned environment with more flexible standards than those normally applied under these regulations.
PLANNINGANDZONINGCOMMISSION:	The planning and zoning commission of Tetonia.
PLAT:	The drawing, map or plan of a cemetery, subdivision or other tract of land or replatting of such, including certification, covenants, descriptions, dedications and approvals. Final Plat: The final presentation containing all descriptions, provisions and information concerning a subdivision in accordance with this Title. Preliminary Plat: The formal presentation, by drawing, as accepted by the planning and zoning commission and city council. Recorded Plat: A final plat that has been accepted by the city and filed for record by the county.
PREEXISTINGTOWERSORANTENNAS:	Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
PRESCHOOL:	An institution providing care for compensation, with instruction, for more than five (5) children of preschool age.
PUBLIC SERVICE FACILITY:	The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad or by a municipal or other governmental agency to furnish electrical, gas, rail transport, communication, public water or sewage services.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

PUBLIC USE:	Public parks, schools, churches, administrative and cultural buildings, not including public land or buildings, devoted solely to the storage and maintenance of equipment and materials.
QUASI-PUBLIC USE:	Patronage of churches, Sunday schools, parochial schools, colleges, hospitals and other facilities of an educational, religious, charitable, philanthropic or nonprofit nature.
RECREATION, OUTDOORS:	Activities related to the use of natural resources such as, but not limited to, hiking, fishing, hunting and boating which require no structures and create a minimal disturbance to the land.
RIPARIAN LAND	Land that is traversed or bounded by a natural water course or adjoining tidal lands.
RESERVE STRIP:	A strip of land between a partial street and adjacent property, which is reserved or held in public ownership for future street extension or widening.
RESIDENCE:	A single-family dwelling or multifamily dwelling unit.
RESIDENTIAL:	An area composed primarily of residences.
RESTAURANT:	Any land, building or part thereof, other than a boarding house, where meals are provided for compensation, including, but not limited to, a cafe, a cafeteria, coffee shop, lunch room, tea room and dining room.
RIGHT OFWAY:	A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates curbs, lawn strips, sidewalks, lighting and drainage facilities and may include special features required by the topography or treatment, such as grade separation, landscaped areas, viaducts and bridges.
ROAD:	A roadway surface and its approved rights of way. See definition of Street.
ROADSIDE STAND:	A structure or vehicle designed or used for the temporary display and sale of retail items may include outside display in the adjacent area.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

ROOMING HOUSE:	See definition of Boarding House.
SALVAGE YARD:	An outdoor space where junk, waste, discarded or salvaged materials are stored or handled, including automobile wrecking yards and yards for used building materials, and places or yards for storage of salvaged building and structural steel materials and equipment. Including yards or establishments for the sale, purchase or storage of used cars or machinery in operable condition and the processing used, discarded or salvaged materials as part of a permitted manufacturing operation on the same premises.
SCENIC CORRIDOR:	An area visible from a highway, waterway, railway, or major hiking, biking, equestrian trail, or publicly accessible right-of-way that provides vistas over water and across expanses of land, such as farmlands, woodlands, coastal wetlands, or mountaintops or ridges.
SERVICE INDUSTRY:	Financial institutions, professional offices, personal care facilities, and other service oriented businesses.
SERVICE STATION:	A business for fueling and servicing motor vehicles. This business sells fuel, lubricating oil and grease on premises and may sell tires, batteries, and accessories. The business typically provides major and minor motor-vehicle repairs and may also sell convenience items such as snacks and soft drinks.
SETBACK:	The minimum distance allowed between a property line of a lot and the nearest drip line of the eaves of a house, business or other building, including any projection thereof, excluding uncovered steps. Uncovered steps or a deck may not extend into the front setback more that one-third (¹ / ₃) of the required setback.
SETBACK AREA:	The space on a lot required to be left open and unoccupied by buildings or structures by the front, side or rear yard requirements of this Title or by delineation on a recorded subdivision.
SHALL:	Is mandatory.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

SHOPPING CENTER:	A group of contiguous or adjacent commercial establishments, planned, developed, owned and/or managed as a unit to serve the trade area of the local community. Shopping centers shall provide services for a neighborhood or the community. Neighborhood shopping centers will typically comprise between thirty thousand to one hundred thousand (30,000 - 100,000) square feet of gross leasable floor area and community shopping centers will typically comprise between one hundred thousand to four hundred fifty thousand (100,000 - 450,000) square feet of gross leasable floor area.
SHOPPING MALL:	An enclosed shopping facility comprising many separate shops typically with two (2) or more major anchors (usually full-line department stores) with shops/major anchors accessed mostly by indoor halls/walking areas. Outdoor access may be provided for open-air shopping malls. A shopping mall shall provide services for a regional area, as well as the local community, and will typically comprise between four hundred fifty thousand to eight hundred fifty thousand (450,000 - 850,000) square feet of gross leasable floor area.
SHOULD:	A preferred requirement.
SIDEWALK:	That portion of the road right of way which is improved for use of pedestrians.
SIGN:	Any structure or natural object, such as a tree, rock, bush and the ground itself, or part thereof or device attached thereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business or which shall display or include any letter, work, model, banner, flag, pennant, insignia, device or representation used as, or which is, in the nature of an announcement, direction or advertisement. For the purpose of this definition, the word sign does not include the flag, pennant or insignia of any nation, state, city or other political unit, or any political educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

SINGLE-FAMILY DWELLING:	A detached building arranged or designed to be occupied by one family.
STANDARD SPECIFICATIONS:	The specifications as detailed in this Title or as officially adopted by the city council.
STORY:	That portion of a building included between the upper surface of any floor and the upper surface of the floor next above.
STREET:	A public right of way which provides vehicular and pedestrian access to adjacent properties, the dedication of which has been officially accepted. The term street also includes highway, thoroughfare, parkway, road, avenue, boulevard, land, place and other such terms. Streets are further defined as follows: Alley: Provides secondary access at the back or side of property otherwise abutting a street. Arterial: Provides traffic access from various traffic generators to expressways and freeways. Major Arterial: Expressways and freeways. Minor Arterial: Move a moderate volume of traffic at moderate speeds with limited access to residential streets. Boulevard: A street, broad in width, often tree-lined and landscaped. Directional traffic may be physically separated by landscaped medians. Collector: Carries traffic from local streets to other collectors and/or arterials. Major Collector: Connect two or more local streets and a minor arterial. Commercial and residential properties do not have direct access onto them. Minor Collector: Serve business and residential properties and are generally used to preserve a grid system of development throughout the city and into the city's impact area. Cross-section: A section formed by a plane cutting through an object, in this case a roadway, usually at right angles to an axis. Cross-sections are often used to illustrate the character, or design of a street and right-of-

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

way, and can show the relationship of street to sidewalk to house.

Cul-De-Sac: A street connected to another street at one end only and provided with a turnaround at its terminus.

Dead-End: A street with only one way in or out.

Expressway: Provides traffic with a means to either bypass a city or be routed expeditiously through or between cities.

Local/Residential: Provides access to abutting properties, particularly in subdivisions.

Village: A street reserved for limited access into residential development.

Loop: A minor street in which both terminal points are on the same street of origin.

Private: A street that is not accepted for public use or maintenance which provides vehicular and pedestrian access.

STREETSCAPE:

The design and character of a street, often with regard to the aesthetic design of features such as landscaping, lighting, pedestrian facilities, signage and street furniture.

STRUCTURE:

Anything constructed or erected, except fences, which requires permanent location on the ground or is attached to something having location on the ground.

SUBDIVIDER:

An individual, firm corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for a subdivision of land in accordance with the provisions of this Title. The subdivider need not be the owner of the property, however, he shall be an agent of the owner and have sufficient proprietary rights in the property to represent the owner.

SUBDIVISION:

The division of any lot, tract or parcel of land into more than two (2) parts as it existed at the effective date here, for the purpose of transfer of ownership or development.

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

SURVEYOR:	Any person who is licensed by the State of Idaho as a public land surveyor to do professional surveying.
TAVERN/LOUNGE:	A building where alcoholic beverages are sold for consumption on the premises, not including restaurants, where the principal business is serving alcoholic beverages.
TOWER:	Any ground or roof mounted pole, spire, similar structure, or combination thereof, with a "height", as defined in this section, in excess of thirty-five feet (35'), including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade. Freestanding Tower: A tower not physically attached to a building or structure. The tower is attached to the ground by a foundation. Lattice Tower: A type of tower that is usually round-mounted and self-supporting with multiple legs and cross bracing of structural steel. Monopole: The shape of mount that is self-supporting with a single shaft of wood, steel or concrete and antennas at the top and/or along the shaft.
TOWNHOUSE:	A multifamily dwelling unit that shares a common wall with the dwelling unit next door. The walls are usually straight and entry is usually from the ground floor. A townhouse may have two or three stories. The unit consists of both the structure and the land on which it sits.
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, camper units and camp tents. Camping Trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

camp site to provide temporary living quarters for recreational, camping or travel use.

Commercial Coach: A factory assembled structure equipped with the necessary service connections and made so as to be readily movable as a unit on its own running gear and originally designed to be used either as a dwelling unit or other use without a permanent foundation.

Motor Home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

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.

TRAVEL TRAILER PARK:

A tract of land retained under one ownership for the purpose of rental of spaces for temporary placement of travel trailers.

TRUCK STOP:

A business for fueling and servicing motor vehicles, especially long-haul trucks. Adjacent to or near a major highway, this business sells fuel, lubricating oil and grease on premises and often sells tires, batteries, and accessories as well. The business typically provides major and minor motor-vehicle repairs and offers numerous convenience items such as food and toiletries along with other travel-related merchandise and services.

TWIN HOME:

A multifamily dwelling containing two units that share a common wall.

UNIFORM BUILDING CODE:

The Code published by the International Conference of Building Officials and adopted by the State.

USABLE LOT AREA:

That portion of a lot usable for or adaptable to the normal uses made of residential property, excluding any areas which may be covered by

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

	water, which are excessively steep or which are included in certain types of easements.
USE:	The specific purpose for which land or a building is designated, arranged or intended or for which it is or may be occupied or maintained.
USE DISTRICT:	See definition of District.
UTILITIES:	Installations for conducting water, sewage, gas electricity, television, storm water and similar facilities providing service to and used by the public.
VARIANCE:	A modification of the requirements of this Title 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 of lots.
VERTICAL MIXED USE:	Residential dwelling above the ground floor of an allowed commercial establishment.
VICINITY MAP:	A drawing showing the location of a tract of land in relation to a larger area.
WALKWAY:	A public way, four feet (4') or more in width, limited to pedestrian use, whether or not along the side of a road.
WAREHOUSE:	A building where wares or goods are stored before distribution or are kept in reserve.
WAREHOUSING AND STORAGE:	A Limited: Provision of storage space for household or commercial goods within an enclosed building without direct public access to individual storage spaces. This classification includes facilities with a maximum of five thousand (5,000) square feet of gross floor area, but excludes wholesaling, distribution and storage, ministorage and vehicle storage. B. Ministorage: Provision of storage space for household or commercial goods within an enclosed building with direct public access to individual storage spaces. May include vehicle storage to a maximum of twenty percent (20%) of the site. Where greater than twenty percent (20%) of the site is allocated to vehicle storage,

TITLE 9 LAND USE CODE - CHAPTER 2 DEFINITIONS

the vehicle storage must be treated as a separate use.

YARD:

A required open space on the same lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this Title and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the lot is located.

YARD, FRONT:

That portion of a yard extending between the side lot lines across the front of a lot and from the front lot line to the front of the principal building.

YARD, INTERIOR SIDE:

That portion of a yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

YARD, REAR:

That portion of a yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

YARD, STREET SIDE:

That portion of a yard extending from the principal building to the secondary street that adjoins the lot between the lines establishing the front and rear yards.

ZONE:

See DISTRICT.

ZONING MAP:

A map incorporated into this Title designating land use districts or zones.

(Ord. 38, 11-5-1984; Ord. 23, 5-1981; Ord. 22, 5-1981; Ord. 2008-4)

CHAPTER 3

LAND USE ADMINISTRATION

- 9-3-1: AUTHORITY
- 9-3-2: ADMINISTRATION
- 9-3-3: ADMINISTRATOR
- 9-3-4: PLANNING AND ZONING COMMISSION
- 9-3-5: TERM OF OFFICE, VACANCIES AND REMOVALS
- 9-3-6: ORGANIZATION
- 9-3-7: RULES
- 9-3-8: AGENDA
- 9-3-9: POWERS AND DUTIES OF THE COMMISSION
- 9-3-10: CONFLICT OF INTEREST
- 9-3-11: FINDINGS OF OFFICIALS

9-3-1: AUTHORITY

Administrative authority of this Title shall be the city council and such authority may appoint and employ such assistants, deputies, inspectors, commissions or other employees as are necessary and authorized to carry out the functions of this Title. (Ord. 38, 11-5-1984; Ord. 2008-4)

9-3-2: ADMINISTRATION

For the purpose of carrying out the provisions of this Title, and pursuant to the provisions of Idaho Code 67-6501 et seq., an administrator and planning and zoning commission are hereby created.

9-3-3 : ADMINISTRATOR

- A. Appointment: The city council shall appoint an administrator to administer this Title. The administrator may be provided with the assistance of such persons as the city council may direct. Unless otherwise provided, the administrator shall be the city clerk.
- B. Duties: For the purpose of this Title, the administrator shall have the following duties:
 - 1 Advise interested persons of provisions within this Title;
 - 2 Notify the news media regarding matters of public interest;
 - 3 Aid applicants in the preparation and expedition of required applications;
 - 4 Make an on-site examination, with the permission of the owner, or see that such examination is made, of all permit applications;
 - 5 Issue permits, notifications and such similar administrative duties;
 - 6 Investigate all violations of this Title and notify in writing the person responsible for such violations, recommending the action necessary to correct such violations;

7. Assist the planning and zoning commission and city council in carrying out the provisions of this Title.

9-3-4: PLANNING AND ZONING COMMISSION

- A. The commission shall consist of five (5) members, three (3) of whom shall reside within the city limits and be appointed by the mayor and confirmed by a majority vote of the city council and two (2) additional members to be appointed who reside within the city impact area or own land in the city impact area or city and reside in the county, with one being appointed by the mayor and confirmed by the city council and the other shall be appointed by the Chairman of the Teton County Commissioners and confirmed by the Teton County Commissioners.
 1. All members must have been residents of the county for at least two (2) years, and must reside within the county while serving on the commission.
 2. Members shall be selected without respect to political affiliations and shall serve without compensation, unless the city council determines that the individual planning and zoning commission members should receive travel reimbursement. The city council shall set the travel reimbursement rate by resolution.

9-3-5: TERM OF OFFICE, VACANCIES AND REMOVALS

- A. Term of Office: The term of office for appointive members shall be three (3) years. Said terms shall be staggered in such a manner that not more than thirty five percent (35%) shall expire in any one year
- B. Vacancies and Removal: All vacancies shall be filled in the same manner as original appointments and members may be removed for cause by a majority vote of the governing board.

936 : ORGANIZATION

- A. Officers: At the regular meeting held in December, the commission shall elect a chairman, vice-chairman and secretary and create and fill such offices as it may determine necessary for the proper conduct of the affairs and business of the commission.
 1. The chairman shall preside at all meetings except as, in the discretion of the chairman, he may appoint a member of the commission or the city attorney to preside. The chairman shall appoint all committees with the advice and consent of the commission to the vice-chairman.
 2. The vice-chairman shall perform all duties of the chairman in the absence of the chairman.
 3. The secretary shall keep a record of the proceedings of the commission and perform such other duties as may be assigned by the chairman.
 4. Vacancies of officers shall be filled by election at the next meeting.
- B. Meetings: Meetings of the commission shall be held when duly called by the chairman by written or oral notice. At least one regular meeting shall be held

TITLE 9 LAND USE CODE - CHAPTER 3 LAND USE ADMINISTRATION

each month for not less than nine (9) months in a year. All meetings shall be open to the public.

- C. Quorum: A majority of voting members of the commission present at each such meetings or hearings shall constitute a quorum.
- D. Records Kept Written records of meetings, hearings, findings, studies, permits and actions shall be maintained and open to the public.

937 : RULES

- A. Voting: All members of the commission shall have an equal vote. A tie vote of a recommendation to city council shall automatically generate disapproval of the recommendation.
- B. City Impact Area Vote: In the event of a tie vote regarding the city impact area, the county commissioners will decide the matter.
- C. Meeting Rules: Meetings shall be conducted by parliamentary authority or by special rules adopted by a majority vote of the commission.

938 : AGENDA

- A. Regular Meeting: A forty-eight (48) hour agenda notice shall be required in advance of each regular meeting, however, additional agenda items may be added after completion of the agenda up to and including the hour of the meeting, provided that a good faith effort is made to include in the notice all agenda items known at the time to be probable items of discussion. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or if no such office exists, at the building where the meeting is to be held.
- B. Special Meeting: No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice.
- C. Public Hearings: Agenda must be posted at the office or building where the hearing will be held at least fifteen (15) days before the date of the hearing.

939 : POWERS AND DUTIES OF THE COMMISSION

For the purpose of this Title, the Planning and Zoning Commission may act consistent to the provisions of this Title and shall have the following duties:

- A. Recommend amendments to the comprehensive plan map to the city council, not more frequently than every six (6) months, to correct errors in the original comprehensive plan or to recognize substantial changes in the actual conditions in the City.
- B. Refer any petition for amendment to the comprehensive plan text received by the planning and zoning commission to the city council;
- C. Review and update the comprehensive plan as needed;
- D. Review all proposed amendments to this Title and make recommendations to the city council;

TITLE 9 LAND USE CODE - CHAPTER 3 LAND USE ADMINISTRATION

- E. Administer and enforce all applicable city land use code within the city impact area;
- F. Review and recommend all development applications and make recommendations to the city council;
- G. Review and recommend all conditional use permits to city council as herein specified with such additional safeguards as will uphold the intent of this Title;
- H. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation or determination made by the administrator;
- I. Review and recommend to the city council for their approval such variances from the terms of this Title as will be contrary to the public interest where, owing to special conditions, a literal enforcement of this Title will result in unnecessary hardship, and so that the intent of this Title shall be observed and substantial justice done.

9310 : CONFLICT OF INTEREST

The city council shall provide that the area and interests within its jurisdiction are broadly represented on the planning and zoning commission. A member or employee of the city council or planning and zoning commission shall not participate in any proceeding of 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 in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of this Section shall be a misdemeanor and subject the violator to the penalty provisions provided in Section 1-4-1 of this Code.

9311 : FINDINGS OF OFFICIALS

The approval or denial of any application provided for in this Title shall be based upon standards and criteria set forth in the Plan, this Title or any other appropriate ordinance. The approval or denial of any application provided for in this Title shall be in writing and accompanied by a statement in the form of findings of fact that explain the criteria and standards considered relevant, state the facts relied upon and explain the justification for the decision based on the criteria, standards and facts set forth. (Ord. 2008-4)

CHAPTER 4

PERMITS, FEES AND ENFORCEMENT

- 9-4-1: ZONING AND/OR BUILDING PERMITS REQUIRED
- 9-4-2: BUILDING PERMIT
- 9-4-3: FEES, CHARGES AND EXPENSES
- 9-4-4: INSPECTION
- 9-4-5: ENFORCEMENT

9-4-1: ZONING AND/OR BUILDING PERMITS REQUIRED

No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building, structure or use of land be established or changed without a permit being issued by the administrator. Zoning and/or building permits shall be issued only in conformity with the provisions of this Title. (Ord. 5, 7-13-1939; Ord. 2008-4)

9-4-2: BUILDING PERMIT

- A. Building Permit Application: The application for a building permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one year.

Applications shall be on forms provided by the Administrator. All information, including a site plan, and other maps, diagrams, drawings, calculations and tabulations called for on those forms shall be required for a complete application and no incomplete application shall be accepted. The Administrator may also require multiple copies to be submitted. Any and all applicable fees shall be paid, in full, at the time of application.

- B. Approval of Permit

- 1. Within thirty (30) days after the receipt of an application, the administrator shall either approve, approve with conditions, or disapprove the application in conformance with the provisions of this Title.
- 2. All permits shall be conditional upon the commencement of work within one year.
 - a. One copy of the plans shall be returned to the applicant after the administrator shall have marked such copy either as approved or disapproved and attested to the same by his signature on such copy.
 - b. The administrator shall retain one copy of the plans, similarly marked.
 - c. The administrator shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Title.

- C. Time Limit: If the work described in any permit has not begun within one year from the date of issuance, the permit shall be revoked by the administrator and written notice shall be given to the persons affected. All work described in any

TITLE 9 LAND USE CODE - CHAPTER 4 PERMITS, FEES AND ENFORCEMENT

permit shall be completed within three (3) years from the date of issuance or said permit shall be revoked by the administrator and written notice shall be given to all persons affected. In either case, a new permit will be needed before work may continue.

- D. Construction And Use To Be As Provided: A permit issued on the basis of an application and plans approved by the administrator authorize only the uses and arrangements set forth in such approved application and plans. No other use, arrangement or construction is allowed. Use, arrangement or construction contrary to that authorized shall be deemed a violation of this Title.
- E. Failure To Obtain Permit: Failure to obtain a building/zoning permit shall be in violation of this Title.
- F. Records Of Actions: Appropriate permits as defined in this Title shall be forwarded to the county assessor as required in Idaho Code section 67-6522. (Ord. 2008-4)

9-4-3 : FEES, CHARGES AND EXPENSES

- A. Established: The city council shall establish, by resolution, a schedule of fees and collection procedure for permits, appeals, variances, plat approvals and all other matters pertaining to the administration and enforcement of this Title which require investigation, inspection, legal advertising, postage and/or other expenses.
- B. Posting: The schedule of fees shall be posted in the office of the administrator and may be altered or amended only by resolution of the city council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
- C. Payment: All fees pertaining to permits, appeals, variances, plat approvals and all other matters pertaining to the administration and enforcement of this Title shall be paid to the office of the administrator. (Ord. 38, 11-5-1984; Ord. 23, 5-1981; Ord. 22, 5-1981; Ord. 2008-4)

9-4-4 : INSPECTION

Appropriate agencies and departments shall inspect or cause to be inspected improvements such as buildings, fire hydrants and water supply, sewage disposal systems, etc., in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered or backfilled until such installation shall have been approved. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued by the city to the responsible person. (Ord. 23, 5-1981; Ord. 22, 5-1981; Ord. 2008-4)

9-4-5 : ENFORCEMENT

- A. Complaints Regarding 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.

TITLE 9 LAND USE CODE - CHAPTER 4 PERMITS, FEES AND ENFORCEMENT

- 1 Such complaint, stating fully the cause and basis thereof, shall be filed with the administrator.
 - 2 The administrator shall properly record such complaint, immediately investigate and take action thereon as provided by this Title.
 - 3 The administrator shall report in writing within fourteen (14) days to the person filing the complaint regarding the disposition of the complaint.
- B. Penalty: The city attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this Title.
- 1 Participating Persons: 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 a separate offense.
 - 2 Fine; Imprisonment: Upon conviction of any violation of any of the provisions of this Title, such persons shall be subject to penalty as provided in Section 1-4-1 of this Code.
 - 3 Action To Restrain Or Prevent: Nothing herein contained shall prevent the city council or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Title or of the Idaho Code. (Ord. 38, 11-5-1984; Ord. 23, 5-1981; Ord. 22, 5-1981; Ord. 2008-4)

CHAPTER 5

AMENDMENTS, RECLASSIFICATION AND ANNEXATION

- 9-5-1: AUTHORITY
- 9-5-2: INITIATION OF AMENDMENTS
- 9-5-3: PLANNING AND ZONING EVALUATION
- 9-5-4: PLANNING AND ZONING NOTICE AND PUBLIC HEARING
- 9-5-5: ANNEXATION
- 9-5-6: RECOMMENDATION TO CITY COUNCIL
- 9-5-7: ACTION BY CITY COUNCIL
- 9-5-8: RESUBMISSION OF APPLICATION

9-5-1: AUTHORITY

The Land Use Code may be amended whenever the city council deems that amendment is required for public convenience, necessity or general welfare. The city council, subject to procedures provided by law, may amend, supplement, change or repeal the regulations, restrictions, and boundaries or classifications of property. (Ord. 38, 11-5-1984; Ord. 23, 5-1981; Ord. 22, 5-1981; Ord. 2008-4)

9-5-2: INITIATION OF AMENDMENTS

- A. Amendments to the comprehensive plan or this Title may be initiated in one of the following ways:
 - 1. The planning and zoning commission makes a recommendation to the city council;
 - 2. The city council adopts a motion by a council member to amend the comprehensive plan or this Title; and
 - 3. A property owner or a person who has an existing interest in property within the city or area of city impact requests a change to the comprehensive plan or this Title by application to the city clerk.
- B. Requests or applications for amendments to the comprehensive plan or this Title received by the city clerk shall be submitted to the planning and zoning commission for review.
- C. Applications shall contain the following information:
 - 1. Name, address, and phone number of applicant;
 - 2. Proposed amendment;
 - 3. Present land use and zoning district;
 - 4. Proposed land use and zoning district;
 - 5. A list of all property owners and their mailing addresses who are within three hundred feet (300') of the external boundaries of the land being proposed for land use reclassification;

TITLE 9 LAND USE CODE - CHAPTER 5 AMENDMENTS, RECLASSIFICATION AND
ANNEXATION

6. A statement of why the proposed amendment is requested, how the proposed amendment relates to the comprehensive plan and how the proposed amendment fits the criteria of this Title; and
7. Further justification if the rezone request is for small and/or single ownership tracts.

9-5-3: PLANNING AND ZONING EVALUATION

The planning and zoning commission, within fifteen (15) days of receiving a request or application, shall evaluate the request or application and determine the extent and nature of the amendment requested.

954 : PLANNING AND ZONING NOTICE AND PUBLIC HEARING

- A. Public Hearing Required: The planning and zoning commission, prior to recommending an amendment, supplement, or repeal of a comprehensive plan provision or land use regulation, shall conduct at least one public hearing in which interested persons have an opportunity to be heard.
 1. At least fifteen (15) days prior to the hearing, notice of the time and place and summary of the proposed amendment to be discussed shall be published in the official newspaper or paper of general circulation in the area.
 2. The planning and zoning commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement.
- B. Procedure For A Zone Change:
 1. Notice shall be provided by mail to property owners or purchasers of record within the land being considered, and within three hundred feet (300') of the external boundaries of the land being considered.
 2. When notice is required to be given to two hundred (200) or more property owners or residents, an alternative form of procedure of official notice of public hearing for the planning and zoning commission shall be that the public hearing notice shall be published in the official newspaper or newspaper of general circulation in the area through a display advertisement at least four inches (4") by two (2) columns in size at least fifteen (15) days prior to the public hearing date.
 3. Notice shall also be posted on the premises not less than one week prior to the hearing.
- C. Changes Require Further Notice And Hearing: Following the planning and zoning commission hearing, if the planning and zoning commission makes a material change in the ordinance, other than that published for present hearing, further notice and hearings shall be provided either before the planning and zoning commission or before the city council.
- D. Records Maintained: A record of the hearing, findings made, and actions taken shall be maintained for a period of at least six (6) months.

955 : ANNEXATION

- A. Annexation Provisions: Annexation by the city shall follow the general provisions provided by section 50-222 of the Idaho Code. A zoning district classification of the property is required before public hearing.
1. Notice shall be provided at least fifteen (15) days prior to the public hearing by mail to property owners or purchasers of record within the land being considered for annexation.
 2. Notice shall also be provided at least fifteen (15) days prior to the public hearing to property owners or purchasers of record within three hundred feet (300') of the external boundaries of the land being considered for annexation.
 3. When notice is required to be given to two hundred (200) or more property owners or residents, an alternative form of procedure of official notice of public hearing for the planning and zoning commission shall be that the public hearing notice be published in the official newspaper or newspaper of general circulation in the area through a display advertisement at least four inches (4") by two (2) columns in size at least fifteen (15) days prior to the public hearing date.
 4. Notice shall also be posted on the premises not less than one week prior to the hearing.
- B. Annexation Agreement: The city attorney, in consultation with city staff, may, but is not required to, draft an annexation agreement to address conditions specific to the annexation request. Following the public hearing, the planning and zoning commission's recommendation to the city council may include suggestions and revisions to the annexation agreement.

956 : RECOMMENDATION TO CITY COUNCIL

No later than four (4) regular meetings from the receipt of the proposed amendment, reclassification, or annexation, the planning and zoning commission shall transmit its recommendation to the city council. The planning and zoning commission may recommend that the amendment, reclassification, or annexation request be granted as submitted or it may recommend a modification of the request, or recommend that the request be denied. The planning and zoning commission shall ensure that any recommendation for amendment, reclassification, or annexation is in accordance with the comprehensive plan.

957 : ACTION BY CITY COUNCIL

- A. Public Hearing: Prior to adopting, revising, or rejecting a proposed amendment, reclassification, or annexation, the city council may conduct at least one public hearing within thirty (30) days of the planning and zoning commission's recommendation. The city council shall use the same notice and hearing procedures used by the planning and zoning commission. If there is a material change from what was presented at public hearing, further notice and hearing shall be provided within thirty (30) days of the previous hearing before the city council adopts the proposed amendment, reclassification, or annexation.

TITLE 9 LAND USE CODE - CHAPTER 5 AMENDMENTS, RECLASSIFICATION AND
ANNEXATION

- B. Acceptance Of Recommendation: The city council shall accept the recommendation of the planning and zoning commission, unless rejected by majority vote. Such action by the city council shall be taken within fifteen (15) days of the planning and zoning commission recommendation if city council does not conduct a public hearing. If city council conducts a public hearing, such action by the city council shall be taken within thirty (30) days following the city council public hearing.
- C. Amendment Approval: In the event the city council shall approve an amendment, reclassification, or annexation request, such amendment shall thereafter be made a part of this Title upon preparation, passage, and publication in the manner required by law.

958 : RESUBMISSION OF APPLICATION

No application for a land use reclassification of any property that has been denied shall be resubmitted in either substantially the same form or with reference to substantially the same premises for the same purpose within a period of six (6) months from the date of such denial, unless there is an amendment to the comprehensive plan that applies to the specific property under consideration. (Ord. 2008-4)

TITLE 9 LAND USE CODE - CHAPTER 6 CONDITIONAL USE PERMIT

CHAPTER 6

CONDITIONAL USE PERMIT

- 9-6-1: GENERAL STATEMENT
- 9-6-2: APPLICATION FOR PERMIT
- 9-6-3: STANDARDS APPLICABLE TO ALL CONDITIONAL USES
- 9-6-4: SUPPLEMENTARY CONDITIONS AND SAFEGUARDS
- 9-6-5: HEARING AND NOTICE PROCEDURES
- 9-6-6: PLANNING AND ZONING COMMISSION ACTION
- 9-6-7: ACTION BY CITY COUNCIL
- 9-6-8: NOTIFICATION TO APPLICANT
- 9-6-9: JUDICIAL REVIEW
- 9-6-10: REVOCATION OF PERMIT

9-6-1: GENERAL STATEMENT

- A Individual Consideration: It is recognized that an increasing number of new uses are appearing daily and that many of these and some other more conventional uses possess characteristics of such special nature relative to location, design, size, method of operation, traffic circulation and public convenience that each use must be considered individually.
- 8 Public Hearing Required: The planning and zoning commission shall hold a public hearing on each conditional use permit as specified in the official schedules of district regulations. Subject to section 9-6-7 of this chapter, the planning and zoning commission may approve, conditionally approve or deny a conditional use permit under the conditions as herein specified and considering such additional safeguards as will uphold the intent of this Title.

9-6-2 : APPLICATION FOR PERMIT

The owner or lessee of property for which such conditional use permit is proposed shall file an application for a conditional use permit with the administrator on forms provided by the administrator, including the applicable fees.

- A Additional information required as part of the application of a conditional use permit. A statement evaluating the effects on adjoining property of noise, pollution, vibration, or any other condition that may be occasioned by the conditional use; compatibility with adjacent and other properties in the district; and the relationship of the proposed use to provisions of the comprehensive plan.

9-6-3 : STANDARDS APPLICABLE TO ALL CONDITIONAL USES

The planning and zoning commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location will:

- A Conditional use: Constitute a conditional use as established in this Title.

TITLE 9 LAND USE CODE - CHAPTER 6 CONDITIONAL USE PERMIT

- B. Comprehensive Plan: Be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or this Title;
- C. Existing Character: 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 as far as is possible;
- D. Neighboring Uses: Not be unduly hazardous or disturbing to existing or future neighboring uses;
- E. Public Facilities and Services:
 - 1. Not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the city;
 - 2. Be served adequately by essential public facilities and services or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such service;
- F. Pollutants: Not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes or other pollutants;
- G. Traffic Hazards: Have vehicular approaches to the property that will be so designed as not to constitute a hazard to traffic on adjacent public thoroughfares; and
- H. Historic Features: Not result in the destruction, loss or damage of a scenic or historic feature of major importance.

964 : SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

In granting any conditional use, the planning and zoning commission and/or city council may prescribe appropriate conditions, bonds and safeguards in conformity with this Title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Title. (Ord. 38, 11-5-1984; Ord. 2008-4)

965 : HEARING AND NOTICE PROCEDURES

- A. Required: Prior to approving a conditional use permit the planning and zoning commission shall hold at least one public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.
- B. Notice To Property Owners: Written notice shall also be provided to property owners and residents within three hundred feet (300') beyond the external boundaries of the land being considered. When notice is required to two hundred (200) or more property owners or residents, in lieu of mailing notification, one

TITLE 9 LAND USE CODE - CHAPTER 6 CONDITIONAL USE PERMIT

notice in the official newspaper or paper of general circulation is sufficient, provided the notice is at least four inches (4") by two (2) columns in size.

- C. Posting: Hearing notice shall be posted on the property to be considered for a conditional use permit at least one week prior to the public hearing.

966 : PLANNING AND ZONING COMMISSION ACTION

- A. Decision: Within forty-five (45) days following the public hearing, the planning and zoning commission shall recommend to the city council approve, conditionally approve or deny the application as presented. If the application is approved with modifications or conditions, the planning and zoning commission shall list the specific modifications and conditions.
- B. Conditions: Prior to approval of a conditional use permit, the planning and zoning commission may attach conditions, including, but not limited to, the following:
 - 1 Minimizing adverse impact on other development;
 - 2 Controlling the sequence and timing of development;
 - 3 Controlling the duration of development;
 - 4 Assuring that development is maintained properly;
 - 5 Designating that exact location and nature of development;
 - 6 Requiring the provision for on site or off site public facilities or services; and
 - 7. Requiring more restrictive standards than those generally required in this Title.
- C. Studies Authorized: Prior to approving or conditionally approving, a conditional use permit, the planning and zoning commission may request studies concerning social, economic, fiscal and environmental effects of the proposed conditional use. A request for such a study or studies shall automatically toll the time frames set forth in this section until such study or studies are submitted to the planning and zoning commission.
- D. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits.
- E. Transfer Of Permit: A conditional use permit is not transferable from one parcel of land to another; however, a conditional use permit is transferable from one owner to another as long as the use is not altered.

967 : ACTION BY CITY COUNCIL

- A. Upon receipt of the planning and zoning commission's notice of action taken, the city council may approve the action of the planning and zoning commission by a majority vote without further public hearing.
- B. If the city council makes a material change to the planning and zoning action taken, a public hearing is required.
- C. Public Hearing: The city council shall set at least one public hearing within thirty (30) days of the planning and zoning commission's recommendation. The city

TITLE 9 LAND USE CODE - CHAPTER 6 CONDITIONAL USE PERMIT

council shall use the same notice and hearing procedures used by the planning and zoning commission.

D. Within forty-five (45) days following the public hearing, city council shall approve, approve with conditions or modifications, or deny the conditional use permit.

I:: Upon granting or denying an application for a conditional use permit, the city council shall specify:

- 1 The comprehensive plan and/or ordinance provisions or standards used in evaluating the application; and
- 2 The reasons for approval or denial.

9-6-8: NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the administrator shall provide the applicant with written notice of the action taken on the request for a conditional use permit.

9-6-9 : JUDICIAL REVIEW

An applicant denied a permit or aggrieved by a decision may, within twenty eight (28) days after all remedies have been exhausted under local ordinance, seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

9-6-10 : REVOCATION OF PERMIT

Once a conditional use permit has been granted, it may be revoked upon violation of any of the conditions imposed therein, using the same, or most currently adopted, hearing procedures for granting a conditional use permit. (Ord. 2008-4)

CHAPTER 7

NON-CONFORMING USES

- 9-7-1: INTENT
- 9-7-2: AUTHORITY TO CONTINUE NONCONFORMING USE
- 9-7-3: EXTENSION OR ENLARGEMENT OF NONCONFORMING USE
- 9-7-4: REPAIRS AND MAINTENANCE
- 9-7-5: NONCONFORMING LOTS OF RECORD
- 9-7-6: BUILDINGS UNDER CONSTRUCTION

9-7-1: INTENT

It is the intent of this chapter to permit nonconforming uses to continue until they are removed, but not to encourage their survival. It is further the intent of this Title that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or Uses prohibited elsewhere in the same district.

9-7-2 : AUTHORITY TO CONTINUE NONCONFORMING USE

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

- A. Additions Or Alterations: No existing structure devoted to a use not permitted by this Title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Expansion: No nonconforming use shall be extended to occupy any additional land area.
- C. Change Of Nonconforming Use: If no structural alterations are made, any nonconforming use of a structure and land may, upon the issuance of a conditional use permit, be changed to another nonconforming use; provided that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, appropriate conditions and safeguards in accord with other provisions of this Title may be required.
- D. Change To Conforming Use: Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- E. Discontinuance Of Nonconforming Use:
 - 1. If the nonuse continues for a period of one (1) year or longer, the city or county may, by written request, require that the owner declare his intention with respect to the continued nonuse of the improvements in writing within twenty-eight (28) days of receipt of the request. If the owner elects to continue the nonuse, he shall notify the city or county in writing of his

intention and shall post the property with notice of his intent to continue the nonuse of the improvements. He shall also publish notice of his intent to continue the nonuse in a newspaper of general circulation in the county where the property is located. If the property owner complies with the requirements of this subsection, his right to use such improvements in the future for their designed purpose shall continue, notwithstanding any change in the zoning of the property.

- 2 The property owner may voluntarily elect to withdraw the use by filing with the clerk of the city or the county, as the case may be, an affidavit of withdrawn use. If the property is redesigned for a different use, the property owner shall be deemed to have abandoned any grandfather right to the prior use of the property.
- 3 For purposes of this section "designed purpose" means the use for which the improvements were originally intended, designed and approved pursuant to any applicable planning and zoning ordinances.

F. Elimination Of Nonconforming Structure: Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

9-7-3 : EXTENSION OR ENLARGEMENT OF NONCONFORMING USE

- A Nonconforming uses are declared by this Title to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use shall not be extended or enlarged after the effective date of this Title by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature, which would be generally prohibited in the district in which such use is located.

9-7-4 : REPAIRS AND MAINTENANCE

On any nonconforming structure, or portion of a structure containing a nonconforming use, work may be done on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing; provided, that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

9-7-5 : NONCONFORMING LOTS OF RECORD

- A Single Nonconforming Lots Of Record: In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this Title, notwithstanding limitations imposed by other provisions of this Title. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided, that hard 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.

TITLE 9 LAND USE CODE - CHAPTER 7 NON-CONFORMING USES

9-7-6 : BUILDINGS UNDER CONSTRUCTION

- A To avoid undue hardship, nothing in this Title shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date hereof and upon which actual building construction has been carried on diligently. (Ord. 38, 11-5-1984; Ord. 2008-4)

CHAPTERS

APPEAL AND VARIANCE

- 9-8-1: GENERAL STATEMENT
- 9-8-2: ADMINISTRATIVE APPEALS
- 9-8-3: STAY OF PROCEEDINGS
- 9-8-4: ADMINISTRATIVE APPEAL PROCEDURE
- 9-8-5: VARIANCES
- 9-8-6: APPLICATION AND STANDARDS FOR VARIANCES
- 9-8-7: VARIANCE PROCEDURE
- 9-8-8: SUPPLEMENTARY CONDITIONS AND SAFEGUARDS
- 9-8-9: APPEAL TO CITY COUNCIL
- 9-8-10: NOTIFICATION TO APPLICANT

9-8-1: GENERAL STATEMENT

The planning and zoning commission shall consider administrative appeals from any decision or determination of the administrator. Appeals of any action of the planning and zoning commission shall be made to the city council. The planning and zoning commission shall also consider variances from the terms of this Title and requests for hearings from affected persons.

9-8-2 : ADMINISTRATIVE APPEALS

Appeals to the planning and zoning commission concerning interpretation or administration of this Title may be made by any person aggrieved or by any officer or bureau of the legislative authority affected by any decision of the administrator. Such appeal shall be made within twenty (20) days after the decision of the administrator by filing with the administrator and with the planning and zoning commission a notice of appeal specifying the grounds upon which the appeal is being made. The administrator shall transmit to the planning and zoning commission all the papers constituting the record upon which the appeal is based.

9-8-3 : STAY OF PROCEEDINGS

An administrative appeal shall stay all proceedings in furtherance of the action taken by the administrator, unless the administrator certifies to the planning and zoning commission that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of competent jurisdiction, based upon an application showing due cause.

9-8-4 : ADMINISTRATIVE APPEAL PROCEDURE

- A. Publication of Public Hearing: Upon receipt of an administrative appeal, the planning and zoning commission shall allow all affected persons an opportunity to be heard. Publication of a public hearing shall follow 67-6509 Idaho Code.
- B. Decision: No later than the next regular meeting after consideration of an appeal, the planning and zoning commission shall approve, conditionally

disapprove or disapprove the appeal. Upon recommending approval or denial of an appeal, the planning and zoning commission shall specify:

- 1 The ordinance section or standards used in evaluating the application; and
- 2 The reasons for approval or denial.

9-8-5: VARIANCES

The planning and zoning commission may authorize in specific cases such "variance", defined in Section 9-2-1 of this Title, from the terms of this Title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Title would result in unnecessary hardship.

- A. Modification Of Title: A variance is a modification of the requirements of this Title as to the bulk and placement requirements of this Title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setback, parking space, height of buildings or other Title provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.
- B. Nonconforming Uses: Existing nonconforming use of neighboring lands, structures or buildings in the same district and existing permitted or nonconforming use of lands, structures or buildings in other districts shall not be grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Title would result in unnecessary hardship.
- C. Considerations: In acting upon a variance, the planning and zoning commission shall consider the following:
 - 1 That the granting of the variance will not be in conflict with the intent of the Comprehensive Plan and will not affect a change in zoning;
 - 2 Is not a special privilege for the applicant;
 - 3 That there is exceptional or extraordinary circumstances or conditions applicable to the property involved; and
 - 4 The granting of such relief will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property or improvement.

9-8-6 : APPLICATION AND STANDARDS FOR VARIANCES

- A. Application; Required Information: A variance from the terms of this Title shall not be heard by the planning and zoning commission unless and until a written application for a variance is submitted with the required fees to the administrator.
 1. Applicant Information: Name, address and phone number of applicant;
 2. Property Description: Legal description of property;
 3. Description: Description of variance requested; and
 4. Statement of Conformance: A statement demonstrating that the requested variance conforms to the following standards:

TITLE 9 LAND USE CODE - CHAPTER 8 APPEAL AND VARIANCE

- a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 - b. That a literal interpretation of the provisions of this Title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Title; and
 - c. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Title to other lands, structures or buildings in the same district.
- B. Findings Of Fact A variance shall not be recommended for approval or conditional approval to the city council unless the planning and zoning commission makes specific findings of fact based directly on the particular evidence presented, which supports conclusions that the applicant has met the above standards and conditions.

98-7 : VARIANCE PROCEDURE

- A. Hearing; Notice: Upon receipt of a variance application, the planning and zoning commission shall allow all affected persons an opportunity to be heard. Publication of a public hearing shall follow 67-6509 Idaho Code. The administrator shall notify property owners within three hundred (300) feet adjoining the parcel under consideration.
- B. Decision: No later than the next regular meeting after consideration of a variance request, the planning and zoning commission shall recommend approval, conditionally approval or denial of the requested variance. Upon approval, conditional approval or denial of a variance, the planning and zoning commission shall specify:
1. The ordinance section or standard used in evaluating the variance request; and
 2. The reasons for approval or denial.

98-8 : SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

Under no circumstances shall the planning and zoning commission recommend an administrative appeal or allow a variance, expressly or by implication, prohibited by the terms of this Title. In granting any appeal or variance, the planning and zoning commission may recommend appropriate conditions and safeguards in conformity with this Title. Violation of such conditions and safeguards, when made part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Title.

98-9 : APPEAL TO CITY COUNCIL

- A. Appeal: The applicant or any affected person may appeal the decision of the planning and zoning commission to the city council within ten (10) days following the planning and zoning commission's action.
1. Upon receipt of an appeal from an action of the planning and zoning commission relating to administrative appeal or variance, the city council shall hold a public hearing following the same publication procedures as set forth

TITLE 9 LAND USE CODE - CHAPTER 8 APPEAL AND VARIANCE

in 67-6509 Idaho Code. The city council shall only overrule the planning and zoning commission by majority vote. Such action by the city council shall be taken within thirty-five (35) days following the public hearing.

9-8-1 Q NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the administrator shall provide the applicant with written notice of the action on the administrative appeal or request for a variance. (Ord. 38, 11-5-1984; Ord. 2008-4)

CHAPTER 9

PUBLIC HEARING PROCEDURE

- 9-9-1: PURPOSE
- 9-9-2: APPLICABILITY
- 9-9-3: PUBLIC HEARING FORMAT

9-9-1: PURPOSE

The procedure for conduct of public hearings shall provide for the opportunity of all persons to present and rebut evidence.

9-9-2 : APPLICABILITY

- A. Planning And Zoning Commission: Public hearings conducted by the planning and zoning commission shall follow the public hearing procedure as set forth herein.
 - 1. One commissioner, the chairman of the planning and zoning commission, or an appointed member of planning and zoning, or the city attorney, by vote of the commission, shall moderate and conduct the public hearing.
 - 2. Members of the planning and zoning commission shall be recognized by the chair before speaking and shall direct comments and questions for clarification to the chair of the public hearing.
- B. City Council: Public hearings conducted by the city council shall follow the public hearing procedure as set forth herein.
 - 1. The mayor, or in his absence, the president of the council shall moderate and conduct the public hearing.
 - 2. Council members shall be recognized by the chair before speaking and shall direct comments and questions for clarification to the chair of the public hearing.
- C. Hearings To Be Recorded: As is required by Idaho Code Section 67-6536, all hearings shall be recorded to create a transcribable record. Recordings of all hearings before the commission/council shall be kept by the administrator for a period of not less than six (6) months.

9-9-3 : PUBLIC HEARING FORMAT

- A. Public Hearing Introduction: The chair conducting the public hearing should present a brief review and summary of the procedure and purpose of the public hearing.
 - 1. Introduce members of the commission or the council and identify the chair of the public hearing.
 - 2. Describe the role of the chair as follows:
 - a. Maintain order during the public hearing.

TITLE 9 LAND USE CODE - CHAPTER 9 PUBLIC HEARING PROCEDURE

- b. Facilitate the public hearing process by directing and allowing comment in an orderly and timely manner. Public comment may be restricted by a time limit.
 3. Briefly explain the nature of the issue being presented for public hearing.
 4. Outline the steps taken prior to the public hearing, such as, completed application, public noticing, and information from other agencies.
 - B. Public Hearing Steps: All comments should be directed through the chair. No person shall be allowed to speak during the public hearing unless recognized by the chair. Prior to giving comment all persons shall state their name and address for the record.
 1. The applicant gives a short presentation explaining the request and the reasons for approval of the request.
 2. City staff gives comment.
 3. Written comment is presented in summary.
 4. Those in favor give comment.
 5. Those who are neutral give comment.
 6. Those opposed give comment.
 7. Rebuttal by the applicant.
 - a. The applicant may address points raised opposing the request.
 - b. If the applicant presents new evidence, a limited time shall be allowed for further comment from affected persons.
 - C. Pursuant to the provisions of Idaho Code Section 67-6519(2), the commission/council may elect to keep the public hearing open for the sole purpose of the commission/council to request any additional specific information from the applicant or any person who testified at the public hearing. In this circumstance, the commission/council shall cite the ordinance (City Code) and/or standards under which it is seeking the additional information. At such time that the commission/council considers such new information, the commission/council may limit testimony only to such new information and any party shall be allowed to testify on such new information, regardless of whether or not such person testified at the original hearing.
 - D. Closing The Public Hearing: The chair officially closes the public hearing. (2008 Code)
 - E. At the close of the public hearing, the commission/council, the chairman or mayor, respectively, shall call for discussion and deliberation by the commission/council.
 1. All decisions of the commission/council shall be reported, in writing, in the form of findings of fact and conclusions of law as required by Idaho Code Section 67-6535.
 2. Deliberation and a decision of the commission/council shall be made within sixty (60) days of the close of the hearing as required by Idaho Code Section 67-6519. (Ord. 2008-4)