

TITLE 10

LAND USE AND DEVELOPMENT

CHAPTER 1

ADMINISTRATION, ENFORCEMENT AND GENERAL PROVISIONS

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10-1-1: SHORT TITLE:

The regulations set forth in this title shall be known, cited and referred to as the development regulations of the city and shall include all zoning and subdivision regulations governing development of land under the jurisdiction of the city. (Ord. 151, 8-14-1995)

10-1-2: AUTHORITY OF CITY COUNCIL:

Pursuant to the powers and jurisdictions vested through the laws, statutes and regulations of the state, the city council exercises the power and authority to adopt zoning and subdivision regulations to regulate development of lands under its jurisdiction. Such regulation of the development of land and the attachment of reasonable conditions to land development is an exercise of valid police power delegated by the state to the city. The developer has the duty of compliance with reasonable conditions laid down by the city council for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economical development of the city and to the safety and general welfare of the future property owners in the subdivision and of the community at large. (Ord. 151, 8-14-1995)

10-1-3: PURPOSE OF TITLE:

Pursuant to the general policy of the city, the provisions of this title are adopted for, but not limited to, the following purposes:

- A. To protect and provide for the public health, safety and general welfare of the people of the city.
- B. To guide the future growth and development of the city, in accordance with any comprehensive plan of the city.
- C. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.
- D. To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- E. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities.
- F. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movement appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
- G. To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- H. To ensure that public facilities are available and will have a sufficient capacity to serve any proposed development.
- I. To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources through the city in order to preserve the integrity, stability and beauty of the community and the value of the land.
- J. To preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural

features.

K. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in this title. (Ord. 151, 8-14-1995)

10-1-4: CONFORMANCE WITH TITLE:

Under the power and authority so vested, the city council declares that no building permit or certificate of zoning compliance shall be issued for any parcel or plat of land subject to the regulations nor shall any excavation or filling of land or construction of any public or private improvements take place or be commenced thereon, except in conformity with this title, and no land subject to this title shall be subdivided and sold or offered for sale until the owner has obtained approval of a final plat in accordance with this title and the approved plat is filed with the county recorder. (Ord. 151, 8-14-1995)

10-1-5: JURISDICTION:

A. This title shall apply to all lands and improvements within the corporate city limits.

B. They shall also apply to lands and improvements outside the corporate city limits that:

1. Are within the designated "area of impact" and are not incorporated into an active agricultural unit of twenty (20) acres or more.

2. Are under written agreement by past or present owners to be regulated in return for enjoying the benefits of certain services normally available only to in-city lands.

C. For subdivision regulation only, all lands within one mile of the corporate city limits are subject by state law to the city ordinances. (Ord. 151, 8-14-1995)

10-1-6: INTERPRETATION:

The administrator shall be responsible for the interpretation of the provisions of this title, and any interpretation and application of this title shall be the minimum requirements for the promotion of the public health, safety and general welfare. This is not intended to abrogate any appeal rights provided in this title. (Ord. 151, 8-14-1995)

10-1-7: SUITABILITY OF SUBDIVIDED LAND; PUBLIC IMPROVEMENTS:

It is declared to be the policy of the city to consider the development of land within the jurisdiction of the city subject to the control of the city and to adopt development regulations to facilitate accomplishment of the goals and objectives of any comprehensive plans of the city for the orderly, planned, efficient and economical development of the city. It shall be the general policy of the city that:

A. All land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

B. Land shall not be subdivided until all available public facilities and improvements exist or have been given proper consideration by the city council and proper provision has been made for improvements such as schools, parks, recreation facilities, transportation facilities and improvements.

C. All existing and proposed public improvements shall conform to and be properly related to any proposals shown in a comprehensive plan, official map or capital budget and program of the city. (Ord. 151, 8-14-1995)

10-1-8: CONFLICTS OF LAW:

A. This title is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provisions of law conflict, whichever provisions are more restrictive or impose higher standards shall control.

B. This title is not intended to abrogate any easement, covenant or any other private agreement or restriction; provided, that, where the provisions of this title are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this title shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations of this title or the determinations of the city council in approving a subdivision or in enforcing this title, and such private provisions are not consistent with this title or determinations thereunder, then such private provisions shall be operative and supplemental to this title and determinations made thereunder but will not be enforced by the city. (Ord. 151, 8-14-1995)

10-1-9: EFFECT ON ACTIONS PENDING:

This title shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any section or provision existing at the time of the effective date hereof, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the city except as shall be expressly provided for in this title. (Ord. 151, 8-14-1995)

10-1-10: AMENDMENTS; AUTHORITY OF CITY:

For the purpose of providing for the public health, safety and general welfare, the city may from time to time amend the provisions imposed by these development regulations. Public hearings on all proposed amendments shall be held by the city in the manner prescribed in chapter 5, article E of this title. (Ord. 151, 8-14-1995)

10-1-11: VIOLATION; PENALTY:

A. Filing Of Written Complaint: Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall fully state the causes and basis of the same and shall be filed with the administrator. The administrator shall properly record such complaint, immediately investigate the same and take such action, or cause the same to be taken thereon as provided by this title. The city attorney shall, in addition to taking whatever criminal action is deemed necessary, take steps to civilly enjoin any violation of this title.

B. Violation A Misdemeanor: Any violation of the provisions of this title or any failure to comply with any of its requirements shall

constitute a misdemeanor. Each day such violation continues beyond notice shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such continuing violation may be found guilty of a separate offense for each day the violation continues as specified in this section. Nothing contained in this section shall prevent the 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 the Idaho Code.

C. Nonconformity Due To Eminent Domain; Special Use Permit: Where property has been made nonconforming or where an existing nonconforming use has been increased by the exercise of eminent domain, it shall not be a violation and no penalty, either civil or criminal, shall result. Persons desiring to change or modify the use of the nonconforming properties in a manner which would, but for the exercise of eminent domain, be permitted outright, may apply for a special use permit, which permit may be granted with due consideration given to the health, safety and welfare of the citizens of the city. (Ord. 151, 8-14-1995)

D. Penalty Imposed: Any persons convicted of violating any of the provisions of this title shall be subject to penalty as provided in section 1-4-1 of this code. (Ord. 151, 8-14-1995; amd. 2011 Code)

CHAPTER 2

AREA OF CITY IMPACT

SECTION:

10-2-1: Map Adopted

10-2-2: Establishment; Statutory Authority; Considerations

10-2-3: Applicability Of City Regulations

10-2-4: Administration; Planning And Zoning Committee

10-2-5: Appeals Board; Appeal Procedure

10-2-6: Annual Review

10-2-1: MAP ADOPTED:

There is established and adopted a geographical area of city impact, as shown on the map, entitled "Area Of City Impact For Hansen, Idaho", which map is incorporated in this section as if the same were set out in full, and is adopted as the official area of impact map. (Ord. 151, 8-14-1995)

10-2-2: ESTABLISHMENT; STATUTORY AUTHORITY; CONSIDERATIONS:

A. Adoption Of Ordinances: Pursuant to the mandate of Idaho Code section 67-6526, which requires, among other things, that cities and counties:

1. Shall adopt by ordinance a map identifying an area of city impact within the unincorporated area of the county; and
2. Shall, by separate ordinance, provide for the application of plans and ordinances for the area of city impact;

the city council and the board of county commissioners have entered into and have conducted extensive negotiations regarding the area of impact.

B. Factors Considered: These negotiations considered the following factors:

1. Trade area;
2. Geographic factors; and
3. Areas that can reasonably be expected to be annexed into the city in the near future. (Ord. 151, 8-14-1995)

C. City And County Negotiations: In establishing an area of impact, the governing boards of the county and city negotiated and compromised, each with the other, and the city submitted to the planning and zoning committee the questions of: (Ord. 151, 8-14-1995; amd. Ord. 132-A, 4-13-2015)

1. Area of city impact; and
2. The plan and ordinance requirements that should apply thereto. (Ord. 151, 8-14-1995)

10-2-3: APPLICABILITY OF CITY REGULATIONS:

A. The comprehensive plan and subsequent amendments thereto, together with the zoning and subdivision ordinances and subsequent amendments thereto, as officially adopted by the city, and the various international codes and all successive versions as are adopted or approved by the Idaho building code board ¹, shall apply to the agreed upon area of city impact. (Ord. 151, 8-14-1995; amd. 2011 Code)

B. Within the area of impact, city ordinances, rules and regulations shall not apply to any parcel of land twenty (20) acres or larger used solely for agricultural purposes. (Ord. 151, 8-14-1995)

Notes

¹ 1. See subsection 9-1-1A of this code.

10-2-4: ADMINISTRATION; PLANNING AND ZONING COMMITTEE:

The area of impact shall be administered by the five (5) member city planning and zoning committee who shall serve terms in office according to the bylaws for the planning and zoning committee. Two (2) members and an alternate of the committee shall be appointed by the county commissioners. The two (2) members and alternate so appointed shall serve a term of three (3) years and may succeed themselves for one full term. A county appointment, appointed to fill a vacated but unexpired term, shall serve the balance of the term remaining and may continue in office one additional full term of three (3) years. Members appointed by the commissioners shall be owner residents within the area of impact, residing outside the city limits, and shall vote only on issues concerning real property located within the area of impact. The alternate member to the committee shall attend all meetings of the committee, including both regular and special meetings, and shall actively participate in all discussions had on any matter before the committee. The alternate member shall not vote on any matter except as provided in this section. The committee alternate shall have full voting privileges whenever a regular member is absent, unable to act due to a conflict of interest, and whenever a vacancy occurs on the committee for any reason. The alternate member shall so act, with full voting privileges, until the disability of the regular

committee member has been removed. (Ord. 151, 8-14-1995; amd. 2011 Code; Ord. 132-A, 4-13-2015)

10-2-5: APPEALS BOARD; APPEAL PROCEDURE:

A. Right To Appeal: Any person directly aggrieved and affected by a final decision of the planning and zoning committee in which the two (2) county commission appointees shall participate or by a final decision of the city council may appeal to a board of appeals, consisting of four (4) persons. Two (2) of the persons shall be regularly appointed or elected members of the city council and appointed by the council, and two (2) members shall be duly elected or appointed county commissioners and appointed by the committee. Members of the appeals board shall serve a term of twelve (12) months, and new appointments shall be made every twelve (12) calendar months. (Ord. 151, 8-14-1995; amd. Ord. 132-A, 4-13-2015)

B. Public Hearing; Board Decision: The appeals board shall hold a public hearing to consider the appeal of the aggrieved party and such hearing shall be held upon such terms and conditions and pursuant to such notice to affected persons as the board shall deem just and appropriate. Upon hearing the matter, the appeals board shall decide the matter by majority vote, reduce its decision to writing and shall provide a copy of the same to the appellant. The decision of the appeals board shall be final. In the event the board is unable to decide the matter by a majority vote, and the board is deadlocked, the decision appealed from shall remain in full force and effect and all administrative remedies shall be deemed exhausted. (Ord. 151, 8-14-1995)

10-2-6: ANNUAL REVIEW:

The parties hereto shall review and renegotiate the area of impact annually, the first of the annual reviews and renegotiations to commence twelve (12) months from the effective date hereof. In addition, the area of impact may be reviewed and renegotiated at any time upon the request of either party hereto. Such reviews and renegotiations shall be in conformance with Idaho Code section 67-6526. This area of impact and rules governing the same, shall be automatically amended to conform to any federal or state grant requirements and the respective governing boards shall take all action necessary to cause such amendments. (Ord. 151, 8-14-1995)

CHAPTER 3

DEFINITIONS

SECTION:

10-3-1: Interpretation

10-3-2: Definitions

10-3-1: INTERPRETATION:

- A. For the purpose of this title, certain words used in this title shall be interpreted and shall mean what is indicated in this chapter.
- B. The present tense includes the future tense, and the singular number includes the plural, and the plural number includes the singular.
- C. The word "shall" or "will" is a mandatory requirement; the word "may" is a permissive requirement.
- D. The words "used" or "occupied" include the words "intended", "designed" or "arranged" to be used or occupied. (Ord. 151, 8-14-1995)

10-3-2: DEFINITIONS:

For the purpose of this title, the following terms shall have the meanings ascribed to them in this section:

ACCESS EASEMENT: An easement across one or more adjacent properties to allow vehicular access to an otherwise inaccessible area at any time.

ACCESSORY USE OR STRUCTURE: A use or structure that is incidental and subordinate to the principal allowed use of a property and located on the same lot as the principal allowed use.

ADMINISTRATOR: A person who is legally vested with the right of administration of this title.

ALLEY: See definition of Street.

ANIMAL, SMALL AND LARGE: An animal shall be considered small if it is a domestic pet normally kept in a house and weighs less than one hundred fifty (150) pounds at maturity. All other animals shall be classed as large animals.

ANIMATED SIGN: A sign with action or motion, flashing, color changes requiring electrical energy, electronic or manufactured sources of supply, but not including wind actuated elements such as flags, banners or specialty items. This definition does not include public service signs such as time and temperature units.

APARTMENT HOTEL: A building or portion thereof designed for or containing both individual guestrooms or suites of rooms and dwelling units.

APPLIANCE REPAIR: The repair of a household or office device operated by gas or electrical current.

APPROVED: Unless otherwise indicated, means by the city council. All approvals delegated in this title to administrative personnel of the city are subject to review and final determination by the council.

ARCHITECTURAL PROJECTION: Any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building but shall not include signs. Examples of such projections are cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, etc.

AREA OF IMPACT: The area surrounding the city as established by mutual agreement with the county in conformance with state law.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

AUTOMOBILE, MOBILE HOME, TRAVEL TRAILER AND FARM IMPLEMENT REPAIR: The repair of automobiles, mobile homes, travel trailers and farm implements.

AUTOMOBILE, MOBILE HOME, TRAVEL TRAILER AND FARM IMPLEMENT SALES AREAS: An open area, other than a street, used for the display, sale or rental of new or used automobiles, mobile homes, travel trailers, or farm implements but not including repair work except minor incidental repair of same to be displayed, sold or rented on the premises.

AUTOMOBILE STORAGE SPACE: Parking and/or storage of new and/or used automobiles which are capable of immediate operation under their own power.

AUTOMOBILE WRECKING: The dismantling or wrecking of two (2) or more used motor vehicles, mobile homes or trailers.

AUTOMOBILE WRECKING YARD: Any area where automobile wrecking is carried out and/or accumulation of parts thereof are stored in the open and are not being restored to operation within six (6) months of notification; or any land, building or structure used for the wrecking or storing of such motor vehicles.

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

BASEMENT: A portion of living space in a dwelling unit, all or at least one-half ($\frac{1}{2}$) of its height below the average level of the

adjoining ground.

BICYCLE WAY: A public way designed for the use of nonmotorized vehicles.

BLOCK: A group of lots, tracts or parcels within well defined boundaries, usually streets.

BUILDING: Any combination of materials constructed in accordance with the current international building code or which is used or intended to support or shelter any use, person, animal, plant or other property. Permanent buildings are attached to a foundation. Temporary buildings are not attached to a foundation and merely rest on the ground. An enclosed building has a covering on all sides.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the building excluding roof projections.

CARPORT, ATTACHED: "Attached carport" means having all or part of one wall common to the dwelling or to a covered porch attached to the dwelling.

CARPORT, DETACHED: "Detached carport" means a roofed structure of which all sides and ends are not enclosed.

CHANGE OF USE: Change of use from one of the following categories to another:

Agricultural processing

Agriculture

Communications and utilities

Cultural facilities

Manufacturing

Parks

Public assembly

Residential

Retail trade

Services

Sports facilities

Transportation

Wholesale trade

COMMERCIAL USE: A structure or area intended for the selling, bartering or swapping of any merchandise, commodities, objects or services.

COMMITTEE: The city planning and zoning committee.

COMPREHENSIVE PLAN: The overall guiding document for all development within the legal jurisdiction of the city.

CONCESSION: A building or structure having less than three hundred (300) square feet of area that is used for the sale of food, beverages and/or souvenirs.

COUNCIL: The Hansen city council.

COUNTY: Twin Falls County, Idaho, and its governing board.

COVENANT: A written promise or pledge.

DAYCARE SERVICE: Services offered by persons who are paid to supervise or care for six (6) or more persons including the resident children for less than fourteen (14) hours per day, but excluding those businesses or religious institutions which provide incidental daycare service for patrons or attendees while parents are on the premises.

DEDICATION: The setting apart of land or interests in land, for use by the public, by ordinance, resolution or entry in the official minutes as by the recording of a plat. Dedicated land becomes public land upon the acceptance by the local governing authority.

DEVELOPER: The owner, or his legally authorized agent, of lands that are being platted or mapped.

DEVELOPMENT: Lands within the boundaries of an area that is platted or mapped in accordance with this title and that is intended to be improved by the construction of buildings, structures, public ways, utilities and other similar improvements.

DIRECTIONAL SIGNS: On premises incidental signs designed to guide or direct pedestrians or vehicular traffic.

DORMITORY: A rooming house or residence hall occupied by students.

DRIVE-IN ESTABLISHMENT: A commercial establishment, excluding gasoline service stations, in which business is conducted while the customers are vehicle occupants.

DWELLING: A building or portion thereof designed exclusively for residential occupancy, but not including hotels, boarding houses and lodging houses, trailers, camp cars or trailer houses.

DWELLING, MULTIPLE: "Multiple dwelling" means a building or portion thereof, designed for three (3) or more households living independently of each other and including apartment hotels.

DWELLING, TWO-HOUSEHOLD: A building designed exclusively for occupancy for two (2) households living independently of each other including duplexes, semidetached houses and separately owned shared-wall dwellings.

DWELLING UNIT: Space within the dwelling designed to accommodate all normal cooking, sleeping and sanitation needs of the residents.

EASEMENT: A right of use for a stated purpose, falling short of ownership, granted by a property owner to the public or to another person and restricting the property owner's use of the property by prohibiting the construction of any permanent building or structure over the easement and by prohibiting any other stated restriction of use.

ENGINEER: A professional engineer registered in the state of Idaho.

FARM: An area twenty (20) acres or more in the area of impact which is being used for the purpose of producing food, fiber, seed stock, fodder or oil producing crops.

FEEDLOT AND DAIRIES: Land use primarily for the feeding of farm animals where the number of animals being fed exceeds five (5) per acre.

FINISHED FLOOR: Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "finished floor".

FLOOD INSURANCE RATE MAP: The official map on which the federal insurance administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the federal insurance administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

FLOOD OR FLOODWATERS: A temporary overflow of water on lands not normally covered by water.

FLOODPLAIN: The relatively flat areas or lowlands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by manmade structures which have been or may be covered partially or wholly by floodwater, but shall compose an area not less than that area confined by the 50-year flood and shall not exceed that area confined by the 100-year flood.

FLOODPLAIN REGULATIONS: The codes, ordinances and other regulations relating to the use of land and construction within the channel and floodplain areas, including zoning ordinances, subdivision regulations, building codes, housing codes, setback requirements, open area regulations and similar methods of control affecting the use and development of the areas.

FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

FRONT: The front of a building shall be the wall so designated by the building inspector which best conforms to the intent of this title. The front property line shall be the lot line most nearly parallel to the front of a building. In designating the front of a building, the building inspector shall base his decision on the location of the door which provides the principal access into the building and/or the location of the trafficway which provides the principal access to the property. The decision of the building inspector may be appealed to the city council for interpretation of the intent of this title and final determination of the designated front.

FRONT, ENTIRE: "Entire front" means all the property fronting on one side of a street between intersecting streets, or between a street and right of way, waterway, end of dead end street or city boundary, measured along the street line. An intersecting street shall determine only the boundary of the frontage on the side of the street which it intersects.

GARAGE, ATTACHED: "Attached garage" means a garage having all or part of one wall common to the dwelling or to a covered porch attached to the dwellings.

GARAGE, DETACHED: "Detached garage" means a garage which is completely surrounded by open space.

GARAGE, PRIVATE: "Private garage" means a building or a portion of a building in which only motor vehicles used by the tenants of the building on the premises are stored or kept.

GOVERNING AUTHORITY: The city council.

GOVERNMENTAL FACILITIES: Facilities owned and operated by a governmental agency for the benefit of the general public.

HIGHWAY: A street designated as a highway by an appropriate state or federal agency.

HISTORIC SITES: Sites established by the city, county, state or federal government as historic monuments that should be preserved.

HOME OCCUPATION: A service, excluding daycare, offered by the resident of a household unit or the sale of items handcrafted on the premises by the resident of a household unit; provided, the service, sale or handcrafting is performed only by the resident therein; and provided, the area used in performing the home occupation does not exceed four hundred (400) square feet in area; and provided, there is no exterior indication of the home occupation.

HOSPITAL: An institution providing health services, primarily for inpatient and medical or surgical care of the sick or injured, including outpatient departments, training facilities, central service facilities and staff offices. Hospitals are assumed to be for humans unless otherwise indicated.

HOTEL: Any building containing six (6) or more rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

HOUSEHOLD: An individual or two (2) or more individuals related by blood, marriage, legal adoption or guardianship, together with any servants or a group of four (4) or less persons who are unrelated and reside together for more than thirty (30) days.

HOUSEHOLD BUILDING: A single building containing one or more household units.

HOUSEHOLD UNIT: A room or group of rooms within a building containing cooking and bathroom facilities intended for use and occupancy by one family.

IMPROVEMENT: Any alteration to the land or other physical constructions associated with subdivision and building site developments.

KENNEL 1 : Any lot or premises on which three (3) or more domesticated mammals over one pound, of a single species, and more than six (6) months of age, are housed, groomed, bred, boarded, trained or sold.

LESSEE: A person holding a legally enforceable lease.

LINE, BUILDING: "Building line" means one of four (4) perpendicular lines established by the building inspector for the purpose of measuring setbacks. The lines shall be established parallel to the predominant building walls and shall pass through the most exterior point on the building walls, excluding architectural features not intended for occupancy.

LINE, PROPERTY: "Property line" means the legal boundary of a parcel of real property.

LOADING SPACE: An off street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOT: Unless otherwise defined, means a parcel of land with sufficient size to meet the minimum requirements of this title for use, dimensional standards and off street parking and which is owned by a single person with a separate interest or a group of persons with a separate interest together with an interest in common in the real property.

LOT AREA: The total area of a lot measured on a horizontal plane within the boundary lines exclusive of public and private roads and easements of access to other property.

LOT, CORNER: "Corner lot" means a lot situated at the intersection of two (2) or more streets.

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.

MAINTENANCE EASEMENT: An easement granted for the purpose of providing access for repair and maintenance of the appurtenant property in zero lot line subdivisions.

MANUFACTURED HOUSING: A structure constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a permanent dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all other requirements of this definition except size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC 5401 et seq. Said structures shall also comply with the following requirements:

- A. Shall be multisectional and enclose a space of not less than one thousand (1,000) square feet.
- B. Shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve inches (12") above grade.
- C. Shall have a pitched roof with a slope not less than a nominal four feet (4') in height for each twelve feet (12') in width.
- D. Shall have exterior siding and roofing which, in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the zoning administrator/building inspector.
- E. Shall have a garage or carport constructed of like materials.
- F. Shall be subject to any required development standard, architectural requirement and minimum size requirements for a conventional single- family residential dwelling on a similar lot.
- G. Shall be inspected by the city building inspector to ensure that the manufactured home is placed on site to HUD standards and meets the requirements of this definition.
- H. Shall be issued a building permit if all of the requirements of this definition are met.

MANUFACTURING USE: The fabricating or assembling of materials into finished or partially finished products by hand or by the use of machinery, but excluding home occupations, activities creating products in which the process does not yield any vapor, liquid or solid waste materials, and crafts made in conjunction with retail business which may include, but not be limited to, ceramics, mosaic, fabrics, jewelry, leather goods, silk screening, dress designing, sculpturing and wood carving.

MARQUEE: A permanent roofed structure supported by the main building and projecting over a public way.

MOBILE HOME: A transportable structure of over eight hundred forty (840) square feet interior area, built on a chassis and designed to be used without a permanent foundation as a dwelling unit when connected to utilities.

MOBILE HOME PARK: Any tract of land that is divided into rental spaces under common ownership or management for the purpose of locating two (2) or more manufactured homes for dwelling purposes.

MOBILE HOME SUBDIVISION: A parcel of land divided into individual lots which are intended to be sold to persons and are designed to be occupied by residential buildings or permanent mobile homes.

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

MULTIPLE-OCCUPANCY BUILDING: A building containing more than two (2) businesses or households.

NONCONFORMING: A building, structure or use not conforming to the provisions of this title.

OFF PREMISES SIGN: A sign mounted on property other than that occupied by the business being advertised by the sign.

100-YEAR FLOOD: The highest level of flooding that, on the average, is likely to occur once every one hundred (100) years (i.e., that has a 1 percent chance of occurring each year).

OPEN SPACE: An area retaining a natural ground cover free of any buildings, structures, streets or parking areas.

ORIGINAL PARCEL OF LAND: A lot or tract as recorded on any plat or record on file in the office of the county recorder, or an unplatted contiguous parcel of land held in one ownership and of record at the time of the effective date hereof. In cases of "unrecorded matters of fact", the commission shall use its best judgment to determine a fair designation.

ORPHANAGE: A rooming house or residence hall occupied by orphaned children.

OWNER: Any person or group of persons having legal title to real property which is subject to this title.

PARKING SPACE, AUTOMOBILE: An enclosed or unenclosed surfaced area of not less than twenty feet by nine feet (20' x 9') in size, together with access and maneuvering space sufficient to permit a standard automobile to be parked within the surfaced area, permanently reserved for the temporary parking or storage of one automobile. The total space shall be not less than two hundred seventy (270) square feet.

PATIO, COVERED: "Covered patio" means the same as "carport".

PEDESTRIANWAY: A public way designed to be used as a walkway for pedestrians.

PERFORMANCE BOND: An amount of money or other negotiable security paid by the subdivider or his surety to the city clerk which guarantees that the subdivider will perform all actions required by the governing body regarding an approved plat; and provided, that, if the subdivider defaults and fails to comply with the provisions of an approved plat, the subdivider or his surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

PERMANENT: Not less than six (6) months.

PERSON: Any individual or any corporation, joint venture, limited partnership, partnership, firm, association, trustee or other similar entity or organization.

PICK UP SHELTER: A structure used only by persons waiting for public transportation.

PLANNED UNIT DEVELOPMENT: A tract of land on which a variety of residential, commercial and manufacturing uses may coexist in a preplanned environment with more flexible standards than normally apply to the use of land in a standard zoning district.

PLAT: The drawings, certifications, descriptions and approval of a division or proposed division of real property into two (2) or more lots, blocks, parcels, sites, plots, units, common areas, limited common areas or other descriptive designations of real property for the purpose of offering for sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions to any person having a separate interest or an individual interest in common together with a separate interest in any or all of the real property.

PORCH: A covered entrance to a building.

PREMISES: An area of land including a lot, with or without buildings.

PRIVATE: Belonging to an individual or group of persons and not for the public or open to the public.

PRIVATE WAY: Any right of way or easement indicated or platted across real property owned by the person dedicating or platting the private way and intended for the general or special use of a person or persons rather than the general public.

PROFESSIONAL SERVICES: Services offered by persons engaged in the legal, engineering, architectural, design, planning, accounting, auditing, educational and related professions and persons who service the human body or mind.

PROJECT: A development.

PROJECTING DOUBLE FACED BUILDING SIGN: A double faced sign which projects more than twelve inches (12") over public property, and which uses a building wall as its main source of support.

PUBLIC: Owned by federal, state or local government or subdivisions thereof.

PUBLIC WAY: Any right of way or easement dedicated or platted across real property owned by the person dedicating or platting the public way and intended for the general or special use of the public; or any right of way or easement legally obtained by the city

through the use thereof; provided, such public way has not been vacated by the city council.

REAL PROPERTY: Real estate consisting of:

- A. Lands, possessory rights to land, ditch and water rights and mining claims, both lode and placer;
- B. That which is affixed to land; and
- C. That which is appurtenant to land.

REAR: The rear of a building and rear property line shall be the wall and lot line most nearly parallel to the front wall and lot line.

RELIGIOUS FACILITIES: A building intended for the worship of God and its related facilities such as meeting halls, household unit for persons employed in the building, and schools for religious teachings.

RELIGIOUS QUARTERS: A rooming house or residence hall occupied by persons employed by a single religious organization.

REPRODUCIBLE DRAWING: A permanent drawing prepared in black india ink or an archival photographic image process conforming to the standards established by the American National Standards Institute on a polyester material four thousandths of an inch (0.004") thick with a matte finish.

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 HALL: A building without cooking facilities where one or more rooms without cooking facilities are occupied by separate households where more than seventy five percent (75%) of the households reside for more than thirty (30) days.

RESIDENTIAL USE: Any use designed or intended to meet the cooking, sleeping and sanitary needs of one or more individuals.

RETIREMENT HOME: A rooming house or residence hall occupied by retired persons.

REVOLVING SIGN: A sign which revolves or rotates about an axis.

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

ROOF PROJECTIONS: Chimneys, smokestacks, church spires, flagpoles, radio and television antennas or towers, masts, cooling towers, elevator shafts and other similar projections.

ROOF SIGN: A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by the building. Supports must be an integral part of the design. There shall be no exposed wires or struts.

ROOMING HOUSE: A building with common cooking facilities having one or more rooms without cooking facilities occupied by separate households for more than thirty (30) days with or without board.

SANITARIUM, SANATORIUM: A private hospital, whether or not such facility is operated for profit.

SCHOOL: Any place primarily used for educational purposes.

SERVICE BUILDING: A permanent building or buildings designed to provide service facilities to the inhabitants or users of any development.

SERVICE ROAD: A dedicated minor way which is used for vehicular access to the back or side of residential property otherwise abutting on a street.

SERVICE STATION: A building or portion thereof and land used for supplying fuel, oil and minor accessories for motor vehicles at retail direct to the customer and for making minor emergency repairs.

SHELTER HOME: A building or facility however named, operated on either a profit or nonprofit basis for the purpose of providing a home with necessary supervision for three (3) or more persons not related to the owner and who are unable to care for themselves.

SIDE: The side of a building and side property line shall be the wall and lot line most nearly perpendicular to the front wall and lot line.

SIGN STRUCTURE: Any structure which supports or is capable of supporting any sign as defined in this code. A sign structure must be an integral part of the sign design.

SPECIAL USE PERMIT: A permit granted by the commission for a permanent use that is otherwise prohibited but may be allowed under specific provisions when not in conflict with a comprehensive plan.

STANDARD SPECIFICATIONS: The specifications as specified in this title or as officially adopted by the city council.

STATE: State of Idaho.

STREET: A right of way which provides access to adjacent properties, the dedication of which has been officially accepted. The term "street" also includes the terms "highway", "thoroughfare", "parkway", "road", "avenue", "boulevard", "land", "place" and other such terms.

Alley: A minor street providing secondary access at the back of a property otherwise abutting a street.

Arterial: A street designated for the purpose of carrying fast and/or heavy traffic.

Collector: A street designated for the purpose of carrying traffic from local streets to other collector streets and/or arterial streets.

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

Frontage: A local street parallel to and adjacent to an arterial street to provide access to abutting properties.

Half Street: A street comprised of one-half ($\frac{1}{2}$) of the width required to conform with a standard city street section.

Local: A street which has the primary purpose of providing access to abutting properties.

Loop: A local street with both terminal points on the same street of origin.

Partial: A dedicated right of way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.

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

Stub Street: A street which terminates without provisions for a turnaround area.

STREET GRADE: The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STRUCTURAL ALTERATIONS: Any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

STRUCTURES: Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences and billboards.

SUBDIVIDER: The individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes the application and initiates proceedings for the 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 or have sufficient proprietary rights in the property to represent the owner.

SUBDIVISION: The result of an act of dividing an original lot, tract or parcel of land into more than two (2) parts for the purpose of transfer of ownership or development; which shall also include the dedication of public streets and other rights of way and the addition to, or creation of, a cemetery. However, this title shall not apply to the following:

A. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements and does not change the original number of lots in any block of the recorded plat;

B. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property;

C. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code;

D. Widening of existing streets to conform to a comprehensive plan;

E. The acquisition of a street right of way by a public agency in conformance with a comprehensive plan; and

F. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage.

SURVEYOR: A land surveyor or professional engineer registered in the state.

THEATER, OUTDOOR DRIVE-IN: An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

TOURIST COURT: A group of attached or detached buildings containing individual sleeping or living units designed for, or used temporarily by, automobile tourists or transients, with parking spaces conveniently located to each unit and including auto courts, motels or motor lodges.

TOWNHOUSE: A single-family dwelling with party walls and no side yards between abutting dwellings.

TRAFFICWAY: A public or a private way whose primary use is for movement of motorized vehicles.

TRAILER, CAMP CAR OR TRAILER HOUSE: Any unit used for living or for sleeping purposes which is equipped with wheels or a similar device used for the purpose of transporting the unit from place to place, whether by motor power or other means, and such vehicles that are used as aforesaid that have had the wheels or equipment removed.

TRANSIENT LODGING: A rooming house or residence hall having one or more rooms occupied by separate families where less than seventy five percent (75%) of the families reside for more than thirty (30) days.

UNATTENDED VEHICLE: A vehicle parked for more than twenty four (24) hours in one location.

UNIT: A separate interest in real property in a condominium or townhouse ownership.

UNPLATTED AREA: Any area that has not been subdivided according to law.

USE: An activity or purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

VARIANCE: A modification of the requirements of this title.

VICINITY MAP: A drawing which sets forth by dimensions or other descriptive means the relationship of proposed developments,

trafficways or other landmarks within the general area in order to better locate and orient the area in question.

WALL: The full width or length of a building, including recessed windows or doors.

YARD: An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

YARD, REAR: "Rear yard" means a yard extending between side lot lines across the rear of the lot and from the rear lot line to the rear of the principal building, excluding architectural projections.

YARD, SIDE: "Side yard" means 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, excluding architectural projections. (Ord. 151, 8-14-1995; amd. 2011 Code; Ord. 132-A, 4-13-2015)

Notes

1. See also definition of "dog kennel" in section 5-3B-1 of this code.

CHAPTER 4

ZONING DISTRICT REGULATIONS

ARTICLE A. DISTRICTS ESTABLISHED; MAP

SECTION:

10-4A-1: Purpose

10-4A-2: Compliance Required

10-4A-3: Districts Designated

10-4A-4: Boundaries; Map Adopted

10-4A-5: Conditions Regulated

10-4A-6: General Regulations

10-4A-1: PURPOSE:

To preserve the peace, health and safety and provide for various utilities, the City establishes the following zones for the benefit of its citizens. The districts are established on the official zoning map. (Ord. 151, 8-14-1995)

10-4A-2: COMPLIANCE REQUIRED:

Except as provided in this chapter, and chapter 5 of this title, no building, structure or land shall hereafter be used, and no building or structure or part thereof shall be erected, constructed, reconstructed, repaired, moved or structurally altered except in conformance with the regulations specified in this chapter, and chapter 5 of this title, for the district in which it is located; nor shall any yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth in this chapter, and chapter 5 of this title. (Ord. 151, 8-14-1995)

10-4A-3: DISTRICTS DESIGNATED:

In order to carry out the provisions of this chapter, and chapter 5 of this title, the City is divided into the following zoning districts:

R-1	Residential
R-2	Residential Medium Density
C-B	Commercial - Central Business
M-1	Industrial
A	Agricultural
MH	Mobile Home
DRO	Downtown Residential Overlay District

(Ord. 218, 12-10-2018)

10-4A-4: BOUNDARIES; MAP ADOPTED:

A. The boundaries of the zoning districts are established as shown on a map entitled "Zoning District Map of the City of Hansen, Idaho", dated April 10, 1989, which map is made a part of this chapter, and chapter 5 of this title, by reference.

B. Unless otherwise defined on the zoning district map, district boundary lines are lot lines; the centerline of streets, alleys, railroad rights-of-way, or such lines; extended section lines; Municipal corporate lines; or, other lines drawn to scale on the zoning district map.

C. Where a lot is divided at the time of the effective date hereof, or by subsequent amendments, by zoning district boundary lines, the less restrictive zoning requirements may be extended not more than twenty five feet (25') into the more restrictive zoning district adjacent to the zoning district boundary line. (Ord. 151, 8-14-1995)

10-4A-5: CONDITIONS REGULATED:

Within each of the zones, the size of buildings and structures, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purpose are regulated and restricted as set forth in this chapter, and chapter 5 of this title, or as may be amended. (Ord. 151, 8-14-1995)

10-4A-6: GENERAL REGULATIONS:

Except as otherwise provided in this chapter, and chapter 5 of this title, land, buildings and premises in any district shall, after the effective date hereof, be used only in accordance with the regulations established in this chapter, and chapter 5 of this title, for that district, and the following general provisions:

A. Buildings: No building shall hereafter be erected, constructed, relocated or structurally altered to have a greater height, proportion of coverage, or smaller yards or open spaces about it than permissible under the limitations set forth for the district in which such buildings are located.

B. Yards And Open Spaces:

1. No yards, open spaces or off street parking space or loading space existing or provided hereafter about any building shall be reduced below the minimum requirements set forth in this chapter, and chapter 5 of this title, for such open space, parking space or loading space, or further reduced if already less than the minimum requirements.

2. No open space, yard or off street parking space or loading space existing or hereafter provided for a building or use and necessary to meet or partially meet the requirements of this chapter, and chapter 5 of this title, shall be considered as all or part of the yard, open space, off street parking space or loading space required for any other building or upon any other lot.

C. Lots: No lot held under one ownership at the effective date hereof shall be reduced in dimension or area in relation to any building thereon so as to be smaller than required by this chapter, and chapter 5 of this title, and if already less, the dimension or area of such lot shall not be further reduced. (Ord. 151, 8-14-1995)

ARTICLE B. R-1 RESIDENTIAL DISTRICT

SECTION:

10-4B-1: Purpose

10-4B-2: Permitted Uses

10-4B-3: Special Uses

10-4B-4: Prohibited Uses

10-4B-5: Property Development Standards

10-4B-6: Lot Area And Occupancy

10-4B-7: Building Height

10-4B-8: Yards; Setbacks

10-4B-9: Access

10-4B-10: Landscaping

10-4B-11: Off Street Parking

10-4B-12: Walls, Fences And Hedges

10-4B-1: PURPOSE:

The R-1 district is intended to promote and preserve residential development and to provide a low density residential environment with a mix of both single and multiple household dwellings in an area with ample space for personal privacy, private open space and free from encroachment by commercial and industrial activities. Centralized water and sewer facilities are required for lots under one acre. (Ord. 151, 8-14-1995)

10-4B-2: PERMITTED USES:

In the R-1 district, buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

Open space, public parks and playgrounds without crowd attracting facilities.

Residential:

Accessory buildings, personal swimming pools and other accessory uses.

Single household dwellings.

Underground and aboveground transmission lines. (Ord. 151, 8-14-1995)

10-4B-3: SPECIAL USES:

In the R-1 district, a special use may be granted for a permanent use that is not in conflict with the comprehensive plan and that is not permitted outright because it may conflict with other uses unless special provisions are taken. Special use permits may be granted for the following uses:

Botanical gardens and arboretums.

Bus pick up shelters.

Daycare facilities.

Golf courses and country clubs.

Historic sites, monuments.

Home occupations.

Outdoor commercial and public swimming pools.

Private outdoor ice and roller skating.

Private outdoor tennis courts.

Public and nonprofit private academic and vocational schools on arterial or collector streets.

Public parks with crowd attracting facilities.

Religious facilities on arterial or collector streets.

Utility buildings and structures (structures less than 120 square feet in area and less than 3 feet above natural ground are permitted uses). (Ord. 151, 8-14-1995)

10-4B-4: PROHIBITED USES:

In the R-1 district, uses not specified in sections 10-4B-2 and 10-4B-3 of this article are prohibited unless administrative determination is made by the administrator that the use is similar enough to a use listed in said sections that distinction between them is of little consequence. Mobile homes are prohibited in the R-1 district. (Ord. 151, 8-14-1995; amd. 2011 Code)

10-4B-5: PROPERTY DEVELOPMENT STANDARDS:

The property development standards set forth in sections 10-4B-6 through 10-4B-12 of this article shall apply to all land and buildings in the R-1 district. (Ord. 151, 8-14-1995)

10-4B-6: LOT AREA AND OCCUPANCY:

A. Lot Area: In the R-1 district:

1. The minimum lot area shall be five thousand seven hundred fifty (5,750) square feet for a single household dwelling and ten thousand (10,000) square feet for a duplex dwelling.

2. A permitted use that conforms to all other provisions of this chapter, and chapter 5 of this title, may be allowed on a lot which does not meet the minimum lot size requirements contained in this section, if the lot existed at the effective date hereof and conformed to the minimum lot size requirements of the city code at the time it was created; except that, residential uses shall be limited to a single household unit per building.

B. Lot Occupancy: In the R-1 district, no dwelling, including its accessory buildings, shall occupy more than sixty percent (60%) of a lot. (Ord. 151, 8-14-1995)

10-4B-7: BUILDING HEIGHT:

In the R-1 district, no building shall exceed thirty five feet (35') in height. (Ord. 151, 8-14-1995)

10-4B-8: YARDS; SETBACKS:

A. Front Yard: In the R-1 district:

1. The front building line shall not be closer than ten feet (10') to the front property line.
2. Where lots have double frontage on two (2) streets, the required front yard of ten feet (10') shall be provided on both streets.
3. On a corner lot, the required front yard of ten feet (10') shall be provided on both streets.
4. No accessory buildings shall be constructed in the front yard nor closer than twenty feet (20') to the property line on other street frontages.

B. Side Yard: In the R-1 district:

1. The side building line shall not be closer than seven feet (7') to the side property line.
2. Detached accessory buildings shall not be closer than three feet (3') to the side property line nor closer than ten feet (10') to main building.

C. Rear Yard: In the R-1 district:

1. The rear building line shall not be closer than twenty feet (20') to the rear property line.
2. Detached accessory buildings shall not be closer than three feet (3') to the rear property line nor closer than ten feet (10') to a main building. (Ord. 151, 8-14-1995)

10-4B-9: ACCESS:

In the R-1 district, all lots shall have vehicular access on a dedicated improved public street with a fifty foot (50') minimum right of way unless a secondary means of permanent vehicular access has been approved on a subdivision plat. (Ord. 151, 8-14-1995)

10-4B-10: LANDSCAPING:

In the R-1 district, all nonresidential uses shall have ten percent (10%) of the site landscaped. (Ord. 151, 8-14-1995)

10-4B-11: OFF STREET PARKING:

In the R-1 district, each residential dwelling unit shall have a minimum of two (2) off street parking spaces. (Ord. 151, 8-14-1995)

10-4B-12: WALLS, FENCES AND HEDGES:

In the R-1 district, walls, fences and hedges shall be permitted on the property line or within the required side or rear yard but shall not exceed three feet (3') in height within ten feet (10') of the front property line. (Ord. 151, 8-14-1995)



ARTICLE C. R-2 RESIDENTIAL MEDIUM DENSITY DISTRICT

SECTION:

10-4C-1: Purpose

10-4C-2: Permitted Uses

10-4C-3: Special Uses

10-4C-4: Prohibited Uses

10-4C-5: Property Development Standards

10-4C-6: Lot Area And Occupancy

10-4C-7: Building Height

10-4C-8: Yards; Setbacks

10-4C-9: Access

10-4C-10: Landscaping

10-4C-11: Off Street Parking

10-4C-12: Walls, Fences And Hedges

10-4C-1: PURPOSE:

The R-2 district is intended to promote and preserve medium density residential development and to provide a residential environment to allow the present and future residents to live and play in an area with space for personal privacy, minimum vehicular traffic and free from encroachment by commercial and industrial activities. Centralized water and sewer facilities are required. (Ord. 151, 8-14-1995)

10-4C-2: PERMITTED USES:

Permitted uses in the R-2 district are:

Open space, public parks and playgrounds.

Residential:

Accessory buildings less than one hundred twenty (120) square feet, personal swimming pools, and other accessory uses.

Duplex and triplex dwellings.

Single household dwellings.

Underground and aboveground transmission lines. (Ord. 151, 8-14-1995)

10-4C-3: SPECIAL USES:

In the R-2 district, a special use may be granted for a permanent use that is not in conflict with the comprehensive plan and that is not permitted outright because it may conflict with other uses in the district unless special provisions are taken. Special use permits may be granted for the following uses:

Botanical gardens and arboretums.

Bus pick up shelters.

Daycare facilities.

Golf courses and country clubs.

Governmental protective facilities.

Historic sites, monuments.

Home occupations.

Mobile homes.

Multi-residential larger than threeplex.

Outdoor commercial and public swimming pools.

Private outdoor ice and roller skating.

Private outdoor tennis courts.

Public and nonprofit private academic and vocational schools on arterial or collector streets.

Religious facilities on arterial or collector streets.

Utility buildings and structures (structures less than 120 square feet in area and less than 3 feet above natural ground are permitted uses). (Ord. 151, 8-14-1995)

10-4C-4: PROHIBITED USES:

In the R-2 district, uses not specified in sections 10-4C-2 and 10-4C-3 of this article are prohibited unless administrative determination is made that the use is similar enough to a use listed in said sections that distinction between them is of little consequence. Mobile homes are prohibited unless they comply with the mobile home district standards. (Ord. 151, 8-14-1995)

10-4C-5: PROPERTY DEVELOPMENT STANDARDS:

The property development standards set forth in sections 10-4C-6 through 10-4C-12 of this article shall apply to all land and buildings in the R-2 district. (Ord. 151, 8-14-1995)

10-4C-6: LOT AREA AND OCCUPANCY:

A. Lot Area: In the R-2 district:

1. The minimum lot area per single household dwelling shall be four thousand (4,000) square feet, seven thousand (7,000) square feet for a duplex, and the lot area for multiplex dwelling units will increase over the duplex area by two thousand (2,000) square feet per dwelling unit and one thousand (1,000) square feet per unit above or below the ground level.

2. A permitted use that conforms to all other provisions of this chapter, and chapter 5 of this title, may be allowed on a lot which does not meet the minimum lot size requirements contained in this section, if the lot existed at the effective date hereof and conformed to the minimum lot size requirements of the city code at the time it was created; except that, residential uses shall be limited to a single household unit per building.

B. Lot Occupancy: In the R-2 district, no dwelling, including its accessory buildings, shall occupy more than sixty percent (60%) of the lot. (Ord. 151, 8-14-1995)

10-4C-7: BUILDING HEIGHT:

In the R-2 district, no building shall exceed thirty five feet (35') in height. (Ord. 151, 8-14-1995)

10-4C-8: YARDS; SETBACKS:

A. Front Yard: In the R-2 district:

1. The front building line shall not be closer than ten feet (10') to the front property line.
2. Where lots have double frontage on two (2) streets, the required front yard of ten feet (10') shall be provided on both streets.
3. On a corner lot, the required front yard of ten feet (10') shall be provided on both streets.
4. No accessory building shall be constructed in the front yard nor closer than twenty feet (20') to other street frontages.

B. Side Yard: In the R-2 district:

1. The side building line shall not be closer than five feet (5') to the side property line.
2. Detached accessory buildings shall not be closer than three feet (3') to the side property line nor closer than ten feet (10') to a main building.

C. Rear Yard: In the R-2 district:

1. The rear building line shall not be closer than twenty feet (20') to the rear property line.
2. Detached accessory buildings shall not be closer than three feet (3') to the rear property line nor closer than ten feet (10') to a main building. (Ord. 151, 8-14-1995)

10-4C-9: ACCESS:

In the R-2 district, all lots shall have vehicular access on a dedicated improved public street with a fifty foot (50') minimum right of way unless a secondary means of permanent vehicular access has been approved on a subdivision plat. (Ord. 151, 8-14-1995)

10-4C-10: LANDSCAPING:

In the R-2 district, all nonresidential uses shall have ten percent (10%) of the site landscaped. (Ord. 151, 8-14-1995)

10-4C-11: OFF STREET PARKING:

In the R-2 district, each residential dwelling unit shall have a minimum of two (2) off street parking spaces. (Ord. 151, 8-14-1995)

10-4C-12: WALLS, FENCES AND HEDGES:

In the R-2 district, walls, fences and hedges shall be permitted on the property line or within the required side or rear yard but shall not exceed three feet (3') in height within ten feet (10') of the front property line. (Ord. 151, 8-14-1995)

ARTICLE D. C-B COMMERCIAL - CENTRAL BUSINESS DISTRICT

SECTION:

10-4D-1: Purpose

10-4D-2: Permitted Uses

10-4D-3: Special Uses

10-4D-4: Prohibited Uses

10-4D-5: Property Development Standards

10-4D-6: Lot Area And Occupancy

10-4D-7: Building Height

10-4D-8: Yards; Setbacks

10-4D-9: Access

10-4D-10: Landscaping

10-4D-11: Off Street Parking

10-4D-12: Walls, Fences And Hedges

10-4D-1: PURPOSE:

The C-B district is intended to provide for commercial activities of various sizes from large retail stores to small specialty shops with residential opportunities for persons wishing to work and live in a unified environment. (Ord. 151, 8-14-1995)

10-4D-2: PERMITTED USES:

In the C-B district, buildings, structures or premises shall be used and buildings and structures shall, after the effective date hereof, be erected, altered or enlarged only for the following uses:

Automobile open parking lot or garage.

Communication and utilities facilities as follows:

Radio and television stations.

Telegraph centers and stations.

Telephone exchange stations.

Underground and aboveground transmission lines.

Cultural facilities as follows:

Aquariums.

Botanical gardens and arboretums.

Historic sites and monuments.

Libraries, museums and art galleries.

Planetarium.

Home occupations.

Open space.

Printing and publishing.

Public assembly:

Amusement parks.

Auditoriums.

Exhibition halls.

Theaters.

Public parks and playgrounds.

Residential:

Household buildings with a minimum of five (5) units.

Household units existing at the time this chapter, and chapter 5 of this title, are adopted.

Household units in upper floors of commercial buildings.

Rooming halls, residence halls, residential hotels.

Transient lodging.

Retail trade uses as follows:

Alcoholic beverages.

Apparel and accessories.

Automobile parts store.

Bakery.

Bookstore.

Building materials, hardware.

Craft shop conducted in conjunction with retail business which may include ceramics, mosaics, fabrics, jewelry, leather goods, silk screening, dress designing, sculpturing and wood carving.

Eating places.

Farm and garden supplies.

Florist.

Food, drugs, liquor, etc.

Gasoline service stations and car washes.

General merchandise.

Hobby and toy store.

Home furnishing and equipment.

Ice cream store.

Import store.

Music store.

Pawnshop.

Pet shop.

Sporting goods.

Services such as:

Advertising.

Apparel repair and alteration.

Appliance repair.

Beauty and barber.

Building care contracting.

Business associations.

Civic, social and fraternal organizations.

Construction trade offices.

Consumer, credit, collection.

Daycare facilities.

Duplicating, stenographic.

Employment.

Finance and investment.

Funeral.

Governmental facilities.

Insurance and related.

Labor union organizations.

Laundering and dry cleaning.

Laundromats.

Medical clinics and related services.

News syndicate.

Nursing homes and rest homes.

Photographic.

Professional.

Professional organizations.

Public, private or commercial, academic and vocational schools.

Real estate and related.

Religious facilities.

Shelter homes.

Welfare and charitable services.

Sporting facilities as follows:

Athletic areas.

Golf course and country clubs.

Golf driving ranges.

Ice and roller skating.

Indoor recreational facility.

Miniature golf.

Swimming pools (commercial and public).

Tennis courts.

Taxicab office.

Transportation uses as follows:

Bus pick up shelter.

Facilities for tickets and arrangements. (Ord. 151, 8-14-1995)

10-4D-3: SPECIAL USES:

In the C-B district, a special use may be granted for a permanent use that is not in conflict with the comprehensive plan and that is not permitted outright because it may conflict with other uses in the district unless special provisions are taken. Special use permits may be granted for the following uses:

Automobile and truck sales.

Drive-in establishments.

Kennels.

Public assembly, concessions.

Services such as:

Automobile and truck repair.

Equipment rental.

Governmental protective agencies.

Storage rentals.

Small animal hospital.

Sporting vehicles.

Utility buildings and structures (structures less than 120 square feet in area and less than 3 feet above natural ground are permitted uses).

Veterinarian.

Wholesale distribution and warehousing. (Ord. 151, 8-14-1995)

10-4D-4: PROHIBITED USES:

Uses not specified in sections 10-4D-2 and 10-4D-3 of this article are prohibited in the C-B district unless administrative determination is made that the use is similar enough to a use listed in said sections that distinction between them is of little consequence. Mobile homes are prohibited unless they comply with the mobile home district standards. (Ord. 151, 8-14-1995)

10-4D-5: PROPERTY DEVELOPMENT STANDARDS:

The property development standards set forth in sections 10-4D-6 through 10-4D-12 of this article shall apply to all land and buildings in the C-B district. (Ord. 151, 8-14-1995)

10-4D-6: LOT AREA AND OCCUPANCY:

A. Lot Area: In the C-B district:

1. Commercial Uses: The lot area shall be of sufficient size to provide for the building, off street parking and landscaping.
2. Residential Uses: Residential uses less than five (5) units and not attached to a commercial use shall provide the minimum lot area of the R-2 district.

B. Lot Occupancy: In the C-B district:

1. Commercial Uses: No requirement.
2. Residential Uses: Residential uses less than five (5) units and not attached to a commercial use shall conform to the lot occupancy requirements of the R-2 district. (Ord. 151, 8-14-1995)

10-4D-7: BUILDING HEIGHT:

In the C-B district, no building shall exceed fifty feet (50') in height. (Ord. 151, 8-14-1995)

10-4D-8: YARDS; SETBACKS:

In the C-B district:

- A. Commercial Uses: No property line setbacks are required.
- B. Residential Uses: Residential uses less than five (5) units and not attached to a commercial use shall conform to the yard standards of the R-2 district. (Ord. 151, 8-14-1995)

10-4D-9: ACCESS:

In the C-B district, all lots shall have vehicular access on a dedicated improved public street with a fifty foot (50') minimum right of way unless a secondary means of permanent vehicular access has been approved on a subdivision plat. (Ord. 151, 8-14-1995)

10-4D-10: LANDSCAPING:

In the C-B district:

- A. Commercial uses shall provide landscaping equal to five percent (5%) of the total required parking area.
- B. Household buildings five (5) units or more shall provide landscaping equal to ten percent (10%) of the lot area. (Ord. 151, 8-14-1995)

10-4D-11: OFF STREET PARKING:

In the C-B district:

- A. Each commercial use shall comply with the provisions of chapter 5, article A of this title.
- B. Residential uses under five (5) units per building shall provide two (2) off street parking spaces for each residential unit.
- C. Household buildings and residential units in commercial buildings shall provide one off street parking space for each dwelling unit in the building. Elderly household building projects shall provide 0.5 parking spaces per household unit. (Ord. 151, 8-14-1995)

10-4D-12: WALLS, FENCES AND HEDGES:

In the C-B district, walls, fences and hedges shall be permitted on the property line or within the required side or rear yard but shall not exceed three feet (3') in height within ten feet (10') of the front property line. (Ord. 151, 8-14-1995)

ARTICLE E. M-1 INDUSTRIAL DISTRICT

SECTION:

10-4E-1: Permitted Uses

10-4E-2: Special Uses

10-4E-3: Lot Size

10-4E-4: Yards

10-4E-5: Off Street Parking And Loading

10-4E-6: Landscaping

10-4E-1: PERMITTED USES:

In the M-1 district, the following buildings and uses are permitted:

- A. Any use permitted in the commercial - central business district.
- B. Any of the following uses:

Bottling plant.

Flour milling.

Freight and truck terminal.

Gunstock manufacturing.

Ice manufacturing, storage and sales.

Junk, rags, paper, metal sorting, collecting and/or baling, when conducted wholly within a completely enclosed building.

Machine shop.

Metal, wood and plastics fabrications plant.

Metalizing shop.

Paint shop.

Planing mill.

Railroad.

Sheet metal shop.

Storage yard.

Tool and hardware manufacturing.

Trailer manufacturing.

Welding shop. (Ord. 151, 8-14-1995)

C. Any other use held similar to the uses set out in subsections A and B of this section, as approved by the planning and zoning committee. (Ord. 151, 8-14-1995; amd. Ord. 132-A, 4-13-2015)

10-4E-2: SPECIAL USES:

Farm produce storage facility, including cleaning, washing, sorting, packaging and processing.

Any of the above uses and similar uses which will have an unusually large economic impact upon city services. (Ord. 151, 8-14-1995)

10-4E-3: LOT SIZE:

In the M-1 district, there are no lot size restrictions. (Ord. 151, 8-14-1995)

10-4E-4: YARDS:

In the M-1 district, there are no yard restrictions. (Ord. 151, 8-14-1995)

10-4E-5: OFF STREET PARKING AND LOADING:

A. Off Street Parking: In the M-1 district, all permitted uses shall have a minimum of one parking space for each employee on the largest working shift. (Ord. 151, 8-14-1995)

B. Off Street Loading And Unloading Area: No building shall be constructed within the M-1 industrial district unless provisions are made for off street loading and unloading areas. The planning and zoning committee shall approve the size of all loading and unloading areas before a permit shall be granted for any new construction or additions to existing buildings. (Ord. 151, 8-14-1995; amd. 2011 Code; Ord. 132-A, 4-13-2015)

10-4E-6: LANDSCAPING:

Industrial uses shall provide landscaping equal to five percent (5%) of total parking area. (Ord. 151, 8-14-1995; amd. 2011 Code)



ARTICLE F. A AGRICULTURAL DISTRICT

SECTION:

10-4F-1: Purpose

10-4F-2: Permitted Uses

10-4F-3: Special Uses

10-4F-4: Prohibited Uses

10-4F-5: Property Development Standards

10-4F-6: Lot Area And Occupancy

10-4F-7: Building Height

10-4F-8: Yards; Setbacks

10-4F-9: Access

10-4F-10: Landscaping

10-4F-11: Off Street Parking

10-4F-12: Signs

10-4F-13: Walls, Fences And Hedges

10-4F-1: PURPOSE:

The A district is intended to preserve the rural integrity of areas adjacent to the city that will be available for orderly planned growth and can be efficiently served by city services as the need arises. (Ord. 151, 8-14-1995)

10-4F-2: PERMITTED USES:

In the A district, buildings, structures or premises shall be used and buildings and structures shall, after the effective date hereof, be erected, altered or enlarged only for the following uses:

Agriculture as follows:

Farms, animals on pasture.

Farms, fish.

Farms, plants and trees.

Cultural facilities as follows:

Botanical gardens and arboretums.

Historic sites and monuments.

Residential as follows:

Accessory buildings, personal swimming pools and other accessory uses.

Single household dwellings.

Underground and aboveground transmission lines. (Ord. 151, 8-14-1995)

10-4F-3: SPECIAL USES:

In the A district, a special use may be granted for a permanent use that is not in conflict with the comprehensive plan and that is not permitted outright because it may conflict with other uses in the district unless special provisions are taken. Special use permits may be granted for the following uses:

Bus pick up shelters.

Cemetery.

Equestrian facilities.

Golf course and country clubs.

Home occupations.

Intensive agricultural units of five (5) acres or more without residential facilities.

Outdoor commercial and public swimming pools.

Private outdoor ice and roller skating.

Private outdoor tennis courts.

Public parks with or without crowd attracting facilities.

Utility buildings and structures (structures less than 120 square feet in area and less than 3 feet above natural ground are permitted uses).

Zoo. (Ord. 151, 8-14-1995)

10-4F-4: PROHIBITED USES:

Uses not specified in sections 10-4F-2 and 10-4F-3 of this article are prohibited in the A district unless administrative determination, in accordance with section 1-6-1 and title 2, chapter 1 of this code, is made that the use is similar enough to a use listed in this article that distinction between them is of little consequence. (Ord. 151, 8-14-1995)

10-4F-5: PROPERTY DEVELOPMENT STANDARDS:

The property development standards set forth in sections 10-4F-6 through 10-4F-13 of this article shall apply to all land and buildings in the A district. (Ord. 151, 8-14-1995)

10-4F-6: LOT AREA AND OCCUPANCY:

A. Lot Area: In the A district:

1. The minimum lot area per household dwelling and per farm shall be one acre.

2. A permitted use that conforms to all other provisions of this chapter, and chapter 5 of this title, may be allowed on a lot which does not meet the minimum lot size requirements contained in this section if the lot existed at the effective date hereof and conformed to the minimum lot size requirements of the city code at the time it was created; except, that residential uses shall be limited to a single household unit per building.

B. Lot Occupancy: In the A district, no dwelling, including its accessory buildings, shall occupy more than forty percent (40%) of a lot. (Ord. 151, 8-14-1995)

10-4F-7: BUILDING HEIGHT:

In the A district, no building shall exceed thirty five feet (35') in height except those used for the storage of farm produce. (Ord. 151, 8-14-1995)

10-4F-8: YARDS; SETBACKS:

A. Front Yard: In the A district:

1. The front building line shall not be closer than thirty feet (30') to the front property line.
2. Where lots have double frontage on two (2) streets, the required front yard of thirty feet (30') shall be provided on both streets.
3. On a corner lot, the required front yard of thirty feet (30') shall be provided on both streets.
4. No accessory buildings shall be constructed in the front yard nor closer than thirty feet (30') to the other street frontages.

B. Side Yard: In the A district:

1. The side building line shall not be closer than seven feet (7') to the side property line.
2. Detached accessory buildings shall not be closer than three feet (3') to the side property line nor closer than ten feet (10') to a main building.
3. Architectural projections shall not be closer than four feet (4') to the property line.

C. Rear Yard: In the A district:

1. The rear building line shall not be closer than thirty feet (30') to the rear property line.
2. Detached accessory buildings shall not be closer than three feet (3') to the rear property line nor closer than ten feet (10') to a main building. (Ord. 151, 8-14-1995)

10-4F-9: ACCESS:

In the A district, all lots shall have vehicular access on a dedicated improved public street with a fifty foot (50') minimum right of way unless a secondary means of permanent vehicular access has been approved on a subdivision plat. (Ord. 151, 8-14-1995)

10-4F-10: LANDSCAPING:

In the A district, all nonresidential/nonagricultural uses shall have five percent (5%) of the site landscaped. (Ord. 151, 8-14-1995)

10-4F-11: OFF STREET PARKING:

In the A district, each residential dwelling shall have a minimum of two (2) off street parking spaces. (Ord. 151, 8-14-1995)

10-4F-12: SIGNS:

In the A district, each residential dwelling may have one nameplate sign mounted on the building or freestanding and shall not exceed two (2) square feet and not be higher than seven feet (7'). (Ord. 151, 8-14-1995)

10-4F-13: WALLS, FENCES AND HEDGES:

In the A district, walls, fences, and hedges shall be permitted on the property line or within the required side or rear yard but shall not exceed three feet (3') in height within ten feet (10') of the front property line. (Ord. 151, 8-14-1995)



ARTICLE G. MH MOBILE HOME DISTRICT

SECTION:

10-4G-1: Purpose

10-4G-2: Overlay Districts

10-4G-3: Permitted Uses

10-4G-4: Property Development Standards

10-4G-1: PURPOSE:

The MH mobile home district is intended to provide for placement of individually owned mobile homes on real property under a single ownership. (Ord. 151, 8-14-1995)

10-4G-2: OVERLAY DISTRICTS:

An MH district may overlay R-2 zoning districts. (Ord. 151, 8-14-1995)

10-4G-3: PERMITTED USES:

Residential:

Accessory building, personal swimming pools and other accessory uses.

Permanent mobile homes.

Private parks and playgrounds.

Other uses as allowed by the commission and council to service only the mobile home park. (Ord. 151, 8-14-1995)

10-4G-4: PROPERTY DEVELOPMENT STANDARDS:

The following property development standards shall apply to all lands and buildings in mobile home park districts:

A. Project Size: The minimum project size shall be five (5) acres.

B. Density Per Acre: The density per acre of a mobile home district shall be in substantial conformity with that of the underlying zoning district. Buildings may be clustered and individual lot sizes may be reduced below the requirements of the underlying zoning district, provided the total number of dwelling units shall not exceed the number permitted in the underlying district per acre, multiplied by the number of acres in the development. The remaining land not contained in individual lots shall be set aside for parks and playgrounds. If individual subsurface sewage disposal systems are used, the maximum density shall be one household per acre.

C. Building Height: The building height of a mobile home district shall not exceed thirty five feet (35').

D. Yards:

1. Along the periphery of a mobile home park district, a twenty five foot (25') landscaped strip shall be provided and a minimum six foot (6') high screening fence shall be required within the twenty five foot (25') strip, except along street frontages.

2. Spacing between principal buildings shall be at least equivalent to such spacing as would be required between buildings similarly developed under the terms of this title on separate zoning lots, due consideration being given to the openness normally afforded by intervening streets and alleys.

3. All buildings shall have a trafficway set back from centerline of forty five feet (45') on a public street and twenty five feet (25') on a private street.

4. Accessory structure envelopes shall be shown on the site plan of projects approved after the effective date hereof. Projects approved prior to the effective date hereof may have accessory structures placed so as to meet setback requirements of this section, but such structure shall not be placed in the front and not in the twenty five foot (25') landscaped buffer around the perimeter of the project. (Ord. 151, 8-14-1995)

ARTICLE H. DRO DOWNTOWN RESIDENTIAL OVERLAY DISTRICT

SECTION:

10-4H-1: Purpose

10-4H-2: Permitted Uses

10-4H-3: Special Uses

10-4H-4: Prohibited Uses

10-4H-5: Property Development Standards

10-4H-6: Lot Area And Occupancy

10-4H-7: Building Height

10-4H-8: Yards; Setbacks

10-4H-9: Access

10-4H-10: Landscaping

10-4H-11: Off Street Parking

10-4H-12: Walls, Fences And Hedges

10-4H-1: PURPOSE:

This overlay district is intended to provide for residential uses in certain zoning districts where residential uses are restricted and the viability of the uses which are allowed in such zoning districts have diminished. Centralized water and sewer facilities are required. This overlay may be placed on a C-B Commercial- Central Business District. (Ord. 218, 12-10-2018)

10-4H-2: PERMITTED USES:

Buildings, structures or premises shall be used and buildings and structures shall hereafter be erected, altered or enlarged only for the following uses:

Any use permitted in the basic district upon which the overlay is placed.

Residential:

A. Single household dwellings. (Ord. 218, 12-10-2018)

10-4H-3: SPECIAL USES:

A special use permit may be granted for a permanent use that is not in conflict with the comprehensive plan and that is not permitted outright because it may conflict with other uses in the district unless special provisions are taken. Special use permits may be granted for the following uses:

Any use permitted in the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-4: PROHIBITED USES:

Uses not specified in sections 10-4H-2 and 10-4H-3 of this article are prohibited in the DRO Downtown Residential Overlay District unless administrative determination is made that the use is similar enough to a use listed in said sections that distinction between them is of little consequence. Mobile homes are prohibited unless they comply with the mobile home districts standards. (Ord. 218, 12-10-2018)

10-4H-5: PROPERTY DEVELOPMENT STANDARDS:

The property development standards set forth in sections 10-4H-6 through 10-4H-12 of this article shall apply to all land and buildings in the DRO Downtown Residential Overlay District. (Ord. 218, 12-10-2018)

10-4H-6: LOT AREA AND OCCUPANCY:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-7: BUILDING HEIGHT:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-8: YARDS; SETBACKS:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-9: ACCESS:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-10: LANDSCAPING:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-11: OFF STREET PARKING:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

10-4H-12: WALLS, FENCES AND HEDGES:

Same as that of the basic district upon which the overlay is placed. (Ord. 218, 12-10-2018)

CHAPTER 5

ZONING REGULATIONS

ARTICLE A. OFF STREET PARKING

SECTION:

10-5A-1: Parking And Loading Spaces Required

10-5A-2: Location Requirements

10-5A-3: Joint Or Mixed Use

10-5A-4: Off Street Loading Areas

10-5A-5: Minimum Size Of Parking Spaces

10-5A-6: Number Of Spaces Required

10-5A-7: Insufficient On Street Parking; Additional Off Street Requirement

10-5A-8: Layout Requirements

10-5A-1: PARKING AND LOADING SPACES REQUIRED:

Off street parking and loading spaces conforming to the provisions of this article shall be provided in all zoning districts and subdistricts, when a building or structure is constructed, erected or enlarged, when the capacity of a building or structure is increased or when the use of a building or structure is changed. (Ord. 151, 8-14-1995)

10-5A-2: LOCATION REQUIREMENTS:

The required off street parking location shall be located not more than the following distances measured along the sidewalk or a walkway available for public use from the primary entrance of the premises to the nearest entrance of the parking lot:

A. For retail or commercial customer parking, medical-dental clinics, churches, restaurants, bars, entertainment facilities and residential uses, three hundred fifty feet (350').

B. Employee parking for uses stated in subsection A of this section, five hundred feet (500'). (Ord. 151, 8-14-1995)

10-5A-3: JOINT OR MIXED USE:

Joint or mixed use of off street parking facilities shall be as follows:

A. Mixed Uses: Total requirements for off street parking spaces shall be the sum of the requirements for various uses.

B. Joint Uses: The joint use of off street parking facilities is allowed, provided:

1. The applicant shows that there is no substantial conflict in the principal operating hours of the building, structure or use for which the joint use of parking facilities is proposed.

2. The parking facility for such proposed joint use is not further than three hundred fifty feet (350') for customers and five hundred feet (500') for employees from the building, structure or use required to provide off street parking.

3. The parties concerned in the joint use of off street parking facilities shall submit a written agreement in a form to be recorded for such joint use, approved by the city attorney as to form and content, and such agreement, when approved as conforming to the provisions of this article, shall be recorded in the office of the county recorder. (Ord. 151, 8-14-1995)

10-5A-4: OFF STREET LOADING AREAS:

In addition to any off street parking required in this chapter, and chapter 4 of this title, all commercial or manufacturing uses in the zoning districts and subdistricts shall provide adequate off street loading and unloading areas. As a minimum, any building over ten thousand (10,000) square feet shall provide one off street loading space which shall not measure less than forty feet by twelve feet (40' x 12') and shall have an unobstructed height of fourteen feet six inches (14'6") and shall be made permanently available for such purposes and shall be surfaced, improved and maintained as required. Additional spaces meeting the same standards may be required by the city council upon recommendation. Maneuvering for loading and unloading on public rights of way, excluding alleys, shall be prohibited for buildings constructed after the effective date hereof. (Ord. 151, 8-14-1995)

10-5A-5: MINIMUM SIZE OF PARKING SPACES:

Parking spaces shall have a minimum size of nine feet by twenty feet (9' x 20'), or if parallel to the access aisle, nine feet by twenty three feet (9' x 23'), or if compact car space, seven feet six inches by fifteen feet (7'6" x 15'), or if parallel to access aisle, seven feet six inches by eighteen feet (7'6" x 18'). (Ord. 151, 8-14-1995)

10-5A-6: NUMBER OF SPACES REQUIRED:

Whenever off street parking is required by this article, the minimum number of off street parking spaces to be provided shall be approved by the city engineer and city council. (Ord. 151, 8-14-1995)

10-5A-7: INSUFFICIENT ON STREET PARKING; ADDITIONAL OFF STREET REQUIREMENT:

Whenever any developer is allowed by the city council to plat, map or construct a public or private trafficway without sufficient width

for on street parking, the adjacent property shall provide, in addition to the off street parking requirements of this article, off street parking equal to the amount of on street parking so eliminated. (Ord. 151, 8-14-1995)

10-5A-8: LAYOUT REQUIREMENTS:

A. Drawing Required: Whenever off street parking is required by this chapter, and chapter 4 of this title, a parking layout drawing shall be submitted to and approved by the city engineer. The layout shall show a sketch of all parking spaces, access aisles, entrances to the site and exits from the site drawn to scale and the dimensions of each item shown, and shall indicate all information necessary to determine the employee and customer parking requirements. The entrances to and/or exits from the parking site shall conform to the requirements of this code for driveway approaches.

B. Backing Into Traffic Prohibited: Backing a vehicle from an off street parking space directly into a public trafficway creates a traffic hazard. Parking layouts requiring this maneuver shall not be approved by the city engineer except for residential uses exiting onto a local trafficway of low traffic volume. (Ord. 151, 8-14-1995)

ARTICLE B. PERMITS AND CERTIFICATES OF COMPLIANCE

SECTION:

10-5B-1: Zoning Permit Requirements

10-5B-2: Certificates Of Zoning Compliance

10-5B-3: Permits And Certificates; Authority And Public Record

10-5B-4: Appeal Procedure

10-5B-1: ZONING PERMIT REQUIREMENTS:

A. Permit Required: No building or other structure shall be erected, moved, added to or structurally altered, nor shall any building, structure or land be established or changed in use without a permit therefor issued by the administrator. Zoning permits shall be issued only in conformity with the provisions of this chapter, and chapter 4 of this title.

B. Application; Contents:

1. The application for a zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun or is not substantially completed within one year.

2. At a minimum, the application shall contain the following information:

- a. Name, address and phone number of applicant.
- b. Legal description of property.
- c. Existing use.
- d. Proposed use.
- e. Zoning district.
- f. Plan drawn to scale, showing the actual dimensions and the shape of the lot to be built upon, the exact size and location of existing buildings on the lot, if any, and the location and dimensions of the proposed building or alteration.
- g. Building heights.
- h. Number of off street parking spaces or loading berths.
- i. Number of dwelling units.
- j. Proposed sewer and water facilities.
- k. Such other matters as may be necessary to determine conformance with, and provide for, the enforcement of this chapter, and chapter 4 of this title.

C. Approval Or Disapproval; Posting Of Placard: Within thirty (30) days after the receipt of an application, the administrator shall either approve or disapprove the applicant in conformance with the provisions of this chapter, and chapter 4 of this title. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the administrator after the administrator shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the administrator. 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 chapter, and chapter 4 of this title.

D. Expiration: If the work described in any zoning permit has not begun within one year from the date of issuance thereof, the permit shall expire. (Ord. 151, 8-14-1995)

10-5B-2: CERTIFICATES OF ZONING COMPLIANCE:

A. Certificate Required: It is unlawful to use or occupy or permit the use or occupancy of any building or premises or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the administrator stating that the proposed use of the building or land

conforms to the requirements of this chapter, and chapter 4 of this title, and with all conditional provisions that may have been imposed.

B. Temporary Certificate: A temporary certificate of zoning compliance may be issued by the administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion. (Ord. 151, 8-14-1995)

10-5B-3: PERMITS AND CERTIFICATES; AUTHORITY AND PUBLIC RECORD:

A. Zoning permits or certificates of zoning compliance issued on a basis of plans and applications approved by the administrator authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and any other use, arrangement or construction contrary to that authorized shall be deemed a violation of this chapter, and chapter 4 of this title.

B. The administrator shall maintain a public record of all zoning permits and certificates of compliance. (Ord. 151, 8-14-1995)

10-5B-4: APPEAL PROCEDURE:

A. Right To Appeal: Appeals to the commission concerning the administrator's interpretation and administration of this chapter, and chapter 4 of this title, may be taken by any person aggrieved by a decision of the administrator. The appeal shall be taken within twenty (20) days after the decision of the administrator by filing with the administrator a notice of appeal specifying the grounds upon which the appeal is to be taken. The administrator shall transmit to the commission the appeal and all the papers constituting the record upon which the appeal is based.

B. Notice To Parties Concerned: Upon receipt of the notice of appeal, the administrator shall give written notice to all parties concerned and the commission shall hold a public hearing concerning the appeal.

C. Commission Decision: Within thirty (30) days after the public hearing, the commission shall either approve or disapprove of the administrator's action. The commission shall specify in writing the reasons for its approval or disapproval and, within ten (10) days of the decision, provide the applicant with written notice of the action on the request.

D. Appeal Of Commission Decision To Council: The applicant may appeal the decision of the commission to the city council, provided the appeal is submitted to the council within fifteen (15) days from the time the applicant receives written notification of the commission's decision.

E. Council Hearing And Decision: Upon receipt of an appeal from the action of the commission, the council shall, after publishing notice in a newspaper and giving written notice to all parties concerned at least fifteen (15) days in advance, hold a public hearing; a council's determination shall be final for all purposes. (Ord. 151, 8-14-1995)

ARTICLE C. VARIANCES

SECTION:

10-5C-1: Variance Defined

10-5C-2: Grounds For Issuance

10-5C-3: Application For Variance

10-5C-4: Special Conditions And Safeguards

10-5C-5: Public Hearing; Notice

10-5C-6: Action By Commission

10-5C-7: Notification Of Applicant

10-5C-8: Appeal To Council

10-5C-1: VARIANCE DEFINED:

"Variance" is a modification of the requirements of this chapter, and chapter 4 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 of this chapter, and chapter 4 of this title, affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots and public ways. (Ord. 151, 8-14-1995)

10-5C-2: GROUNDS FOR ISSUANCE:

The commission may authorize in specific cases such variance from the terms of this chapter, and chapter 4 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 chapter, and chapter 4 of this title, would result in unnecessary hardship. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered 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 chapter, and chapter 4 of this title, would result in unnecessary hardship or the loss of a building or site that is on a national, state, or local register of historic places or sites. (Ord. 151, 8-14-1995)

10-5C-3: APPLICATION FOR VARIANCE:

A. Contents Of Application: A variance from the terms of this chapter, and chapter 4 of this title, shall not be granted by the commission unless and until a written application for a variance is submitted to the administrator and the commission containing:

1. Name, address and phone number of applicant.
2. Legal description of property.

3. Description of nature of variance requested.

4. A narrative statement and documentation demonstrating that the building or site is on a national, state or local register of historic places or sites or that the requested variance conforms to all the following standards:

- a. That special conditions and circumstances exist which are peculiar to the land, structures or buildings in the same district.
- b. That a literal interpretation of the provisions of this chapter, and chapter 4 of this title, would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter, and chapter 4 of this title.
- c. That special conditions and circumstances do not result from the actions of the applicant.
- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter, or chapter 4 of this title, to other lands, structures or buildings in the same district.

B. Compliance With Standards And Conditions: A variance shall not be granted unless the commission makes specific findings of fact based directly on the particular evidence presented to it which support conclusions that the standards and conditions mentioned in this section have been met by the applicant. (Ord. 151, 8-14-1995)

10-5C-4: SPECIAL CONDITIONS AND SAFEGUARDS:

Under no circumstances shall the commission grant an appeal or variance to allow a use not permissible under the terms of this chapter, or chapter 4 of this title, in the district involved or any use expressly or by implication prohibited by the terms of this chapter, and chapter 4 of this title, in the district. In granting any appeal or variance, the commission may prescribe appropriate conditions and safeguards in conformity with this chapter, and chapter 4 of this title. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this chapter, and chapter 4 of this title. (Ord. 151, 8-14-1995)

10-5C-5: PUBLIC HEARING; NOTICE:

A. Prior to granting a variance permit, at least one public hearing before the commission in which interested persons shall have the opportunity to be heard shall be held.

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

C. Written notice shall also be provided to property owners and residents adjoining and within the parcel under consideration.

D. When notice is required to two hundred (200) or more property owners or residents, in lieu of the mailing notification, three (3) notices in the newspaper or paper of general circulation is sufficient, provided the third notice appears ten (10) days prior to the public hearing. (Ord. 151, 8-14-1995)

10-5C-6: ACTION BY COMMISSION:

A. Time Limit For Decision: Within thirty (30) days after the public hearing, the commission shall either approve, conditionally approve, or disapprove the request for appeal or variance.

B. Specifications: Upon granting or denying an application, the commission shall specify:

1. The regulations and standards used in evaluating the application.
2. The reasons for approval or denial.
3. The actions, if any, that the applicant could take to obtain a permit.

C. Right To Appeal: The applicant or any affected person may appeal the decision of the commission to the city council, provided a written appeal is submitted to the council within fifteen (15) days from the commission's decision. (Ord. 151, 8-14-1995)

10-5C-7: NOTIFICATION OF APPLICANT:

Within ten (10) days after a decision has been rendered, the administrator shall provide the applicant with written notice of the action on the request. (Ord. 151, 8-14-1995)

10-5C-8: APPEAL TO COUNCIL:

Upon receipt of an appeal from the action of the commission, the city council shall set a hearing date under the same provisions as the commission hearing to consider all information, testimony and commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision. (Ord. 151, 8-14-1995)

ARTICLE D. SPECIAL USE PERMITS

SECTION:

10-5D-1: Special Use Defined

10-5D-2: Authority To Grant

10-5D-3: Application; Contents

10-5D-4: Proposed Use; Requirements

10-5D-5: Public Hearing

10-5D-6: Conditions, Bonds And Safeguards

10-5D-7: Decision By Commission; Special Conditions Attached

10-5D-8: Right To Appeal

10-5D-9: Written Notice Of Action On Request

10-5D-10: Transferability

10-5D-11: Review And Discontinuance

10-5D-12: Appeal To Council

10-5D-1: SPECIAL USE DEFINED:

A "special use" is a permanent use otherwise prohibited by the terms of this chapter, and chapter 4 of this title, in a given district, but which may be allowed with conditions under specific provisions of this chapter, and chapter 4 of this title, and when not in conflict with a comprehensive plan. (Ord. 151, 8-14-1995)

10-5D-2: AUTHORITY TO GRANT:

The commission may authorize, in specific cases, special uses; subject, however, to the minimum conditions and requirements of the zoning district in which they are located and subject to additional conditions and requirements necessary to protect the best interests of affected persons and the city as a whole. (Ord. 151, 8-14-1995)

10-5D-3: APPLICATION; CONTENTS:

An application for a special use permit shall be filed with the administrator by at least one owner or lessee of property for which a new special use is proposed or for which an expansion or relocation of an existing special use is proposed. At a minimum, the application shall contain the following information:

- A. Name, address and phone number of applicant.
- B. Legal description of property.
- C. Description of existing use.
- D. Zoning district.
- E. Description of proposed special use.
- F. A plan of the proposed site for the special use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards and such other information as the commission may require to determine if the proposed special use meets the intent and requirements of this chapter, and chapter 4 of this title.
- G. A narrative statement evaluating the effects on adjoining property, the effects of such elements as noise, glare, odor, fumes and vibration on adjoining property, a discussion of the general compatibility with adjacent and other properties in the district, and the relationship of the proposed use to a comprehensive plan. (Ord. 151, 8-14-1995)

10-5D-4: PROPOSED USE; REQUIREMENTS:

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

- A. Will, in fact, constitute a special use as established by zoning requirements for the zone involved.
- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of a comprehensive plan and/or zoning regulations.
- C. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- D. Will not be hazardous or disturbing to existing or future neighboring uses.
- E. Will be served adequately by essential public activities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools, or that the persons responsible for the establishment of the proposed use shall be able to provide adequately any such services.
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
- I. Will not result in the destruction, loss or damage of natural, scenic or historic features of major importance. (Ord. 151, 8-14-1995)

10-5D-5: PUBLIC HEARING:

Upon receipt of the application for a special use, the commission shall hold a public hearing, publish notice in the newspaper and give written notice to all parties as required for variance permits. (Ord. 151, 8-14-1995)

10-5D-6: CONDITIONS, BONDS AND SAFEGUARDS:

In granting any special use, the commission may prescribe appropriate conditions, bonds and safeguards in conformity with this chapter, and chapter 4 of this title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the special use is granted, shall be deemed a violation of this chapter, and chapter 4 of this title. (Ord. 151, 8-14-1995)

10-5D-7: DECISION BY COMMISSION; SPECIAL CONDITIONS ATTACHED:

A. Time Limit For Decision: Within thirty (30) days after the public hearing, the commission shall either approve, conditionally approve or disapprove the application as presented. If the application is approved or approved with modifications, the commission shall direct the administrator to issue a special use permit listing the specific conditions specified by the commission for approval.

B. Conditions: Upon granting a special use permit, conditions may be attached to a special use permit including, but not limited to, those:

1. Minimizing adverse impact on other developments.
2. Controlling the sequence and time of development.
3. Controlling the duration of development.
4. Assuring that development is maintained properly.
5. Designating the exact location and nature of development.
6. Requiring the provision for on site or off site public facilities or services.
7. Requiring more restrictive standards than those generally required in this chapter, and chapter 4 of this title.

C. Studies: Prior to granting a special use permit, the commission may require studies from the planning staff or public agencies concerning social, economic, fiscal and environmental effects of the proposed special use.

D. Special Use Permit: A special use permit shall not be considered as establishing a binding precedent to grant other special use permits.

E. Permit Nontransferable: A special use permit is not transferable from one parcel of land to another, but may be transferable from one owner to another, provided all conditions of the special use permit continue to be met.

F. Specifications: Upon granting or denying an application, the commission shall specify:

1. The regulations and standards used in evaluating the application.
2. The reasons for approval or denial.
3. The actions, if any, that the applicant could take to obtain a permit. (Ord. 151, 8-14-1995)

10-5D-8: RIGHT TO APPEAL:

The applicant or any affected person who appeared in person or in writing before the commission may appeal the decision of the commission to the city council, provided a written appeal is submitted to the council within fifteen (15) days from the commission's action. (Ord. 151, 8-14-1995)

10-5D-9: WRITTEN NOTICE OF ACTION ON REQUEST:

Within ten (10) days after a decision has been rendered, the administrator shall provide the applicant with written notice of the action on the request. (Ord. 151, 8-14-1995)

10-5D-10: TRANSFERABILITY:

A special use permit is not transferable from one parcel of land to another, but may be transferable from one owner to another, provided all conditions of the special use permit continue to be met. (Ord. 151, 8-14-1995)

10-5D-11: REVIEW AND DISCONTINUANCE:

A. Special uses which have not been established within one year of the date of issuance of the special use permit may be reviewed by the commission to determine if the facts and circumstances have changed; the commission may call for a new special use permit application.

B. A special use which has been discontinued for a period of one year shall not be reestablished without a new special use permit. (Ord. 151, 8-14-1995)

10-5D-12: APPEAL TO COUNCIL:

Upon receipt of an appeal from the action of the commission, the city council shall set a hearing date, under the same provisions as the commission hearing, to consider all information, testimony and the commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision of the commission. (Ord. 151, 8-14-1995)



ARTICLE E. AMENDMENTS

SECTION:

10-5E-1: Authority Of Council

10-5E-2: Initiation

10-5E-3: Application; Contents; Fee

10-5E-4: Evaluation Of Amendment Request

10-5E-5: Public Hearings

10-5E-6: Commission Recommendation

10-5E-7: Decision By Council

10-5E-8: Resubmission Of Application; Restrictions

10-5E-9: District Boundary Changes

10-5E-1: AUTHORITY OF COUNCIL:

Whenever the public necessity, convenience, general welfare or good zoning practices require, the city council may, by ordinance, after receipt of recommendation thereon from the commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property. (Ord. 151, 8-14-1995)

10-5E-2: INITIATION:

Amendments to this chapter, and chapter 4 of this title, may be initiated in one of the following ways:

- A. By adoption of a motion by the commission.
- B. By adoption of a motion by the council.
- C. By the filing of an application by a property owner or a person who has an existing interest in property within the area proposed to be changed or affected by the amendment. (Ord. 151, 8-14-1995)

10-5E-3: APPLICATION; CONTENTS; FEE:

A. Contents Of Application: Applications for amendments to the official zoning map adopted as part of this chapter, and chapter 4 of this title, shall be provided by the administrator and shall contain at least the following information:

- 1. Name, address and phone number of applicant.
- 2. Proposed amending ordinance, approved as to form by the council.
- 3. Present land use.
- 4. Present zoning district.
- 5. Proposed use.
- 6. Proposed zoning district.
- 7. A vicinity map at a scale approved by the administrator, showing the property lines, thoroughfares, existing and proposed zoning and such other items as the administrator may require.
- 8. A list of all property owners and residents, and their mailing addresses, who are within three hundred feet (300') of the external boundaries of the land being considered.
- 9. A statement on how the proposed amendment relates to a comprehensive plan, availability of public facilities and compatibility with the surrounding area.

B. Fee: A fee as established by the council. (Ord. 151, 8-14-1995)

10-5E-4: EVALUATION OF AMENDMENT REQUEST:

Zoning districts, zoning subdistricts and overlay districts shall be amended in the following manner:

- A. Requests for an amendment to this chapter, and chapter 4 of this title, shall be submitted to the commission which shall evaluate the request to determine the extent and nature of the amendment requested.
- B. If the request is in accordance with a comprehensive plan, the commission may recommend and the council may adopt or reject the ordinance amendment under the notice and hearing procedures as provided in this article.
- C. If the request is not in accordance with a comprehensive plan, the request shall be submitted to the commission or, in its absence, the council which shall recommend and the council may adopt or reject an amendment to a comprehensive plan under the notice and hearing procedures provided in Idaho Code section 67-6509. After a comprehensive plan has been amended, this chapter, and chapter 4 of this title, may then be amended as provided for in this article. (Ord. 151, 8-14-1995)

10-5E-5: PUBLIC HEARINGS:

A. Required: The commission shall hold a public hearing and make recommendations on proposed zoning amendments. Zoning amendments may consist of text or map revisions.

B. Zoning Amendments:

- 1. The commission, prior to recommending a zoning amendment to the council, shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard.
- 2. At least fifteen (15) days prior to the hearing, notice of time and place and the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction of the city. Following the commission's hearing, if the commission makes a material change from what was presented at the public hearing, further notice and hearing shall be provided before the

commission forwards the amendment with its recommendation to the council.

C. Zoning Map Amendments:

1. The commission, prior to recommending a zoning map amendment that is in accordance with a comprehensive plan to the council, shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard.
2. At least fifteen (15) days prior to the hearing, notice of time and place and the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction of the city. Additional notice shall be provided by mail to property owners and residents within the land being considered, three hundred feet (300') of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission.
3. The applicant requesting the zoning map amendment shall sign an affidavit stating that he has notified, in writing, the required residents and the property owners as to his purpose of application, time and place of hearing, residents served, and date of service. A copy of notification shall be attached to the affidavit.
4. When notice is required to two hundred (200) or more property owners or residents, notice of the proposed change and the hearing thereon shall be published once a week for three (3) consecutive weeks, with at least one of the publications being fifteen (15) days prior to the date set for hearing on the proposed change and for which the notice is given. The publication shall be published in a local paper of general circulation. (Ord. 151, 8-14-1995)

10-5E-6: COMMISSION RECOMMENDATION:

Within sixty (60) days from the receipt of the proposed amendment, the commission shall transmit its recommendation to the council. The commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied. The commission shall ensure that any favorable recommendations for amendments are in accordance with a comprehensive plan and established goals and objectives. (Ord. 151, 8-14-1995)

10-5E-7: DECISION BY COUNCIL:

A. Public Hearing: The city council, prior to adopting, revising or rejecting the amendment to this chapter, and chapter 4 of this title, as recommended by the commission, shall conduct at least one public hearing using the same notice and hearing procedures as the commission. Following the council hearing, if the council makes a material change from what was presented at the public hearing, further notice and hearing shall be provided before the council adopts the amendment.

B. Specifications: Upon granting or denying an application to amend this chapter, and chapter 4 of this title, the council shall specify:

1. The regulations and standards used in evaluating the application.
2. The reasons for approval or denial.
3. The actions, if any, that the applicant could take to obtain a permit.

C. Amendment: In the event the council shall approve an amendment, such amendment shall thereafter be made a part of this chapter, and chapter 4 of this title, upon the preparation and passage of an ordinance. (Ord. 151, 8-14-1995)

10-5E-8: RESUBMISSION OF APPLICATION; RESTRICTIONS:

No application for a reclassification of any property which has been denied by the city council shall be resubmitted in either substantially the same form or with reference to substantially the same premises for the same purposes within a period of one year from the date of such final action unless there is an amendment in a comprehensive plan which resulted from a change in conditions applying to the specific property under consideration. (Ord. 151, 8-14-1995)

10-5E-9: DISTRICT BOUNDARY CHANGES:

Whenever a zoning district boundary change is contemplated by the city, notice of the proposed zoning district boundary change and the hearing thereon shall be by publication in the city official newspaper once a week for three (3) consecutive weeks with at least one of the publications being fifteen (15) days prior to the date set for hearing on the proposed zoning district boundary change and for which the notice is given. (Ord. 151, 8-14-1995; amd. 2011 Code)

ARTICLE F. ANNEXATIONS

SECTION:

10-5F-1: Commission Recommendation Required

10-5F-2: Public Hearings

10-5F-3: Amendment Of Planning And Zoning Regulations

10-5F-1: COMMISSION RECOMMENDATION REQUIRED:

Prior to annexation of an unincorporated area, the city council shall request and shall receive a recommendation from the commission on the proposed plan and zoning ordinance changes for the unincorporated area. The council shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendment or repeal until recommendations have been received from the commission. (Ord. 151, 8-14-1995)

10-5F-2: PUBLIC HEARINGS:

- A. Commission: The commission shall conduct at least one public hearing in which interested persons shall have an opportunity

to be heard. The hearing shall not consider comments on annexation and shall be limited to the proposed plan and zoning changes.

B. Notice:

1. At least fifteen (15) days prior to the hearing, notice of time and place, and a description of the proposed zoning changes for the unincorporated area shall be published in the official newspaper or paper of general circulation within the jurisdiction of the city.

2. Additional notice shall be provided by mail to property owners and residents within:

- a. The land being considered;
- b. Three hundred feet (300') of the external boundaries of the land being considered; and
- c. Any additional area that may be impacted by the proposed change as determined by the commission.

3. The applicant requesting a zoning map amendment shall sign an affidavit stating that he has notified in writing the required residents and property owners as to his purpose of application, time and place of hearing, residents served, and date of service. A copy of notification shall be attached to the affidavit.

4. When notice is required to two hundred (200) or more property owners or residents, in lieu of the mail notification, three (3) notices in the official newspaper or paper of general circulation in the city is sufficient; provided, that the third notice appears ten (10) days prior to the public hearing. Following the commission's hearing, if the commission makes a material change from what was presented at the public hearing, further notice and hearing shall be provided before the commission forwards the proposal with its recommendations to the council.

C. Council:

1. The council, prior to adoption, amendment or repeal of the plan or zoning ordinance, shall conduct at least one public hearing using the same notice and hearing procedures as the commission.

2. Following the hearing of the council, if the council makes a material change in the plan or zone, further notice and hearing shall be provided before the council adopts the plan or zone. (Ord. 151, 8-14-1995)

10-5F-3: AMENDMENT OF PLANNING AND ZONING REGULATIONS:

Concurrently or immediately following the adoption of an ordinance of annexation, the city council shall amend the planning and zoning regulations as shall be found to be necessary. (Ord. 151, 8-14-1995)

CHAPTER 6

SUBDIVISION REGULATIONS

ARTICLE A. GENERAL PROVISIONS

SECTION:

10-6A-1: Statutory Authority

10-6A-2: Purpose

10-6A-3: Jurisdiction

10-6A-4: Compliance Required

10-6A-5: Administration

10-6A-1: STATUTORY AUTHORITY:

This chapter, including articles A through E, is authorized by Idaho Code title 50, chapter 13, and the Idaho constitution article XII, section 2, as amended or subsequently codified. (Ord. 151, 8-14-1995)

10-6A-2: PURPOSE:

The purpose of the regulations set out in this chapter, including articles A through E, is to promote the public health, safety and general welfare, and to provide for:

- A. The harmonious development of the area.
- B. The coordination of streets and roadways within the subdivision with other existing or planned streets and roads.
- C. Adequate open space for travel, light, air and recreation.
- D. Adequate transportation, water drainage and sanitary facilities.
- E. The avoidance of scattered subdivision of land that would result in either of the following:
 - 1. The lack of water supply, sewer service, drainage, transportation or other public services; and
 - 2. The unnecessary imposition of an excessive expenditure of the public funds for the supply of such services.
- F. The requirements as to the extent and the manner in which:
 - 1. Roads shall be created and improved; and
 - 2. Water and sewer and other utility mains, piping connections or other facilities shall be installed.
- G. The manner and form of making and filing of any plat.
- H. The administration of these regulations by defining the powers and duties of approval authorities. (Ord. 151, 8-14-1995)

10-6A-3: JURISDICTION:

This chapter shall apply to the subdividing of land within the corporate limits of the city including the property within one mile outside the corporate limits thereof. They shall also apply to the "area of impact" as established by agreement between the city and county in conformance with state law. (Ord. 151, 8-14-1995)

10-6A-4: COMPLIANCE REQUIRED:

All subdivisions as defined in chapter 3 of this title shall be submitted for approval by the city council and shall comply with the provisions of this chapter. This chapter shall supplement all other regulations, and where at variance with other laws, regulations, ordinances or resolutions, the more restrictive requirements shall apply. (Ord. 151, 8-14-1995)

10-6A-5: ADMINISTRATION:

The administration of this chapter shall be conducted by the administrator. The administrator shall be appointed by the mayor and the appointment shall be ratified by the city council. (Ord. 151, 8-14-1995; amd. 2011 Code)

ARTICLE B. APPLICATION PROCEDURES

SECTION:

10-6B-1: Creating Subdivision; Approval Required

10-6B-2: Preapplication

10-6B-3: Subdivision Application; Contents

10-6B-4: Preliminary Plats; Requirements; Fee

10-6B-5: Combining Preliminary And Final Plats

10-6B-6: Receipt Of Application; Review And Recommendation

10-6B-7: Notification Of Property Owners

10-6B-8: Action By Commission

10-6B-9: Action On Combined Preliminary And Final Plat

10-6B-10: Approval; Time Limit

10-6B-11: Final Plats

10-6B-1: CREATING SUBDIVISION; APPROVAL REQUIRED:

Any person desiring to create a "subdivision" as defined in chapter 3 of this title shall submit all necessary applications to the administrator on forms as provided by the city. No final plat shall be filed with the county recorder or improvements made on the property until the plat has been acted upon by the planning and zoning commission as approved by the city council. No lots shall be sold until the plat has been recorded in the office of the county recorder. (Ord. 151, 8-14-1995)

10-6B-2: PREAPPLICATION:

A. Sketch Plan; Fee:

1. The subdivider shall submit a preapplication to enable the administrator to review and comment on the proposed subdivision. The preapplication shall include at least one copy of a sketch plan.

2. The sketch plan shall include the entire developmental scheme of the proposed subdivision, in schematic form and include the following:

- a. The general layout and approximate dimensions of streets, blocks and lots in sketch form;
- b. The existing conditions and characteristics of the land on and adjacent to the proposed subdivision site; and
- c. The areas set aside for schools, parks and other public facilities.

3. No fee is required.

B. Evaluation By Administrator: The administrator shall notify the subdivider within fifteen (15) days from the date of receiving an acceptable preapplication as to the general conformance or nonconformance of the proposal with this chapter, and shall provide the necessary form and checklists, as well as the additional following considerations:

1. Compliance of the proposed development with existing local or state policies, goals and objectives or comprehensive plans.
2. Determination if additional special permits or ordinance conflicts, such as rezone, special development permit or variance are needed and the manner of coordinating such permits.
3. Consideration of any unique environmental features or hazard concerns that may be directly or indirectly associated with the subject property, such as areas that have been designated as areas of critical environmental concern, unique plant or animal life and floodplains.
4. Consideration of other local and state agencies that the subdivider should contact before preparing a preliminary plat. (Ord. 151, 8-14-1995)

10-6B-3: SUBDIVISION APPLICATION; CONTENTS:

A. Filing: The subdivider shall file with the administrator a complete subdivision application form and preliminary plat data as required in this chapter.

B. Contents: The contents of the preliminary plat and related information shall be in such a form as stipulated by the commission; however, additional maps or data as deemed necessary by the administrator may also be required.

C. Required Information: The subdivider shall submit to the administrator at least the following:

1. Ten (10) copies of the preliminary plat of the proposed subdivision, drawn in accordance with the requirements stated in this article. Each copy of the preliminary plat shall be on good quality paper, shall be drawn to a scale of not less than one inch equals one hundred feet (1" = 100'), shall show the drafting date and a north arrow.

2. A written application requesting approval of the preliminary plat.

3. Appropriate information that sufficiently details the proposed development with any special development area, such as hillside, planned unit development, floodplain, cemetery, mobile home, large scale development, hazardous and unique areas of development. (Ord. 151, 8-14-1995)

10-6B-4: PRELIMINARY PLATS; REQUIREMENTS; FEE:

A. Required Information: The following shall be shown on the preliminary plat or shall be submitted separately together with any other pertinent information requested by the administrator:

1. The name of the proposed subdivision, which does not duplicate the name of any other subdivision in Twin Falls County.
2. The names, addresses and telephone numbers of the subdividers, the engineer or surveyor who prepared the plat, and any other professional persons involved in the subdivision.

3. The names and addresses of all surrounding property owners both adjacent to and beyond any public thoroughfares from the subject property on record in the county assessor's office.
4. The legal description of the subdivision by section, township and range.
5. A statement of the intended use of the proposed subdivision (such as residential, single-family, two-family and multiple-family housing, commercial, industrial, recreational or agricultural) and showing of any sites proposed for parks, playgrounds, schools, churches or other public uses.
6. A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development.
7. A vicinity map showing the relationship of the proposed plat to the surrounding area covering at least a four (4) square mile area.
8. The land use and existing zoning of the proposed subdivision and the adjacent land.
9. Existing streets, street names, rights of way and roadway widths, including adjoining streets or roadways, along with type of surface and the existence of any curb, gutter and/or sidewalks.
10. Approximate location and length of the boundary lines of each lot, parcel or site and the proposed lot and block numbers. Approximate acreage enclosed by subdivision.
11. Contour lines, shown at five foot (5') intervals where land slope is greater than twenty percent (20%) and at two foot (2') intervals where land slope is twenty percent (20%) or less, referenced to an established benchmark of the city vertical control system, including its location and elevation.
12. A site report as required by the appropriate health district where individual wells or septic tanks are proposed.
13. Location, size and direction of flow of all existing utilities, including, but not limited to, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants, gas lines, power, telephone and streetlights. If utilities are not on or adjacent to the property, indicate direction and distance to nearest ones that can serve the subdivision.
14. A copy of any proposed restrictive covenants and/or deed restrictions.
15. Any dedications to the public and/or easements, both public and private, together with a statement of location, dimensions and purpose of such on both the subject property and surrounding properties.
16. Any additional required information for special developments as specified in this chapter.
17. A statement as to whether or not any variance will be requested with respect to any provision of this title, describing the particular provision, the variance requested, and the reasons therefor.
18. Location, right of way width and name of all public or private trafficways, the location, right of way width and use of any proposed public or private pedestrianways or special ways, and a statement of intended improvements to be made thereto.
19. A statement as to what improvements will be made to existing utilities and what other on site improvements will be made.
20. Approximate lot corner and easement locations of all adjacent subdivisions.
21. Approximate location, size and direction of flow of all drainage, irrigation, sewer and water lines of the preliminary plat to the administrator.

B. Fee: The amount of the fee shall be established by resolution of the city council. (Ord. 151, 8-14-1995)

10-6B-5: COMBINING PRELIMINARY AND FINAL PLATS:

A. Conditions Necessary: The applicant may request that the subdivision application be processed as both a preliminary and final plat if all the following exist:

1. The proposed subdivision does not exceed ten (10) lots;
2. No new street dedication or street widenings are involved;
3. No major special development considerations are involved, such as development in a floodplain or a hillside development; and
4. All required information for both preliminary and final plat is complete and in an acceptable form.

B. Commission Action: A request to combine both preliminary plat and final plat into one application shall be acted upon by the commission after receiving a recommendation by the administrator. (Ord. 151, 8-14-1995)

10-6B-6: RECEIPT OF APPLICATION; REVIEW AND RECOMMENDATION:

A. Certify Completeness Of Application: Upon receipt of the preliminary plat, and all other required data as provided for in this article, the administrator shall certify the application as complete and shall affix the date of the application acceptance thereon. He shall thereafter place the preliminary plat on the agenda for consideration at the next regular meeting of the commission. One copy of the preliminary plat shall be delivered by the subdivider to each member of the commission at least five (5) days prior to the meeting for plat consideration.

B. Refer Plat And Application To Agencies: The administrator shall refer the preliminary plat and application to as many agencies as deemed necessary. Such agencies may include the following:

1. Other governing bodies having joint jurisdiction;
2. The appropriate utility companies, irrigation companies or districts and drainage districts;
3. The superintendent of the school district; and
4. Other agencies having an interest in the proposed subdivision.

C. Expiration Of Time Allowance: Upon expiration of the time allowance for department and agency review, the administrator shall prepare a recommendation to the commission. (Ord. 151, 8-14-1995)

10-6B-7: NOTIFICATION OF PROPERTY OWNERS:

The subdivider shall certify to the administrator that he has notified all adjoining property owners of the proposed subdivision. Such written notification shall be mailed at least ten (10) days prior to the commission meeting. (Ord. 151, 8-14-1995)

10-6B-8: ACTION BY COMMISSION:

A. Review: The commission shall review the preliminary plat, comments from the concerned persons and agencies and the report from the administrator to arrive at a decision on the preliminary plat.

B. Considerations: In determining the acceptance of a proposed subdivision, the commission shall consider the objectives of this chapter, and at least the following:

1. The conformance of the subdivision with a comprehensive plan;
2. The availability of public services to accommodate the proposed development;
3. The continuity of the proposed development with the capital improvement program;
4. The public financial capability of supporting services for the proposed development; and
5. The other health, safety or environmental problems that may be brought to the commission's attention.

C. Commission Action: The commission may approve, conditionally approve, disapprove or table for additional information when acting on the preliminary plat. If tabled, approval or disapproval shall occur at the regular meeting following the meeting at which the plat is first considered by the commission.

D. Written Statement Of Decision: The action and the reasons for such action shall be stated in writing by the administrator and forwarded to the applicant. The administrator shall also forward a statement of the action taken and the reasons for such action together with a copy of the preliminary plat to the city council for its information and record.

E. Specifications For Granting Or Denial: Upon granting or denying a preliminary plat, the commission shall specify:

1. The regulations and standards used in evaluating the application;
2. The reasons for approval or denial; and
3. The actions, if any, that the applicant could take to obtain plat approval. (Ord. 151, 8-14-1995)

10-6B-9: ACTION ON COMBINED PRELIMINARY AND FINAL PLAT:

If the commission's conclusion is favorable to the subdivider's request for the subdivision to be considered as both a preliminary plat and final subdivision, then a recommendation shall be forwarded to the city council in the same manner as specified in this article for a final plat. The commission may recommend that the combined application be approved, approved conditionally or disapproved. (Ord. 151, 8-14-1995)

10-6B-10: APPROVAL; TIME LIMIT:

A. Time Limit: Failure to file and obtain the certification of the acceptance of the final plat application by the administrator within one year after action by the commission shall cause all approvals of the preliminary plat to be null and void, unless an extension of time is applied for by the subdivider and granted by the commission.

B. Development In Contiguous Segments: In the event that the development of the preliminary plat is made in successive contiguous segments in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of one year, may be considered for final approval without resubmission for preliminary plat approval. (Ord. 151, 8-14-1995)

10-6B-11: FINAL PLATS:

A. Preparation And Submittal: After the approval or conditional approval of the preliminary plat, the subdivider may cause the total parcel, or any part thereof, to be surveyed, and a final plat prepared in accordance with the approved preliminary plat. The subdivider shall submit to the administrator three (3) copies of the final plat.

B. Contents:

1. The final plat shall include and be in compliance with all items required under title 50, chapter 13 of the Idaho Code and shall be drawn at such a scale and contain lettering of such size as to enable the same to be placed on one sheet of eighteen inch by twenty four inch (18" x 24") drawing paper, with no part of the drawing nearer to the edge than one inch (1"). The reverse of the sheet shall not be used for any portion of the drawing, but may contain written matter as to the drawing, as to dedications, certifications and other information. If, because of the size or complexity, required information cannot be shown, additional sheets may be used, provided they conform to this article.

2. The final plat shall include at least the following:

- a. A written application for approval of such final plat as stipulated by the commission;

- b. Proof of current ownership of the real property included in the proposed final plat;
- c. Such other information as the administrator or commission may deem necessary to establish whether or not all proper parties have signed and/or approved the final plat;
- d. Conformance with the approved primary plat and meeting all requirements or conditions thereof;
- e. Conformance with all requirements and provisions of this chapter;
- f. Acceptable engineering practices and local standards established by the administrator.

C. Application; Fees: At the time of submission of an application for a final plat, a fee as established by resolution of the city council shall be paid.

D. Review By Administrator:

1. Upon receipt of the final plat and compliance with all other requirements as provided for in this chapter, the administrator shall certify the application as complete and shall affix the date of acceptance thereon.

2. The administrator shall review the final plat for compliance with the approved or conditionally approved preliminary plat. If the administrator determines that there is substantial difference in the final plat than that which was approved as a preliminary plat or that there are conditions which have not been met, the administrator may require that the final plat be submitted to the commission in the same manner as required in the preliminary plat process.

3. Upon the determination that the final plat is in compliance with the preliminary plat and all conditional requirements have been met, the administrator shall place the final plat on the city council agenda at the next regular meeting.

E. Review By Other Agencies:

1. The administrator may transmit one copy of the final plat, or other documents submitted, for review and recommendation to the departments and the agencies as he deems necessary to ensure compliance with the preliminary approval and/or conditions of the preliminary approval.

2. Such agency review shall also include the construction standards of improvements, compliance with health standards, the cost estimate for all improvements and the legal review of the performance bond.

F. Application; Decision By Council:

1. The council, at its next meeting following receipt of the administrator's report, shall consider the commission's findings and comments from concerned persons and agencies to arrive at a decision on the final plat. The council shall approve, approve conditionally, disapprove or table the final plat for additional information.

2. A copy of the approved plat shall be filed with the administrator.

3. Upon granting or denying the final plat, the council shall specify:

- a. The regulations and standards used in evaluating the application;
- b. The reasons for approval or denial; and
- c. The action, if any, that the applicant could take to obtain approval.

G. Plans And Specifications; Fees:

1. Prior to recording the final subdivision plat, the subdivider shall submit to the administrator checked copies of the final plans and specifications for streets, water, sewer, a master utility plan and other public improvements to be constructed.

2. All plans and specifications shall have sufficient detail, written information, vertical and horizontal dimensions to accurately locate the proposed improvements in the field and determine their relationship to other improvements. Standards shall be established by the administrator.

3. At the time of submittal of plans and specifications, a fee to defray costs and expenses of plan checking as provided for by resolution of the city council shall be paid.

H. Approval; Time Limit: The final plat shall be filed with the county recorder within one year after written approval by the council, otherwise such approval shall become null and void unless, prior to the expiration date, an extension of time is applied for by the subdivider and granted by the council.

I. Recording Final Plat; Prerequisites: Upon approval of the final plat by the council, the subdivider's prepayment of recording fees, posting of surety bond or other acceptable guarantee and the inclusion of the following signatures on the final plat, the administrator shall submit the final plat to the county recorder for recording:

- 1. Certification and signature of the city council verifying that the subdivision has been approved;
- 2. Certification and signature of the city clerk, if required, and the city engineer verifying that the subdivision meets the city requirements and has been approved by the council; and
- 3. Certification of the sanitation restrictions on the face of the plat per Idaho Code section 50-1326. (Ord. 151, 8-14-1995)

ARTICLE C. DESIGN STANDARDS

SECTION:

10-6C-1: Compliance Required

10-6C-2: Street, Sidewalk, Curb And Gutter Design And Construction Standards

10-6C-3: Streets And Alleys

10-6C-4: Intersections

10-6C-5: Pedestrian Walkways

10-6C-6: Utility And Drainageway Easements

10-6C-7: Lots

10-6C-8: Planting And Reserve Strips

10-6C-9: Public Sites And Open Spaces

10-6C-10: Restrictive Covenants

10-6C-11: Right Of Way Requirements

10-6C-1: COMPLIANCE REQUIRED:

All plats submitted pursuant to the provisions of this chapter, and all subdivisions, improvements and facilities done, constructed or made in accordance with these provisions shall comply with the minimum design standards set forth in this chapter; provided, however, that any higher standards adopted by any highway district, state highway department or health agency shall prevail over those set forth in this chapter. (Ord. 151, 8-14-1995)

10-6C-2: STREET, SIDEWALK, CURB AND GUTTER DESIGN AND CONSTRUCTION STANDARDS:

A. Application Of Provisions: Pursuant to section 10-6C-3 of this article, the following design and construction standards shall apply to all streets, alleys, curbs, gutters, driveways and sidewalks constructed within the jurisdiction of the city.

1. Adequate Access: No building shall be constructed or erected on a lot in a zoning district unless adequate access to a fifty foot (50') wide minimum standard all weather public trafficway is provided. Said access may be a private drive, provided such drive conforms to following chart:

	Private Driveway Length				
Width	100'	150'	200'	250'	300'
15'	5 units	4 units	n/a	n/a	n/a
20'	8 units	7 units	6 units	n/a	n/a
25'	10 units	10 units	8 units	8 units	n/a
30'	12 units	12 units	12 units	12 units	12 units

a. In commercial and manufacturing zoning districts, a private drive may not exceed three hundred feet (300') in length, must have a width of fifteen feet (15') for one-way traffic and twenty five feet (25') for two-way traffic and may not serve a total building area of over fifty thousand (50,000) square feet.

b. The city council may approve additional driveway length in excess of three hundred feet (300') in cases where isolated parcels of land cannot be developed with minimum fifty foot (50') dedicated right of way.

c. Such a private drive shall be surfaced with an all weather material. No zoning subdistrict will be allowed that does not have direct access to a fifty foot (50') wide minimum standard all weather paved public trafficway.

2. Curb, Gutter And Sidewalk:

a. New curb, gutter and sidewalk shall be constructed at the expense of the property owner with, and at the same time as, all new construction or modification of existing buildings in accordance with city standards on all streets, within and adjacent to the development, and in all zoning districts except the agricultural district, for all land uses, except where the commission determines that, due to the location or character of the development, new curbs, gutters and/or sidewalks need not be constructed.

b. The city engineer may defer the construction of required curb, gutter and/or sidewalk until other curb, gutter and/or sidewalk is constructed adjacent to other lands in the neighborhood under any one or more of the following conditions:

(1) If the total length of existing curb-gutter on both sides of the street in an existing development plus the length of the property in question is less than forty percent (40%) of the total property length adjacent to a standard block unless the curb-gutter will connect to an existing curb-gutter section. The standard block shall be the distance between two (2) intersecting streets or four hundred feet (400'), whichever is less. The same criteria shall apply separately to sidewalks. All curb-gutter to be considered as existing shall be acceptable line and grade.

(2) If another governmental agency having jurisdiction over a particular street requests the curb-gutter be deferred.

(3) If existing curb, gutter and/or sidewalk is in good repair and to an acceptable line and grade which conforms to the line

and grade of other curb, gutter and/or sidewalk in the standard block, it may be retained.

c. Curb, gutter and sidewalk shall not be required or allowed to be constructed or may be deferred if, in the opinion of the city engineer, the improvement would create a traffic hazard or an unusual drainage problem.

3. Construction Standards For Vertical And Rolled Curb:

a. Both vertical and rolled curb shall be allowed in the city in accordance with the provisions of this code and in conformance with the standard construction design and specification for the same, as are on file in the city engineer's office. The most recent construction design and specifications shall prevail.

b. Standard detail C-2 (4 inch rolled curb) shall be used only when the following applicable conditions are met:

(1) On local residential streets in new development, when the top of curb to top of curb street drainage capacity is not exceeded by the peak flow generated during a fifty (50) year twenty four (24) hour storm. It shall be the developer's engineering consultant's responsibility to compile and submit drainage calculations to the city for review and approval.

(2) On residential cul-de-sac streets in new developments which meet the drainage requirements set forth in subsection A3b(1) of this section.

(3) On local residential streets in existing developments where no curb or gutter exists in the block under consideration and a study by the city engineering department indicates that the proposed installation will meet the drainage requirements set forth in subsection A1 of this section.

(4) In all cases, four inch (4") rolled curb shall be transaudient into six inch (6") vertical curb around all curb returns.

4. Public Improvement Requirements: In areas where two (2) or more zoning districts or subdistricts abut, and said zoning districts or subdistricts have different public improvement requirements, the council may impose the least restrictive requirement if the council finds that imposition of the least restrictive requirements will further the policies and purposes described in this chapter.

B. Exemption: The council may exempt a developer from any or all of the above requirements where the council determines that, due to the location or character of the development or improvement, new streets, curbs, gutters and/or sidewalks need not be constructed or improved. (Ord. 156, 10-9-1996)

10-6C-3: STREETS AND ALLEYS:

A. Dedication To Public Use: Within a proposed subdivision, arterial and collector streets, as shown on a comprehensive plan, shall be dedicated to the public in all cases; in general, all other streets shall also be dedicated to public use.

B. Location Requirements: Street and road location shall conform to the following:

1. All street locations shall conform to the city master street plan where streets may, for aesthetic reasons, curve and wind in accordance with these standards, but such trafficways shall maintain a grid type pattern approximately one-fourth ($\frac{1}{4}$) of a mile square.

2. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be such that streets extend to the boundary line of the tract to make provisions for the future extension of such streets into adjacent areas. A vehicular nonaccess reserve strip may be required and held in public ownership. Temporary cul-de-sacs shall be required.

3. Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets and acceptable gradients.

4. Streets shall comply with the standards of the Twin Falls highway district.

C. Alleys, Cul-De-Sacs, Half Streets And Private Streets:

1. Alleys shall be provided in multiple dwelling or commercial subdivisions unless other provisions are made for service access and off street loading and parking. Dead end alleys shall be prohibited in all cases.

2. Cul-de-sac streets shall not be more than six hundred feet (600') in length and shall terminate with an adequate turnaround having a minimum radius of fifty feet (50') for right of way.

3. Half streets are prohibited; except, where unusual circumstances make such necessary to the reasonable development of a tract, special justification shall be presented for variance request to the commission. Whenever a tract to be divided borders on an existing half or partial street, the other part of the street shall be dedicated within such tract. A vehicular nonaccess reserve street may be required and held in public ownership.

4. Private streets and roads are prohibited within a subdivision, but may be allowed in subdistricts, provided the private streets conform to city standard drawing S-5.

D. Width, Grade And Alignment Specifications:

1. Street and road right of way widths shall conform to the adopted major street plan or comprehensive plan and the rules of the state department of highways and the highway district having jurisdiction, minimum right of way standards shall be in accordance with section 10-6C-11 of this article.

2. Street grades shall not exceed ten percent (10%) on either local or collector streets, and six percent (6%) for arterial streets. Minimum street grades shall be four-tenths percent (0.4%).

3. Street alignment shall be as follows:

a. Horizontal alignment shall be in accordance with section 10-6C-11 of this article.

b. Vertical alignment shall be as follows: Minimum stopping sight distances shall be two hundred feet (200') for minor streets and designed in accordance with the designated speed for collector and arterial streets.

E. Naming Restrictions: The naming of streets shall conform to the following:

1. Street names shall not duplicate any existing name within the limits of this chapter except where a new street is a continuation of an existing street. Street names, if spelled differently but sound the same, shall not be used.

2. All new streets shall be named as follows:

a. Streets having a predominantly north-south direction shall be named "street" or "way".

b. Streets having a predominantly east-west direction shall be named "avenue" or "road".

c. Meandering streets shall be named "drive", "lane", "path" or "trail" and cul-de-sacs shall be named "circle", "court" and "place". (Ord. 151, 8-14-1995)

10-6C-4: INTERSECTIONS:

A. Minimum Angle: Streets shall intersect at ninety degrees (90°) or as closely thereto as possible, and in no case shall streets intersect at less than seventy degrees (70°).

B. Sight Triangle: Minimum clear sight distance at all minor street intersections shall permit vehicles to be visible to the driver of another vehicle when each is one hundred feet (100') from the center of the intersection.

C. Number Of Streets: No more than two (2) streets shall cross at any one intersection.

D. "T" Intersections: "T" intersections may be used wherever such design will not restrict the free movement of traffic.

E. Centerline Offset: Street centerlines shall be offset by a distance of at least one hundred twenty five feet (125').

F. Vertical Alignment: A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section shall be extended a minimum of one hundred feet (100') each way from the intersection. An allowance of two percent (2%) maximum intersection grade in rolling terrain, and four percent (4%) in hilly terrain will be permitted. (Ord. 151, 8-14-1995)

10-6C-5: PEDESTRIAN WALKWAYS:

Right of way for pedestrian walkways in the middle of long blocks may be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas; the pedestrian easement shall be in accordance with section 10-6C-11 of this article. (Ord. 151, 8-14-1995)

10-6C-6: UTILITY AND DRAINAGEWAY EASEMENTS:

Unobstructed utility easements shall be provided along front lot lines, rear lot lines and side lot lines when deemed necessary; total easement width shall be in accordance with section 10-6C-11 of this article. Unobstructed drainageway easements shall be provided as required by the city council. (Ord. 151, 8-14-1995)

10-6C-7: LOTS:

Lots shall conform to the following:

A. The lot width, depth and total area shall not be less than the requirements of any applicable zoning district.

B. Where parcels of land are subdivided into unusually large lots (such as when large lots are approved for septic tanks), the parcels shall be divided, where feasible, so as to allow for future resubdividing into smaller parcels. Lot arrangements shall allow for the ultimate extension of adjacent streets through the middle of wide blocks. Whenever such future subdividing or lot splitting is contemplated, the plan thereof shall be approved by the commission prior to the taking of such action.

C. Where individual septic tanks have been authorized, sufficient area shall be provided for a replacement sewage disposal area. (Ord. 151, 8-14-1995)

10-6C-8: PLANTING AND RESERVE STRIPS:

Planting strips and reserve strips shall conform to the following:

A. Planting strips are required to be placed next to incompatible features such as highways, railroads, commercial or industrial uses to screen the view from residential properties. Such screening shall be a minimum of twenty feet (20') wide, and shall not be a part of the normal street right of way or utility easement.

B. A one foot (1') reserve may be required to be placed along half streets which are within the subdivision boundaries and shall be deeded in fee simple to the city for future street widening.

C. Privately held reserve strips controlling access to streets are prohibited. (Ord. 151, 8-14-1995)

10-6C-9: PUBLIC SITES AND OPEN SPACES:

Public sites and open spaces shall conform to the following:

A. Public Uses: Where it is determined that a proposed park, playground, school or other public use as shown on the future acquisition map, as authorized in Idaho Code section 67-6517, is located in whole or in part within a proposed subdivision, the commission shall notify the appropriate public safety agency concerning the land proposed to be acquired. Within thirty (30) days of the date of notice, the public agency may request the governing body to suspend consideration on the subdivision for sixty (60) days. If an agreement is not reached within sixty (60) days, the commission shall resume consideration of the subdivision.

B. Natural Features: Existing natural features which add value to residential development and enhance the attractiveness of the community such as streets, watercourses, historic spots and similar irreplaceable assets shall be preserved in the design of the

subdivision. (Ord. 151, 8-14-1995)

10-6C-10: RESTRICTIVE COVENANTS:

Restrictive covenants may be prepared and recorded as part of a subdivision. This is done to provide protection to future property owners by establishing higher standards than required under other regulations. The provisions within protective covenants are enforceable through civil action, and local governments shall not be required to enforce these provisions. (Ord. 151, 8-14-1995)

10-6C-11: RIGHT OF WAY REQUIREMENTS:

The minimum right of way, centerline radius, and cul-de-sac requirements are as set out in the following table:

RIGHT OF WAY REQUIREMENTS

Minimum Right Of Way (In Feet)

Type Of Public Way	Residential	Commercial	Manufacturing
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Minimum Right Of Way (In Feet)

Type Of Public Way	Residential	Commercial	Manufacturing
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Trafficways:

Alley			20
Service road	25	25	Not allowed
One-way road	25	30	30
Local street	50	60	60
Collector street	64	64	64
Arterial street	80	80	80

Special ways:

Pedestrian	10	10	10
Bicycle	15	15	15
Equestrian	20	30	20

Easements:

Utility	15	15	15
Access	10	10	15

Minimum Centerline Radius (In Feet)

Type Of Public Way	Residential	Commercial	Manufacturing
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Trafficways:

Alley			60
Service road	50	50	Not allowed
One-way road	50	50	60
Local street	100	150	200
Collector street	200	250	300
Arterial street	500	500	500

Special ways:

All	25	25	25
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Easements:

All	0	0	0
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Minimum Cul-De-Sac (In Feet)

Type Of Public Way	Residential	Commercial	Manufacturing
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Trafficways:

All	100	100	100
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(Ord. 151, 8-14-1995)

ARTICLE D. IMPROVEMENT STANDARDS

SECTION:

10-6D-1: Construction Plans Required

10-6D-2: Required Public Improvements; Specifications

10-6D-3: Financial Guarantee Of Performance

10-6D-4: Financial Guarantees For Approval Of Final Plat

10-6D-5: Conformance To Plans; Inspection

10-6D-6: Failure To Complete Work; Action By Council

10-6D-1: CONSTRUCTION PLANS REQUIRED:

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered engineer, a complete set of construction plans, including profiles, cross sections, specifications and other supporting data, for all required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies. All construction plans shall be prepared in accordance with the public agencies' standards or specifications. (Ord. 151, 8-14-1995)

10-6D-2: REQUIRED PUBLIC IMPROVEMENTS; SPECIFICATIONS:

Every subdivider shall be required to install the following public and other improvements in accordance with the following conditions and specifications:

- A. Monuments: Monuments shall be set in accordance with Idaho Code section 50-1303.
- B. Streets And Alleys: All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the city council.
- C. Curbs And Gutters: Curbs and gutters shall be constructed on all streets and service roads. All construction shall be in accordance with the standards and specifications adopted by the city council.
- D. Bicycle Pathways: A bicycle pathway shall be provided within all subdivisions, as part of the public right of way or separate easement, as may be specified in an overall bicycle plan as adopted by the city council.
- E. Installation Of Public Utilities: Underground utilities shall be required in all new subdivisions.
- F. Driveways: All driveway openings in curbs shall be as specified by the administration, highway district or state highway department.
- G. Storm Drainage: An adequate storm drainage system is required in all subdivisions. The requirements for each particular subdivision shall be established by the city council. Construction shall follow the specifications and procedures established by the city council.
- H. Public Water Supply And Sewer Systems: All new public water supply or sewer systems shall be an extension of an existing public system.
- I. Fire Hydrants And Water Mains: Adequate fire protection is required in accordance with standards established by the city engineer.
- J. Street Name Signs: Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the local standards. Cost of street signs shall be the responsibility of the city.
- K. Sidewalks And Pedestrian Walkways: Sidewalks are required on both sides of the street; except that, where the average width of lots, as measured at the street frontage line or at the building setback line, is over two hundred ten feet (210'), sidewalks on only one side of the street may be allowed. Pedestrian walkways, when required, shall have easements at least ten feet (10') in width and include a paved walk at least five feet (5') in width. Sidewalks and crosswalks shall be constructed in accordance with the standards and specifications as adopted by the city council.
- L. Greenbelt: Greenbelts or landscaping or screening may be required for the protection of residential properties from adjacent major arterial streets, waterways, railroad rights of way or other features. Subdivision plats shall show the location of any greenbelt areas.
- M. Street Lighting: Streetlights are required to be installed at intersections throughout the subdivision. Cost of conventional wood pole, mercury vapor luminaire and overhead service shall be the responsibility of the city. Other types or configuration for lighting shall be approved by the city engineer and the cost shall be borne by the subdivider. (Ord. 151, 8-14-1995)

10-6D-3: FINANCIAL GUARANTEE OF PERFORMANCE:

In lieu of the actual installation of required public improvements before the recording of the final plat, the city council may permit the subdivider to provide a financial guarantee of performance in one or a combination of the arrangements set out in subsections A and B of this section for those requirements which are over and beyond the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement.

- A. Surety Bond:
 - 1. The bond shall accrue to the city covering construction, operation and maintenance of the specific public improvement.
 - 2. The bond shall be in an amount equal to one hundred percent (100%) of the total estimated cost for completing construction of the specific public improvements as estimated by the developer's consulting engineer and approved by the city engineer.
 - 3. The term length in which the bond is in force, for the duration of that phase of the project, shall be for a period to be specified by the council for the specific public improvement.
 - 4. The bond shall be with a surety company authorized to do business in the state, acceptable to the city council.
- B. Cash Deposit, Certified Check, Negotiable Bond Or Irrevocable Bank Letter Of Credit:
 - 1. A cash deposit, certified check, negotiable bond or an irrevocable bank letter of credit or such surety acceptable by the city council shall be deposited with an escrow agent or trust company.

2. The dollar value of the cash deposit, certified check, negotiable bond or irrevocable bank letter of credit shall be equal to one hundred percent (100%) of the estimated cost of construction for the specific public improvement, as estimated by the developer's consulting engineer and approved by the city engineer.

3. The escrow time for the cash deposit, certified check, negotiable bond or irrevocable bank letter of credit shall be until completed and accepted by the city engineer.

4. In the case of cash deposits or certified checks, an agreement between the city council and the subdivider may provide for progressive payment of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement. (Ord. 151, 8-14-1995)

10-6D-4: FINANCIAL GUARANTEES FOR APPROVAL OF FINAL PLAT:

With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of the following:

A. The construction of improvements required by this chapter shall have been completed by the subdivider and approved by the city engineer.

B. Surety acceptable to the city council shall have been filed in the form of a cash deposit, certified check, negotiable bond or irrevocable bank letter of credit. (Ord. 151, 8-14-1995)

10-6D-5: CONFORMANCE TO PLANS; INSPECTION:

Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the city council shall be made to provide for checking or inspecting the construction and its conformity to the submitted plans. (Ord. 151, 8-14-1995)

10-6D-6: FAILURE TO COMPLETE WORK; ACTION BY COUNCIL:

In the event the subdivider shall, in any case, fail to complete such work within the period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the city council to proceed to have such work completed. In order to accomplish this, the council shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, and as included in a written agreement between the council and the subdivider. (Ord. 151, 8-14-1995)

ARTICLE E. VACATIONS AND DEDICATIONS

SECTION:

10-6E-1: Vacation Petition Required

10-6E-2: Contents Of Petition

10-6E-3: Vacation Petition Received; Hearing Scheduled

10-6E-4: Public Hearing By Commission

10-6E-5: Commission Recommendation

10-6E-6: Decision By Council

10-6E-7: Dedication Petition; Commission Action

10-6E-8: Dedication Petition; Acceptance; Prerequisites

10-6E-1: VACATION PETITION REQUIRED:

Any property owner desiring to vacate an existing subdivision, plat or part thereof, or within one mile of the boundaries of the city, or within the city "area of impact", a public right of way or easement, or desiring to dedicate a street right of way or easement shall complete and file a petition with the administrator. (Ord. 151, 8-14-1995)

10-6E-2: CONTENTS OF PETITION:

The petition for vacation shall set forth the particular circumstances of the request to vacate, contain a legal description of the platted area or property to be vacated and the names of the persons affected thereby. In the case where lots have been sold in a platted area, the petition should include an acknowledged written statement from each of the owners of the aforesaid sold lots indicating whether or not they are in agreement with the proposed vacation. (Ord. 151, 8-14-1995)

10-6E-3: VACATION PETITION RECEIVED; HEARING SCHEDULED:

Upon receipt of the completed petition, the administrator shall affix the date of petition acceptance thereon. The administration shall place the petition on the agenda for consideration at the next regular meeting of the commission. (Ord. 151, 8-14-1995)

10-6E-4: PUBLIC HEARING BY COMMISSION:

The commission shall hold a public hearing and make recommendations on all petitions for vacation of an existing subdivision, plat or part thereof inside or within one mile of the boundaries of the city or within the city "area of impact", and notice of the public hearing shall be given, by certified mail with return receipt, at least ten (10) days prior to the date of the public hearing to all property owners within three hundred feet (300') of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two (2) consecutive weeks in the official newspaper of the city, the last of which shall not be less than

seven (7) days prior to the date of the hearing. (Ord. 151, 8-14-1995; amd. 2011 Code)

10-6E-5: COMMISSION RECOMMENDATION:

Within sixty (60) days from the receipt of the petition for vacation, the commission shall transmit its recommendation to the city council. The commission may recommend that the vacation be granted or it may recommend a modification to the vacation, or it may recommend that the vacation be denied. (Ord. 151, 8-14-1995)

10-6E-6: DECISION BY COUNCIL:

The city council, prior to approving, modifying or denying the vacation, shall conduct a public hearing using the same notice and hearing procedures as the commission. Whenever public rights of way or lands are vacated, the council shall provide adjacent property owners with a quitclaim deed for the vacated rights of way in such proportions as are prescribed by law. (Ord. 151, 8-14-1995)

10-6E-7: DEDICATION PETITION; COMMISSION ACTION:

A. Petition for dedication shall set forth the particular circumstances of the request to dedicate, contain a legal description of the property to be dedicated and the names of the persons affected thereby.

B. No commission action is required for dedication. (Ord. 151, 8-14-1995)

10-6E-8: DEDICATION PETITION; ACCEPTANCE; PREREQUISITES:

When considering a petition for dedication procedures, the city council may approve, deny or modify the petition. When a dedication is approved, the required street improvements shall be constructed or a bond furnished, assuring the construction, prior to acceptance of the dedication. To complete the acceptance of any dedication of the land, the owner shall furnish to the council a deed describing and conveying such lands to be recorded with the county recorder. (Ord. 151, 8-14-1995)

CHAPTER 7

FLOODPLAIN REGULATIONS

SECTION:

10-7-1: Statutory Authorization

10-7-2: Findings Of Fact

10-7-3: Statement Of Purpose

10-7-4: Methods Of Reducing Flood Losses

10-7-5: Definitions

10-7-6: Lands To Which Chapter Applies

10-7-7: Basis For Establishing Areas Of Special Flood Hazard

10-7-8: Penalties For Noncompliance

10-7-1: STATUTORY AUTHORIZATION:

The legislature of the state of Idaho has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. (Ord. 187, 9-8-2008)

10-7-2: FINDINGS OF FACT:

A. The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. (Ord. 187, 9-8-2008)

10-7-3: STATEMENT OF PURPOSE:

It is the purpose of this chapter, including articles A and B, to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health.
- B. To minimize expenditure of public money and costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 187, 9-8-2008)

10-7-4: METHODS OF REDUCING FLOOD LOSSES:

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas. (Ord. 187, 9-8-2008)

10-7-5: DEFINITIONS:

For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section:

ACCESSORY STRUCTURES: Low cost buildings that do not exceed five hundred (500) square feet, such as detached two (2) car garages, boathouses, small pole barns and storage sheds, not to be used for human habitation, shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; shall be anchored to prevent flotation which may result in damage to other structures; service utilities such as electrical and heating equipment shall be elevated or floodproofed.

APPEAL: A request for a review of the interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING: Designated as AO or AH zone on the flood insurance rate map (FIRM). AO zones have base flood depths that range from one to three feet (3') above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"), designated on flood insurance rate maps by the letters A or V.

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

CRITICAL FACILITY: A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

DEVELOPMENT: Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

ELEVATED BUILDING: For insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELEVATION CERTIFICATE: The official form (FEMA form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with section B completed by community officials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date hereof.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the federal insurance administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS): The official report provided by the federal insurance administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at subsection 10-7B-2A2 of this chapter (i.e., provided there are adequate flood ventilation openings).

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

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION: Structures for which the "start of construction" commenced on or after the effective date hereof.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date hereof.

RECREATIONAL VEHICLE: A vehicle:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REPETITIVE LOSS: Flood related damages sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty five percent (25%) of the market value of the structure before damage occurred.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building, including a gas or liquid storage tank that is principally aboveground.

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

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

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

B. The term can exclude:

1. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the national register of historic places or a state inventory of historic places.

VARIANCE: A grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

WATER DEPENDENT: A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 187, 9-8-2008)

10-7-6: LANDS TO WHICH CHAPTER APPLIES:

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city. (Ord. 187, 9-8-2008)

10-7-7: BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD:

The areas of special flood hazard identified by the federal insurance administration in a scientific and engineering report entitled the "Flood Insurance Study For Twin Falls County" dated September 26, 2008, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file at the city of Hansen, City Hall, 322 Main, Hansen, Idaho. The best available information for flood hazard area identification as outlined in subsection 10-7A-3B of this chapter shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under said subsection 10-7A-3B of this chapter. (Ord. 187, 9-8-2008)

10-7-8: PENALTIES FOR NONCOMPLIANCE:

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 187, 9-8-2008; amd. 2011 Code)

ARTICLE A. ADMINISTRATION

SECTION:

10-7A-1: Local Administrator

10-7A-2: Development Permit

10-7A-3: Variance Procedure

10-7A-1: LOCAL ADMINISTRATOR:

A. Designation; General Duties: The city clerk is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

B. Other Duties:

1. Permit Review: The local administrator shall:

- a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
- c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection 10-7B-4A of this chapter are met.

2. Information To Be Obtained And Maintained:

a. Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in subsection 10-7A-3B of this article, obtain and record the actual (as built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection 10-7A-3B of this article:

- (1) Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed.
- (2) Maintain the floodproofing certifications required in subsection 10-7A-2B3 of this article.
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter.

3. Alteration Of Watercourses: The administrator shall:

a. Notify adjacent communities and the department of water resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal insurance administration.

b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. (Ord. 187, 9-8-2008)

10-7A-2: DEVELOPMENT PERMIT:

A. Development Permit Required: A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 10-7-7 of this chapter. The permit shall be for all structures including manufactured homes, as set forth in section 10-7-5 of this chapter, and for all development including fill and other activities, also as set forth in section 10-7-5 of this chapter.

B. Application For Development Permit: Application for a development permit shall be made on forms furnished by the city and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 81-31) with section B completed by the local official.
2. Elevation in relation to mean sea level to which any structure has been floodproofed.
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in subsection 10-7B-2B of this chapter.
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Ord. 187, 9-8-2008)

10-7A-3: VARIANCE PROCEDURE:

A. Appeal Board:

1. The city council shall hear and decide appeals and requests for variances from the requirements of this chapter.
2. The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the administrator in the enforcement or administration of this chapter.
3. Those aggrieved by the decision of the city council, or any taxpayer, may appeal such decision to the fifth judicial district court.
4. In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;

- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

B. Conditions For Variances:

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases, the technical justification required for issuing the variance increases.
2. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
5. Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.
6. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection B1 of this section, and otherwise complies with subsections 10-7B-1A, C, and D of this chapter.
7. Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk. (Ord. 187, 9-8-2008)

ARTICLE B. FLOOD HAZARD REDUCTION

SECTION:

10-7B-1: General Standards

10-7B-2: Specific Standards

10-7B-3: AE And A1-30 Zones With Base Flood Elevations; No Floodways

10-7B-4: Floodways

10-7B-1: GENERAL STANDARDS:

In all areas of special flood hazard, the following standards are required:

A. Anchoring:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors.

B. AH Zone Drainage: Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

C. Construction Materials And Methods:

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

D. Utilities:

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

2. Water wells shall be located on high ground that is not in the floodway.

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

4. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision Proposals:

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

F. Review Of Building Permits: Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (subsection 10-7A-3B of this chapter), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. (Ord. 187, 9-8-2008)

10-7B-2: SPECIFIC STANDARDS:

In all areas of special flood hazard where base flood elevation data has been provided as set forth in section 10-7-7, "Basis For Establishing Areas Of Special Flood Hazard", of this chapter, or subsection 10-7A-3B, "Conditions For Variances", of this chapter. Additional standards were clarified in FEMA technical bulletin 11-01 to allow crawl space construction for buildings located in the special flood hazard areas; however, adopting this provision can result in a twenty percent (20%) increase in flood insurance premiums. The following provisions are required:

A. Residential Construction:

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot (1') or more above the base flood elevation (BFE). Minimum FEMA standards require the lowest floor to be elevated "to or above" the BFE; however, adding an additional foot of freeboard increases safety and can reduce insurance premiums by as much as thirty percent (30%). Adopting additional freeboard is strongly encouraged by FEMA. This note applies throughout the model ordinance.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot (1') above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot (1') or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one foot (1') or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subsection 10-7A-1B2 of this chapter.
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection A2 of this section.

Applicants who are floodproofing nonresidential buildings should be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as 1 foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

C. **Manufactured Homes:** All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot (1') or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

D. **Recreational Vehicles:** Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days; or
2. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the requirements of subsection C of this section and the elevation and anchoring requirements for manufactured homes. (Ord. 187, 9-8-2008)

10-7B-3: AE AND A1-30 ZONES WITH BASE FLOOD ELEVATIONS; NO FLOODWAYS:

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. (Ord. 187, 9-8-2008)

10-7B-4: FLOODWAYS:

Located within areas of special flood hazard established in section 10-7-7 of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article for flood hazard reduction. (Ord. 187, 9-8-2008)