

Chapter 1

BUILDING CODES AND REGULATIONS

7-1-1: ADOPTION OF CODES:

The city hereby adopts the following building codes and standards, and shall enforce them with regard to all construction and development in the incorporated areas of the city:

- A. International Building Code: The international building code, 2000 edition, and any subsequent edition or supplement thereto, as published by the International Code Council, including all rules promulgated by the Idaho building code board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines.
- B. International Residential Code: The international residential code, parts I through IV, and part IX, and any subsequent edition or supplement thereto, as published by the International Code Council.
- C. International Energy Conservation Code: The international energy conservation code, 2000 edition, and any subsequent edition or supplement thereto, as the same may be supplemented, as published by the International Code Council. (Ord. 2-2b, 12-16-2002)
- D. International Fire Code: The international fire code, 2006 edition, including appendices B, C, D, E and F; provided, that section D103.2 of appendix D is hereby modified to provide for a maximum grade of eight percent (8%), unless otherwise approved by the fire chief, and any subsequent edition or supplement thereto which is duly adopted by the state of Idaho. (Ord. 2008-2, 1-7-2008)
- E. International Mechanical Code: The international mechanical code, 2000 edition, and any subsequent edition or supplement thereto, as published by the International Code Council.

F. HVAC Standards Book: HVAC standards book, 1997 edition, part III, standard for installation of gas equipment in excess of 400,000 BTU/HR, and any subsequent edition or supplement thereto, published by the Inland Northwest Heating, Ventilation and Air Conditioning Association. (Ord. 2-2b, 12-16-2002)

7-1-2: ADOPTED CODES ON FILE:

One copy of each code herein shall be on file at the city hall for public inspection. (Ord. 2-2, 1988; Ord. 2-2a, 2000)

7-1-3: LOCAL MODIFICATIONS OF ADOPTED BUILDING CODES:

A. International Residential Code: The following sections of the international residential code are hereby revised:

1. Section R101.1: Insert "city of Ponderay".
2. Table R301.2: Insert:
 - a. Ground snow load = 104 pounds per square foot
 - b. Wind speed = 90 mph
 - c. Seismic design category = C
 - d. Weathering = Severe
 - e. Frost line depth = 24 inches
 - f. Termite = None to slight
 - g. Decay = None
 - h. Winter design temp. = -10 degrees Fahrenheit
3. Table R301.2(1), footnotes: Insert: "i. Regardless of construction design standards as outlined in this chapter, one and two family dwellings shall not be constructed for less than fifty five (55) pounds per square foot roof live load (snow load)".

B. International Building Code: The following sections of the international building code are hereby revised:

1. Section 101.1: Insert: "city of Ponderay".
2. Section 3409.2: Insert: "January 1, 2003".

(Ord. 2-2b, 12-16-2002)

7-1-4: BUILDING OFFICIAL:

The mayor shall appoint an individual, partnership, corporation or other business association or entity as the building official. The appointed building official is hereby empowered to enforce the provisions of this chapter, and the building, mechanical, fire and life safety and other codes adopted by this chapter, and such other ordinances and resolutions as directed by the mayor or city council. All building code inspectors shall be certified as provided by the Idaho Code. (Ord. 2-2b, 12-16-2002)

7-1-5: FEES FOR PERMITS AND ASSOCIATED SERVICES:

The city shall adopt, by resolution, a fee schedule for building permits and associated services (the "schedule"). The schedule shall contain, but not be limited to, fees for permits and associated services required by this chapter. Fees for other services and applications, including those of other ordinances administered by the building official, may be added, as deemed necessary by the city. (Ord. 2-2b, 12-16-2002)

7-1-6: BUILDING CONTRACTOR REGISTRATION:

No building permit will be issued without the contractor's registration number being presented by the contractor, except when the permit application provides evidence to the satisfaction of the building official that the applicant is exempt from the registration requirements pursuant to Idaho Code title 54, chapter 52. (Ord. 2-7, 1-17-2006)

7-1-7: RETAINING WALLS: Permit Required: A building permit is required for all retaining walls of any material unless specifically exempt by this title. Unless exempt, retaining walls shall be subject to the most current building codes adopted by the city. A single building permit may serve multiple walls or serve as a concurrent permit for a structure.

- A. Permit Exempt: Walls three-feet in height or less as measured from the finished grade at the exposed toe of the wall to the highest point; unless wall is either supporting a surcharge or a component of terraced walls steeper than 2 run: to 1 rise from the toe of the lowest wall to the top of the highest.
- B. Structural Design Required: Professional structural design is required for any retaining wall requiring a permit showing at a minimum: plot plan, detail, and structural calculations. Prior to issuance of a certificate of occupancy from the city, a statement of certification from the design professional is required.

- C. Setbacks Required: Property line setback for retaining walls is equal to the finished wall height except by administrative exemption at the discretion of the planning director for reasons including but not limited to unique site characteristics, cooperative ventures, parcels adjoining city property or public rights-of-way, exceptional quality materials, geotechnical engineering, and aesthetically exceptional designs.
- D. Landscape Design Required: Retaining walls greater than six feet in height as measured from the finished grade at the exposed toe of the wall to the highest point, retaining walls longer than 50 feet, and retaining walls requiring an administrative exception from the standard setbacks shall be subject to landscape design review which will consider materials, landscaping, topography, neighboring properties, screening, adjacent land uses, adjacent public uses, and other considerations of appropriateness. Administration of this of this subsection shall be conducted as a sketch plan review by process established by the planning director.
- E. Utility Easements and Drainages: Retaining walls of any height shall not be constructed over public utility easements without the expressed permission of the utility provider, or be constructed to adversely affect drainage, or create a sight distance hazard at an intersection.
- F. Maintenance: Retaining walls constructed pursuant to this section shall be maintained in good condition and repair pursuant to the approved plans, or as required by the city engineer.

7-1-8: PENALTY:

- A. Misdemeanor: Any person who violates any provisions of this ordinance, or of the standardized codes adopted pursuant to this ordinance, shall be guilty of a misdemeanor and, upon conviction, shall be subject to penalty as provided in section 1-2-1 of this code. (Ord. 2-2b, 12-16-2002; 2008 Code)
- B. Separate Offense: A separate violation is deemed to have occurred with respect to each building or structure not in compliance with the codes adopted herein. Each day such violation continues shall constitute a separate offense.
- C. Additional Remedies: In addition to any criminal penalties imposed by this section, the city may seek any civil remedies available to it, including, but not limited to, injunctive relief to restrain conduct in violation of this chapter or compel performance of duties established by this chapter.

D. Investigation Fees: The city may further assess investigation fees, as provided in the international building code, 2000 edition, and any subsequent edition or supplement thereto. (Ord. 2-2b, 12-16-2002)

Chapter 2

PLUMBING CODE AND REGULATIONS

7-2-1: ADOPTION OF PLUMBING CODE:

There is hereby adopted, for the purpose of establishing minimum standards of design, materials and workmanship for all plumbing hereinafter installed, altered or repaired, and to establish methods of procedure within the limits of this city that certain plumbing code and the standards set forth with the uniform plumbing code published by the International Association of Plumbing and Mechanical Officials, of which not less than one copy shall be maintained and filed with the office of the clerk and the same is hereby adopted and incorporated as fully as if set out in length herein. (Ord. 2-1, 1969; 2008 Code)

7-2-2: LICENSE REQUIRED:

It shall be unlawful for any person to engage in the business, trade, practice or work of plumbing, or to install, alter or extend any piping, fixtures, appliances and appurtenances in connection with any plumbing system, as the same is defined in Idaho Code section 54-2604 without first having a current certificate of competency issued in accordance with the laws of the state of Idaho. (Ord. 2-1, 1969; 2008 Code)

7-2-3: INSPECTION OF PLUMBING:

Plumbing inspections shall be performed by the state. (2008 Code)

7-2-4: PLUMBING BY HOMEOWNERS:

Nothing herein shall preclude a homeowner from performing plumbing upon his own premises without having a plumbing license; provided, that such homeowner first secures from the inspector appointed by the city a permit to do plumbing upon his own premises. The inspector may require that such homeowner file plans of said proposed plumbing with the city and take an oath that the work to be performed will be performed by such homeowner, or any other person of the homeowner's family who resides in the premises to be plumbed. (Ord. 2-1, 1969)

7-2-5: PENALTY:

Any violation of this chapter, or the uniform code adopted herein, is declared to be a misdemeanor and subject to penalty as provided in section 1-2-1 of this code. (Ord. 2-1a, 2003; 2008 Code)

Chapter 3

ENERGIZING STRUCTURES

7-3-1: DEFINITIONS:

The term "structure" as used in this chapter shall mean any object constructed or installed by man and intended to be used for human habitation; and any garage, shop, carport or other permanent or temporary building which is intended to be used as an accessory to a building intended to be used for human habitation. (Ord. 6-6b, 11-15-2004)

7-3-2: ENERGIZING PERMIT REQUIRED:

It shall be unlawful for any building or structure placed on property within the city to be energized by connecting or energizing any electrical installation until the applicant provides the utility with a city approved building permit or the city notifies the power company involved that a complete energizing permit application has been filed with the city. (Ord. 6-6b, 11-15-2004)

7-3-3: PENALTY:

Any violation of this chapter is declared to be a misdemeanor and subject to penalty as provided in section 1-2-1 of this code. (Ord. 6-6, 1991; 2008 Code)

Chapter 4

MANUFACTURED HOMES

7-4-1: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

BUILDING OFFICIAL: The duly designated agent or employee of the city of Ponderay authorized to approve, initiate, inspect and enforce planning and building safety codes within the city of Ponderay.

DEPARTMENT: City of Ponderay planning and zoning commission.

MANUFACTURED HOME: 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 dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this definition except the 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.

MODULAR BUILDING: Any building or building component, other than a manufactured home or mobile home, which is constructed according to codes and standards adopted by the state or federal authority with authority over such structures, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site, and which has one hundred twenty (120) square feet or greater in floor area.

PLANNING DIRECTOR: Employee of the city of Ponderay or duly designated agent for the city of Ponderay as set by resolution of the city of Ponderay. (Ord. 108)

7-4-2: SETTING PERMITS:

- A. Setting Or Placement Permit Required: Placement of all manufactured homes and modular buildings within the incorporated area of the city shall require a setting or placement permit. To obtain a permit for manufactured home or modular building placement, the applicant shall supply all information and complete approved department forms. All manufactured homes shall meet the minimum requirements of the most current version of the Idaho manufactured home installation standard, as adopted by the state of Idaho, in accordance with Idaho Code title 44, chapter 22.
- B. Placement Only By Licensed Installer: No manufactured home shall be set by other than an installer possessing a current, valid license issued by the state of Idaho for the installation of manufactured homes, issued pursuant to Idaho Code title 44, chapter 21.
- C. Permit Fees: The city council, from time to time, shall establish by resolution setting permit fees for manufactured homes and modular buildings. (Ord. 2-5f, 5-19-2003)

7-4-3: ENERGIZING AUTHORIZATION:

No person, firm or corporation shall energize a new service, energize and/or upgrade any existing electric service, set an electric meter for any structure or install construction power to assist in the construction of a structure until the city notifies the utility company involved that a complete setting or placement permit application has been filed with the city. The utility company may then provide connection or energize for the use specified. (Ord. 2-5c, 12-2-2002)

7-4-4: ROOF LIVE LOAD LIMITS:

No manufactured home set or placed within the city limits shall be constructed for less than thirty (30) pounds per square foot of roof live load (snow load); provided, a manufactured home which is constructed for at least thirty (30), but less than fifty five (55) pounds per square foot of roof live load (snow load) must have a protective roof which meets or exceeds fifty five (55) pounds per square foot of roof live load (snow load) requirements; however, a manufactured home manufactured prior to January 1, 2003, which does not meet the roof live load (snow load) requirements hereunder, but which met the city's roof live load requirements, if any, at the time of manufacture, may be set or placed in a manufactured home park which has reasonable rules regulating removal of snow from roofs. (Ord. 2-5g, 11-7-2005)

7-4-5: SEWAGE DISPOSAL APPROVAL:

No building or placement permit shall be issued for the construction or placement of any structure designed for human habitation requiring sewage disposal in the city unless approval has first been obtained from the Panhandle health district official or connection has been authorized by a sewer district. (Ord. 2-5, 1996)

7-4-6: OCCUPANCY PERMITS:

A. Certificate Of Occupancy Required: Where this chapter requires that a permit is to be obtained, it shall be unlawful to occupy, or to permit the use or occupancy of, a manufactured home until a certificate of occupancy has been issued therefor by the city.

B. Certification By City Inspector: No certificate of occupancy shall be issued unless and until the city's inspector certifies that the manufactured home complies with the requirements of the most current version of the Idaho manufactured home installation standard, in accordance with Idaho Code title 44, chapter 22.

C. Permanent Means Of Egress Required: No certificate of occupancy shall be issued until

a permanent means of egress is provided at all doors leading to the exterior and installed in accordance with the most current version of the Idaho manufactured home installation standard, in accordance with Idaho Code title 44, chapter 22. (Ord. 2-5f, 5-19-2003)

Chapter 5

BUILDING NUMBERING

7-5-1: DUTY OF BUILDING OWNER OR OCCUPANT:

It shall be the duty of the owner or occupant of all buildings within the city to number each building owned or occupied by him in the manner provided in the following sections. (Ord. 1-31, 1995)

7-5-2: OLD RESIDENTIAL AREA:

The house number system for the old residential area of the city, which is incorporated in its entirety by reference, shall be available at the city hall for public inspection. (Ord. 1-31, 1995)

7-5-3: MAP OF OLD RESIDENTIAL AREA:

A map of the old residential area of the city describing its lots and blocks with designation of established house numbering shall be available at the city hall for public inspection. (Ord. 1-31, 1995)

7-5-4: SPECIFICATIONS FOR NUMBERS:

All buildings shall be marked or have attached to them house numbers not less than four inches (4") in height and in a color which contrasts with the building to which they are attached. (Ord. 1-31, 1995)

7-5-5: CONTACTING POSTAL SERVICE:

It shall be the duty of the owner or occupier of each building within the city to contact the U.S. postal service and the city in establishing what their house number shall be. (Ord. 1-31, 1995)

7-5-6: PENALTY:

Penalty for each violation of this chapter shall be an infraction punishable as provided in section 1-2-1 of this code. (Ord. 1-31, 1995; 2008 Code)

Chapter 6

SIGN CODE

7-6-1: SHORT TITLE:

This chapter shall be known as the *SIGN CODE* of the city of Ponderay and may be so cited and shall be referred to in this chapter as the code. (Ord. 6-5f, 1996)

7-6-2: PURPOSE; AUTHORITY:

The purpose of this chapter is to establish standards for the fabrication, erection and use of signs, symbols, markings and advertising devices within the city. These standards are designed to protect and promote the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public and is adopted in accordance with that authority granted in Idaho Code section 67-6518 (1980) and the general police powers of the city. (Ord. 6-5f, 1996)

7-6-3: DEFINITIONS:

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

ABANDONED SIGN ON PREMISES: A sign which no longer advertises a bona fide business, leaser, owner, product or activity conducted or product available on the premises where such sign is displayed.

ARCHITECTURAL BLADE: A roof sign or projecting sign with no visible legs or braces designed to look as though it could have been part of the building structure, rather than something suspended from or standing on the building.

ARCHITECTURAL PROJECTION: Any projection not intended for occupancy which extends beyond the property line, not including signs, canopies or marquees.

AREA OF SIGN: The area of all faces of the sign within a perimeter which forms the outside shape, including any frame, forms and integral parts of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled. Where bulletins are installed back to back, both faces are considered as the area.

BACKGROUND AREA: The entire area of a sign on which copy could be placed. As opposed to the copy area, where copy is in fact posted or painted.

BANNER: A long, narrow flag hung over a street or entrance.

BANNER SIGN: A temporary sign composed of lightweight material secured or mounted so as to allow movement caused by wind.

BILLBOARD: Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque or poster designed, intended or used to advertise or inform and which is situated in order to be visible from any highway, or other traveled way and which is located on property which is separate from and not adjoining the premises or property on which the advertised activity is carried out.

BUILDING CODE: The international building code in effect for the city of Ponderay.

BUILDING COMPLEX: A building or group of buildings within a single architectural plan and/or parcel of property housing two (2) or more commercial units of operation and providing common facilities or utilities, such as shopping centers, professional office buildings, etc.

BUILDING FACE; WALL: All the window and wall area of a building in one place or elevation.

BUILDING FRONTAGE: The linear width of a building facing the right of way or the linear length of the right of way facing the building, whichever is smaller.

CANOPY; MARQUEE: A permanent roof-like shelter extending from part or all of a building face over a public right of way and constructed of some durable material such as wood, metal, glass or plastic.

CANOPY SIGN; MARQUEE SIGN: Any such sign attached to or constructed in or on a canopy or marquee.

CHANGEABLE COPY SIGN (AUTOMATIC): An electronically or electrically controlled time, temperature and date sign, message center or reader board, where different copy changes are shown on the same location.

CHANGEABLE COPY SIGN (MANUAL): A sign on which copy or sign panels may be changed manually in the field such as boards with changeable letters or changeable pictorial panels.

CONSTRUCTION SIGN: A temporary sign identifying a building or construction site and the architects, engineers, financial institutions, contractors and suppliers involved.

COPY: The wording on a sign surface.

FLASHING SIGN: Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.

FREESTANDING SIGN: A sign erected on a freestanding frame, mast or pole, and not attached to any building.

FREQUENTLY CHANGING COPY: More than one copy change per day.

GENERAL SIGN DISTRICT: All the area within the corporate limits of the city where signs are a permitted use pursuant to the zoning laws of the city.

HEIGHT OF SIGN: The vertical distance measured from the adjacent street grade or upper surface of the street curb to the highest point of said sign. Elevated roadways shall not be used to measure height.

INTERNALLY LIGHTED SIGN: A sign which is wholly or partially illuminated by an internal light source from which source light passes through the display surface to the exterior of the sign.

NEON SIGN: Any sign illuminated or outlined by tubes using electrically simulated neon or other gas.

NONCONFORMING SIGN: Any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this chapter, and any amendments hereto and which fails to conform to all applicable regulations and restrictions of this code.

OFF PREMISES SIGN; OFF SITE SIGN: Any sign that relates to or advertises products, services or uses at, or directs persons to, a different premises from which such sign is installed.

ON PREMISES SIGN: A sign calling attention to any business, product or activity conducted or produced on the property where such sign is located, or identifying the premises upon which such sign is located.

OUTLINE ILLUMINATION: Any lighting accent attached to a building or sign, using either neon or fluorescent light tubes. Ballasts for fluorescent lighting not to exceed 800 Ma., and transformers for neon tubing not to exceed 60 Ma.

PENNANT: A piece of cloth, plastic, paper or other such material varying in size, shape or design, erected as an advertising device to draw attention to the site upon which it is located.

PERMANENT SIGN: Any sign other than a temporary sign.

PORTABLE SIGN: Any sign not permanently attached to the ground or building.

PREMISES: An area of land with its appurtenances and building which, because of its unity of use, is one unit of real estate.

PROJECTING SIGN: A sign, other than a wall sign, which is attached to and projects from a structure or building face.

ROOF SIGN: Any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.

SIGN: Any identification, description, illustration, symbol, statue or device, illuminated or non-illuminated, which is visible from any public place designed to advertise, identify or convey information, including any landscape where letters or numbers are used for the purpose of directing the public's attention to a product or location, with the exception of window displays and flags of any state or nation. For the purpose of removal, "sign" shall also include all sign structures.

TEMPORARY SIGN: A sign which is not permanently affixed. All devices such as banners, pennants, flags (not intended to include flags of a nation), searchlights, twirling or sandwich type signs, sidewalk or curb signs, and balloons or other air or gas filled figures.

WALL SIGN: A sign painted on, attached to or erected against a wall of a building with the face parallel to the building wall and extending not more than one foot (1') there from, bottom of sign must be eight feet (8') from ground. (Ord. 6-5f, 1996; Ord. 6-5g, 2-2-2004; 2008 Code)

7-6-4: PERMIT:

- A. Permit Required: It is unlawful to erect, construct, reconstruct, alter, paint or repair or change the use of any "sign" as defined in this chapter without first obtaining a sign permit from the planning and zoning chairman.
- B. Routine Maintenance; No Permit Required: However, permitted or grandfathered signs shall be allowed to have routine maintenance, including changing of copy for on site users performed without obtaining a building permit as long as no structural changes, repairs or enlargements are made.

C. Plans, Designs, Specifications Or Drawings: All applications for sign permits shall be accompanied by plans, designs, specifications or drawings stating specifically all dimensions, animations, if any, lighting, colors, and plan of installation stating clearances and setbacks.

D. Authority To Refuse Permit: The director shall have the authority to refuse a sign permit for any sign which does not comply with the requirements of this code. (Ord. 6-5f, 1996)

E. Appeal: Appeal from the provisions or enforcement of this code shall be made as follows:

1. Appeal From Planning And Zoning Commission Decision:

a. Notice Of Appeal: An affected person aggrieved by the decision of the planning and zoning commission may file a written notice of appeal with the city council. Such notice must be filed within ten (10) days after the director's decision and shall clearly state the basis on which such person is an affected person as defined in Idaho Code section 67-6521, and the grounds for appeal. An appeal from an action of the planning and zoning commission shall automatically stay the issuance of a building or other permit until such appeal has been decided by the city council.

b. Fees For Appeal: The fees for an appeal from the planning and zoning commission's decision regarding permits under this chapter shall be set from time to time by resolution duly passed and adopted by the city council.

c. Public Hearing On Appeal: The city council shall hold a public hearing on an appeal pursuant to the procedures as provided in this chapter or other applicable law at the next regularly scheduled city council meeting, or at a special meeting called for that purpose.

2. Appeal From City Council Decision: A decision by the city council shall constitute the final decision. An affected person aggrieved by the decision may, within sixty (60) days of the date the decision is rendered, seek judicial review under the procedures provided in Idaho Code subsections 67-5215(b) through (g) and section 67-5216. (Ord. 6-5f, 1996; 2008 Code)

7-6-5: IMPAIRMENT OF TRAFFIC AND RIGHT OF WAY:

In addition to other requirements of the zoning code and sign code, all signs, including signs inside windows, shall comply with the following conditions:

- A. Obstruction At Intersections: No sign shall be erected at the intersection of any street(s) in such a manner so as to obstruct the free and clear vision of pedestrians and vehicular traffic, or at any location where, by reason of the position, shape, color, words, phrases or symbols, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
- B. Lights: No sign shall be erected or maintained which, by use of lights or illumination, creates an unduly distracting or hazardous condition to a motorist, pedestrian or the general public. (Ord. 6-5f, 1996; Ord. 6-5g, 2004)

7-6-6: SIGN MATERIALS:

- A. Signs: Signs may be constructed of painted, stained or carved wood; brick or stone; glass or metal, provided metal signs shall not be pointed on their edges creating a safety hazard and shall be treated to prevent reflective glare; or plastics or polymers.
- B. Support Structures: Exposed metal support structures for signs, including, but not limited to, posts, poles and sign sides or edges, must be faced or covered with wood, brick or stone, or be painted. The color and material must be approved by the planning and zoning chairman. Appeals from this decision shall be made to the city planning and zoning commission. (Ord. 6-5f, 1996)

7-6-7: CONSTRUCTION:

A. Specifications:

- 1. Code Compliance: All signs shall be Underwriters Laboratory (UL) approved except for signs typically not requiring Underwriters Laboratory approval, such as wood signs that are indirectly lighted. All other signs shall comply with the most current printing of the national electrical code/international building code. (Ord. 6-5f, 1996; 2008 Code)
- 2. Drawings: Drawings of all signs showing size, location, color or other information as deemed necessary by the planning and zoning chairman must be submitted prior to receiving a sign permit. All plans for freestanding signs, including roof mounted signs, ,however, with the exception of monument signs; shall be submitted with signature and stamp of a licensed engineer. The engineer's review of a sign structure shall include, but is not limited to, the effects of wind, seismic forces, allowable stresses, combined loads, overturning movement from lateral forces, and the stresses of wire, rope and their fastenings.

- B. Supports: The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of this code. (Ord. 6-5f, 1996)

7-6-8: SIGN SIZES:

- A. Proportioned In Size: All signs shall be proportioned in size to the building on which they are to be mounted or which contains the business they are advertising.
- B. Total Square Footage: The total square footage for all signs advertising on premises business shall be one square foot of sign for each linear foot of property frontage on a public right of way, and one square foot of sign for each linear foot of building frontage on a public right of way up to and including a total of three hundred (300) square feet. When the total linear feet of property frontage and building frontage exceeds three hundred feet (300'), the total size of the sign(s) may be increased by one-half ($\frac{1}{2}$) square foot of sign for each one foot (1') of additional linear property and building frontage. (Ord. 6-5f, 1996)

7-6-9: ADJUSTMENTS TO SIGN AREA PERMITTED:

The maximum square footage of allowable sign area may be adjusted as follows:

- A. Authority To Grant Variance: The city council is hereby granted the authority to authorize a size, height and setback variance for any sign within the city limits upon written application and public hearing conducted in the manner and by notice as provided by Idaho Code section 67-6509. The city council may impose reasonable conditions in the granting of any such variances.

7-6-10: NUMBER OF SIGNS:

The maximum number of freestanding signs for each business or parcel of property shall be one for each street frontage. (Ord. 6-5f, 1996)

7-6-11: GENERAL RESTRICTIONS:

- A. Moving, Mechanical Or Electrical Appurtenances: No moving, mechanical or electric appurtenances attached to a sign or otherwise intended to attract attention to a sign.
- B. Conflict With Public Devices Controlling Traffic: No sign shall be located so as to conflict with the clear and obvious appearance of public devices controlling public traffic.
- C. Rotating Beacon Lights: No rotating beacon lights above or attached to any sign structure, sign or building. (Ord. 6-5f, 1996)
- D. Animated, Rotating, Flashing Signs With Moving Parts: No animated, rotating, flashing signs or signs which have moving parts, and electric message center signs
- E. Portable Signs: No portable signs nor any device which can be classified as a portable sign, including, but not limited to, signs with wheels which can be rolled onto a sidewalk or street right of way, or signs which are supported by a heavy weight at the base which can be rolled into place; except, signs which are supported by an A-frame apparatus which can be easily moved from place to place or any other device, in the form of a sign, which is clearly of a temporary nature, subject to provisions of PCC7-6-14H, being used to advertise a sale or service available for a limited period of time, and which is not permanently affixed to a building or standard. (Ord. 6-5f, 1996)

F. Off Premises Signs:

- 1. No off premises signs are allowed unless specifically allowed elsewhere in this chapter. "Off premises sign" does not include directional and informational signs placed by governmental agencies. (Ord. 6-5g, 2-2-2004; 2008 Code)
- 2. Provided, with the express permission of the planning and zoning commission and the city council, a business locator sign may be placed adjacent to principal arterial roads subject to the following conditions:
 - a. Businesses: Only business(s) located in the city shall be allowed to be named or displayed on a business locator sign.
 - b. Message Restrictions: The purpose of these signs must be to allow businesses which do not front directly on Highway 95 or Highway 200 to clearly and easily guide customers to the respective places of business. The message displayed shall be restricted to those businesses' name, address and a directional arrow.
 - c. Joint Display Of Information: At each intersection of an arterial road, one freestanding sign may be erected on private property which allows for the joint display of business names and addresses that are accessed primarily or secondarily from that intersection.

d. Locator Sign:

- (1) Location: Said sign may be placed at or near the edge of the city right of way or such location as is specified by the city council; provided, that the sign is located entirely on private property.
 - (2) Framework Design: The locator sign's framework design shall allow for a minimum of six (6) businesses to each have a sign on the frame. The top sign is reserved for the individual or firm responsible for the construction and maintenance of the sign. The top sign shall not exceed three feet (3') in height by ten feet (10') in width. The other five (5) signs shall not exceed two feet (2') in height by ten feet (10') in width each.
 - (3) Maximum Overall Height: The maximum height overall shall not exceed twenty four feet (24'), which is also the recommended height.
 - (4) Design And Construction: The design and construction, including materials, colors and lighting of the first sign, shall become the standard for all of the signs on the framework so that a harmonious quality image is portrayed.
 - (5) Conformance With Building Codes; Insurance: The sign will conform to building codes then in effect and will be insured by the named parties for an amount specified by the city council with the city of Ponderay named as an additional insured. One business shall be named as the responsible party in dealing with the city.
 - (6) Maintenance: The sign will be maintained in a good and safe condition, but, in addition, the city may require maintenance or repairs from time to time. Said maintenance or repairs shall be completed within fourteen (14) days of notification or the sign will be removed at the expense of the businesses so listed.
- e. Cost; Insurance; Maintenance: The cost of the sign, insurance and the maintenance shall be paid for by the business(es) so listed. Costs may be prorated among the users. Businesses that use the sign after the original construction is completed may be required to reimburse the original parties on a prorated basis and then assume a proportional amount of the maintenance and insurance expense. (Ord. 6-5g, 2-2-2004)
- f. Located Entirely On Private Property: All signs in the city, except those existing on the effective date hereof, must be located entirely on private property. This restriction does not apply to directional and informational signs placed by governmental agencies. (Ord. 6-5g, 2-2-2004)
- g. Reader Board or Changeable Copy Signs: Reader board or changeable copy signs such as those displaying gas prices, vacancy, specials, or similar may be allowed with

planning and zoning commission and city council approval. The area of said signs shall be combined with any other on premises signs and the total size shall not exceed the maximum allowed for that business. This section shall not be construed as to allow Electronic Reader Board signs with moving, scrolling, flashing, animated images, or otherwise frequently changing copy prohibited by PCC 7-6-11D.

- h. New Billboards: No new billboards shall be constructed, erected or placed into service. However, billboards existing on site and in use as of August 3, 1992, may continue to be used for advertising purposes and they may have their copy changed without securing a building permit. No existing billboard may be otherwise altered or enlarged.
- i. Rural, Residential And Recreational Zones: No signs in rural, residential and recreational zone districts; provided, signs may be placed on property in a rural zone with a permit issued in accordance with section 7-6-4 of this chapter. (Ord. 6-5f, 1996)

7-6-12: DESIGN AND CONSTRUCTION STANDARDS:

- A. Height: No sign shall be designed, constructed or erected which extends to a height of more than five feet (5') above the roofline of the building containing the business it advertises, exclusive of false fronts, or a maximum height of twenty four feet (24'), whichever is lower.
- B. Setback: All freestanding signs located within the city limits of the city shall be set back a minimum of ten feet (10') from the property line, measured from the property line to the nearest point of the support structure. No projecting sign, canopy or marquee shall extend from a building to a point beyond eighteen inches (18") from the back of the adjacent street curb, nor shall they be lower than eight feet (8') from the back of the adjacent street curb, nor shall they be lower than eight feet (8') above the sidewalk above which they overhang. The setback for Monument signs shall be a minimum of five feet (5') from the property line.
- C. General: Signs and sign structures shall be designed and constructed to resist wind and seismic forces as specified in this chapter. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs or buildings the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such a manner as not to over stress any of the elements thereof.
- D. Supports: The supports for all signs or sign structures shall be placed in and upon private property, and shall be securely built, constructed and erected in conformance with the requirements of this code. (Ord. 6-5f, 1996)
- E. STANDARDS FOR SCENIC BYWAYS DISTRICT OVERLAY

1. Illuminated signs or lighting devices shall not be placed in such a manner as to permit beams and illumination there from to be directed or beamed upon a public thoroughfare, highway, sidewalk or navigable water.

2. Externally illuminated signs shall be downwardly directed

3. All wiring, fittings and materials used in the construction, connection and operation of electrically illuminated signs or advertising structures shall be in accordance with the provisions of all electrical codes established by the state of Idaho.

4. Not more than two (2) signs may be installed to identify a business, service, product, person, accommodation or activity. Businesses located on street corners may use up to three (3) signs.

5. Table 6-1 below provides dimensional standards for monument signs.

**TABLE 6-1
DIMENSIONAL STANDARDS FOR MONUMENT SIGNS**

Maximum height, measured at grade	10 feet
Maximum area	64 square feet
Landscaping	1 square foot of landscaping around base per sign area per each 0.5 square foot of sign area. A rock or masonry base or other natural landscape materials may be substituted as approved by the planning director.

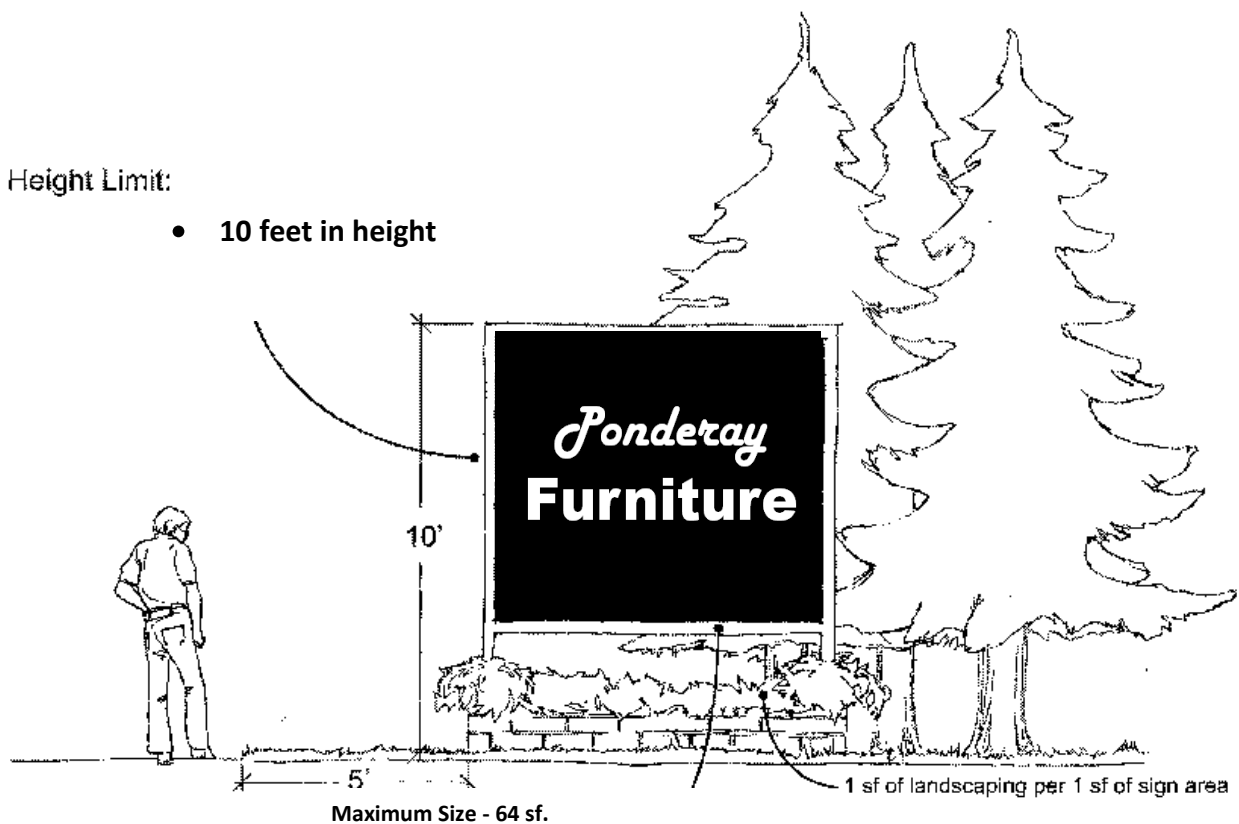


FIGURE 6-1
STANDARDS FOR MONUMENT SIGNS

7. Building mounted signs shall not project above the eaves line or parapet wall of the building to which it is affixed.

8. Moving, rotating or flashing signs, animated, and including electronic message center signs, or parts thereof, are prohibited.

7-6-13: LANDSCAPING:

The ground area around the base of all freestanding signs shall be landscaped; provided, that the building inspector and planning and zoning chairman may exempt freestanding signs from this requirement where it is demonstrated by the applicant that the landscaping would unduly interfere with pedestrian or vehicle traffic. (Ord. 6-5f, 1996)

7-6-14: EXEMPTED SIGNS:

The following signs shall be exempted from the provisions of this code; provided, that they meet the requirements set forth herein:

- A. Traffic Signs: All signs erected in a public right of way by a public agency controlling or directing traffic shall be exempt from the provisions of this code.
- B. Political Signs: Political signs pertaining to a specific election must be removed within five (5) days after the election by the candidate or property owner who placed the sign.
- C. Real Estate Signs: Real estate signs, not occupying any portion of the public right of way, and that do not misrepresent the current zoning district designation, in all zones as follows:
 - 1. A maximum of two (2) signs, which clearly state "for sale", not exceeding two feet by two feet (2' x 2') in size, per parcel of land.
 - 2. In addition to the above, real estate signs in commercial or industrial zones as follows:
 - a. A maximum of one sign for each side of a parcel that fronts on a public right of way. Said signs shall not exceed four feet by four feet (4' x 4') in size. They may be double faced, both sides being parallel and attached to one another.
 - b. In addition, each sign shall clearly state that the parcel upon which the sign is located is "for sale" or "for lease".
 - c. Construction Signs: Construction signs announcing the construction of a building or project naming owners, contractors, subcontractors, lending institutions, and architects, not to exceed one sign of thirty five (35) square feet for each street frontage of the building frontage. Said sign shall be removed upon occupancy of the building for which the sign was intended.
 - d. Flags: Flags, either official or historical, of any state or nation.
 - e. Signs Inside A Building Or Window: Any sign inside a building or inside a window, except flashing, animated or rotating signs visible from outside the building. The total percentage of window coverage for signs on the interior of a window shall not exceed thirty five percent (35%).
 - f. Owner Or Occupant Identification Signs: Owner identification or occupant identification

signs for residential structures, private warning signs, and for sale or for rent signs, none of which may exceed two (2) square feet.

- g. Temporary Signs/Banners: Temporary signs/banners located on property to announce conventions or business special events and which shall be immediately removed at the conclusion of the event or within fourteen (14) days after erection of the temporary sign/banner, whichever is earlier, which time period may be otherwise extended, in writing, by the planning director upon a showing of good cause.
- h. Murals: Murals, provided no words are used with the intent of advertising. All requests for murals shall be approved by the planning and zoning chairman and the planning and zoning commission.
- i. Nonprofit Organizations: Chamber of commerce, central business associations and other nonprofit organizations that typically list local community events. The combined total for all signs shall not be more than one hundred (100) square feet. Freestanding signs shall be placed within a landscaped area. Each entrance to the city shall have a designated area for these signs. All signs advertising a specific event shall be removed as provided in subsection H of this section.
- j. Housing Complex or Building Names: Signs stating the name of a housing complex or building ; provided, that the sign does not exceed twenty five (25) square feet. Freestanding signs shall be placed within a landscaped area and shall be approved by the planning director. (Ord. 6-5f, 1996)

7-6-15: NONCONFORMING SIGNS:

- A. Definition: A "nonconforming sign" is any sign which was placed or erected prior to the effective date hereof, or is located in newly annexed territory, and which does not conform to the provisions of this chapter as it may be amended from time to time.
- B. Deemed Vacated: When a nonconforming use ceases or remains dormant for one year or more, it shall be conclusively deemed vacated. Said nonconforming use shall not be reinstated or reactivated under any circumstance.
- C. Nonconforming Due To Exposed Metal Support Poles, Structures Or Edges; Design Or Construction Standards: All nonconforming signs which are nonconforming due to exposed metal support poles, structures or edges, or because of design or construction standards are allowed to remain as long as they advertise a bona fide business; provided, however, nonconforming signs altered or changed within any twelve (12) month period to a value equal to thirty five percent (35%) of their current value shall comply with all the provisions of this chapter. In addition, all temporary and/or A-frame and signs not meeting the provisions of this chapter shall be removed within thirty (30) days of the passage of this chapter. Flashing or rotating signs shall comply with the

provisions of this chapter within sixty (60) days of its passage.

- D. Nonconforming Due To Setback Requirements: All signs that are nonconforming only because of the setback requirements set forth in subsection 7-6-12B of this chapter are hereby not required to move, provided they are not located on public right of way, in which case they are required to be moved so as to be in compliance with subsection 7-6-12B of this chapter. (Ord. 6-5f, 1996)
- E. Nonconforming uses may be decreased in nonconformity based on the standards of this chapter subject to the discretion of the Planning Director but shall not be increased.

7-6-16: MAINTENANCE AND REPAIR:

Every sign, including, but not limited to, those signs for which permits are required or for which no permits or permit fees are required, shall be maintained in a safe, presentable and good structural material condition at all times, including the repair or replacement of defective parts, painting, repairing, cleaning and other acts required for the maintenance of said sign. The building inspector shall require compliance with all standards of this provision. If the sign is not made to comply with adequate safety and maintenance standards, the planning and zoning chairman shall require its removal in accordance with this provision. (Ord. 6-5f, 1996)

7-6-17: REMOVAL AND DISPOSITION OF SIGNS:

- A. Abandoned Signs: Except as otherwise provided in this chapter, any sign which is located on property which becomes vacant and unoccupied for a period of two (2) months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business, shall not be deemed abandoned unless the property remains vacant for a period of six (6) months or more. Any sign which, for a period of three (3) consecutive months, advertises goods, products, services for facilities available to the public, shall be deemed to have been abandoned. Abandoned signs shall be removed by the owner of the premises on which the sign is located. Signs that are conforming under the provisions of this chapter as to location, size, etc., but no longer advertise a bona fide business, may, with the approval of the property owner/tenant and the planning and zoning chairman of the city, cover the message or sign copy with paint or other materials as approved by the planning and zoning chairman. In the event the property owner refuses to cover a conforming sign that no longer advertises a bona fide business and is deemed to be abandoned, the remaining provisions of this chapter shall be enforced.
- B. Dangerous Or Defective Signs: No persons shall maintain or permit to be maintained,

on any premises owned or controlled by him, any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises or the owner of the sign. Upon failure of the owners to remove or repair a dangerous or defective sign, the building inspector shall proceed as described in subsection C of this section.

- C. Removal Of Signs: The building inspector shall cause to be removed any sign that endangers the public safety, such as an abandoned, dangerous, or materially, electrically or structurally defective sign. The building inspector shall prepare a notice which shall describe the sign and specify the violation involved, which notice shall state that if the sign is not removed or the violation is not corrected within twenty (20) days, the sign shall be removed by the city in accordance with the provisions of this section.
- D. Notice: All notices mailed by the building inspector shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the mailing of the certified mail. The notice shall be mailed to the owner of the property on which the sign is located, the owner of the sign and the occupant of the property. If any such person is unknown or cannot be found, notice shall be mailed to such person's last known address, if any, and posted on the sign or on the premises.
- E. Emergency Action: Notwithstanding the above, in cases of emergency, the planning and zoning chairman and/or building inspector may cause the immediate removal or repair of a dangerous or defective sign without notice. Further, when it is determined by the building inspector that any sign causes an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice need be served. In this emergency situation, the building inspector may correct the danger. All costs of action taken pursuant to this subsection may be charged to the sign owner and property owner.
- F. Appeal: Any person having an interest in the sign or the property may appeal the determination of the building inspector ordering removal or compliance by filing a written notice or appeal with the city planning and zoning commission within ten (10) days after receipt of the notice.
- G. Disposal Of Signs; Costs: Any sign removed by the building inspector pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate. The cost of removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the city. The costs of removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal.
- H. Salvage: If it shall be necessary for the building inspector to remove a sign pursuant to the provisions hereof, and if it should be practicable to sell or salvage any material

derived in the aforesaid removal, he may sell the same at private or public sale at the best price obtainable and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be used to offset the costs of removal to be charged to the sign owner or property owner.

- I. Costs: Any excess cost over and above such costs and the cost of the removal shall be levied as an assessment against the property on which the sign is located by the city council, certified to the auditor, and collected as any other assessment by the city. Should the proceeds of any sale exceed the costs, the excess shall be paid to the owner of the premises from which said sign was removed or to the owner of said sign, whenever claim thereof is established. (Ord. 6-5f, 1996)

7-6-18: PENALTY:

- A. Civilly Enjoin Violation: The city attorney may, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this chapter.
- B. Penalties: Penalties for failure to comply with or for violations of the provisions of this chapter shall be as follows:
 1. Infraction: The first violation of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute an infraction for each offense, and shall be punished by a one-hundred dollar (\$100) fine.
 2. Misdemeanor: A second violation within a year, of any of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor and shall be punished as provided in section 1-2-1 of this code.
 3. Separate Offense: Each day such violation continues shall be considered a separate offense. The landowner, tenant, sub-divider, builder or any other person who commits, participates in, assists in or maintains such violation, may be found guilty of a separate offense.
 4. Additional Remedies: Nothing herein contained shall prevent the city council, or any other public officer, or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this chapter or of the Idaho Code. (Ord. 6-5f, 1996)

Chapter 7

UTILITY AND CULVERT INSTALLATION STANDARDS

7-7-1: INTENT:

Any construction, installation, extension, modification, maintenance or repair of water, sewer, drainage, telephone, electrical, gas line, cable television or other utility service, or any culverts used for any purpose, within the public streets, rights of way or other properties of the city shall be governed by and shall comply with the terms, conditions, requirements and provisions of this chapter. (Ord. 2-6, 1999)

7-7-2: APPLICATION AND APPROVAL:

A. Required: Prior to any construction, excavation or the breaking, opening or closing of any ground in the public streets, rights of way or other properties of the city for any purpose encompassed by this chapter, the property owner, or the person or entity to perform the work, shall make application to the city clerk for approval of such work, upon an application form adopted by resolution of the city council.

B. Mayor's Endorsement Required: The work which is the subject of the application required by this section may begin only upon the endorsement of the mayor's or the city clerk's written approval upon said application. (Ord. 2-6, 1999)

7-7-3: APPLICATION CONTENTS:

The application referred to in section [7-7-2](#) of this chapter shall require at least the following:

A. The name and mailing address of the property owner and, if different, the person or entity to perform the work.

B. The address or location of the property subject to the proposed work.

C. A description of the nature of the proposed work.

- D. An acknowledgment by the applicant that said applicant has received a copy of this chapter.
- E. The agreement of the applicant that said applicant shall be responsible for compliance with the terms, conditions and provisions of this chapter.
- F. The agreement of the applicant to hold the city harmless from any and all claims, actions or damages of any kind or description which may occur to, or be suffered by, any person, entity or property by reason of the work described in the application.
- G. The signature of the applicant.
- H. The signature of the mayor or the city clerk signifying approval of the application.
(Ord. 2-6, 1999)

7-7-4: SPECIFICATIONS AND RESPONSIBILITY FOR CULVERTS:

- A. Specifications: Specifications for any culvert installed by any person or entity in the public streets, rights of way or other property of the city are as follows:
 - 1. Minimum diameter is twelve inches (12"). If the existing ditch is too shallow for the installation of a twelve inch (12") culvert, a smaller diameter may be installed upon approval by the city engineer and by the city.
 - 2. Plastic or metal culverts may be installed if standard traffic loads are met.
 - 3. Maximum length of a culvert is forty feet (40'), unless an approved manhole is installed such that the distance between any two (2) manholes or a manhole and the end of the culvert is no more than forty feet (40').
 - 4. Culverts shall be installed in accordance with the "typical culvert installation plan" as may, from time to time, be prepared by the city engineer.

- B. Maintenance: The owner of the property benefited by the culvert is responsible for maintenance of the culvert after installation and shall keep the culvert free from all gravel and debris, whether natural or manmade, from whatever source. (Ord. 2-6, 1999)

7-7-5: PROTECTION OF PROPERTY:

Whenever any work requiring approval pursuant to this chapter causes any obstruction in the public streets, rights of way or other property of the city, the applicant shall take reasonable precautions to protect the property for which the work is being performed and any other property from harm. (Ord. 2-6, 1999)

7-7-6: REPAIR AND RESTORATION OF GROUNDS:

- A. Required: The applicant shall repair and restore, or cause to be repaired and restored, to as good or better condition all public streets, rights of way or property of the city and all other private properties which may have been disturbed during the work described in the application.

B. Supervision, Inspection Or Examination Of Repairs And Restoration:

1. Designated City Inspector: The city shall designate and appoint a qualified person or persons to supervise, inspect or examine the repair and restoration of the public streets, rights of way or property of the city and all other private properties which may have been disturbed during the work described in the application.
 2. Costs: The applicant shall pay the reasonable cost of supervision, inspection or examination of the repair and restoration required by the city under this section, which costs shall be due and payable thirty (30) days after the date of mailing of a statement of the costs to the applicant. Any cost, or portion thereof, past due and payable under this section shall bear interest at the legal rate of interest on money due as established by Idaho Code subsection 28-22-104(1).
 3. Responsibility To Contact City: It is the applicant's responsibility to contact the designated city inspector to inspect the work at such times as may be reasonably necessary to assure that the work is performed in accordance with applicable standards and regulations.
- C. Failure To Repair And Restore: Should the applicant fail or refuse to repair and restore the public streets, rights of way or property of the city and all other private properties which may have been disturbed during the work described in the

application to the same or better condition as said property was in prior to the commencement of the work, as determined by the city or its designee, within a reasonable time after completion of said work, the same may be repaired and restored by the city or by any affected property owner at the expense of the applicant. (Ord. 4-36a, 5-2-2005)

- D. Standards: The city council may adopt, from time to time, by resolution, standards with which applicants must comply in the repair and restoration of utility and culvert installations as contemplated by this chapter. (Ord. 4-36a, 5-2-2005; 2008 Code)

7-7-7: FILING OF RECORD FOR WORK PERFORMED:

At the conclusion of the work described in the application, the applicant shall file with the city clerk a record of the work as completed, demonstrating its location, the nature of the work performed, and the location of any pipe, line, distribution or service line or pipe, meter, hydrant, station, manhole, or any other object whatsoever which has been placed, installed or located with a public street, right of way or public property of the city. (Ord. 2-6, 1999)

7-7-8: HOLD HARMLESS AGREEMENT:

By filing the application to perform work in the public streets, rights of way or other property of the city, the applicant agrees to protect and hold harmless the city from all claims, actions or damages of any kind or description which may occur to, or be suffered by, any person, entity, or property by reason of the work described in the application. (Ord. 2-6, 1999)

7-7-9: EMERGENCY WORK:

When construction, installation, modification, excavation, extension, repair or similar activity is necessitated by an emergency such that the general well being, welfare, safety and protection of the residents of the city and their property is endangered, the following shall apply:

- A. Performed On Private Property: If the work necessitated by the emergency is performed on private property, the owner of such property shall be deemed an "applicant" within the meaning of this chapter.
- B. Performed On Public Street, Right Of Way Or Other Public Property: If the work necessitated by the emergency is performed on a public street, right of way or other

public property of the city, the person or entity performing the work shall be deemed an "applicant" within the meaning of this chapter.

- C. Written Notification: The person or entity deemed to be an "applicant" within the meaning of this chapter shall, within seven (7) days after such emergency work is performed, provide written notification to the city clerk of the location and nature of the work performed, which notification shall also include the date on which the work was performed. (Ord. 2-6, 1999)

7-7-10: PENALTIES:

- A. Misdemeanor: Any applicant who violates any of the provisions of this chapter, or who fails or refuses to comply with any of the terms and conditions of this chapter and the application required hereunder, shall be guilty of a misdemeanor and, upon conviction, shall be subject to penalty as provided in section [1-2-1](#) of this code. (Ord. 2-6, 1999; 2008 Code)
- B. Separate Offense: Each day during which a violation of this chapter occurs, or upon which the applicant fails or refuses to comply with the terms and conditions of this chapter and the application required hereunder, shall constitute a separate offense.
- C. Additional Remedies: In addition to the penalties prescribed herein, the city shall and does have the right to pursue any other remedy available to it, at law or in equity, to compel or enforce compliance with the provisions of this chapter. (Ord. 2-6, 1999)

Chapter 1

SUBDIVISIONS

8-1-1: SUBDIVISION DEFINED; REGULATIONS:

A. Definition: A "subdivision", for the purposes of processing under the rules and regulations of this chapter, shall be defined as any division of a tract, lot or parcel of land into two (2) or more parcels for the purpose of transfer of ownership or building development whether immediate or future. Any parcel of land that has been platted shall not be divided again without replatting. However, this chapter shall not apply to any division of land which is:

1. Created by or as a result of court order.
2. Created by lien mortgage, or trust indenture.
4. Created by the reservation of a "life estate".
5. May receive recommendation for a variation by the planning and zoning commission where proof of significant and primary agriculture use can be established.
6. The result of a donation of property to the city of Ponderay or to any public agency, utility, or taxing district providing benefit to the City of Ponderay.
7. For the purpose of transfer to a member of the immediate family of the owner, for said member's personal use and not for resale or development for resale.
8. An adjustment of lot lines, whether shown on a recorded plat or otherwise, and which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements, and which does not increase the number of lots in any block of the recorded plat of which they are a part. (Ord. 6-9c, 3-15-2004)

B. Survey And Recording Required: Any division of land into two (2) or more parcels must be surveyed and recorded with the county recorder if any one parcel in the division is less than five (5) acres.

C. Unsuitable Land For Subdividing: No land shall be subdivided for residential use if such land is considered by the commission to be unsuitable for such use by reason of

flooding or improper drainage; or which is objectionable in regards to the earth, or to the health and safety of possible residents and the community as a whole. All structures used for human habitation shall have a first floor elevation at or higher than the 100-year floodplain elevation as shown on FEMA maps.

- D. Circulation Plan: All proposed subdivisions shall conform to the circulation plan. Whenever a tract to be subdivided embraces any part of an arterial street or road, such part shall be platted by the subdivider in the location and of a width indicated in the circulation plan. Due consideration shall also be given by the sub-divider to owners of adjoining property for the provision of school sites, park sites, right of way for public utilities, and sites for business and commercial centers. (Ord. 6-9, 1994; Ord. 6-9a, 2001)
- E. Minimum Lot Size Without Existence Of Urban Services: Where urban services are not available, two and one-half ($2\frac{1}{2}$) acres or a $\frac{1}{256}$ aliquot division of the section shall be the minimum site area. Urban services include public water and sewer systems as well as the availability of telephone and electric utilities. (Ord. 6-9h, 6-5-2006)

8-1-2: APPLICATION PROCEDURES:

An applicant for a subdivision shall:

- A. Become Acquainted With Area: Become acquainted with the area in regard to zoning, circulation, drainage, topography, water supply, sewer systems, solid waste disposal, etc. This will give an indication as to the type of development best suited for the area in regard to lot sizes, placement of roads, drainage, water and sewage problems to be solved, and other development considerations.
- B. File Complete Application: File a complete application for subdivision with the city clerk. A complete application will include the following:
1. Application Form: Application form, available in the city clerk's office, to be completely filled out, including legal owner's signature (or a letter from the holder of legal title authorizing the applicant to file for the subdivision), and a copy of any purchasing agreement.
 2. Preliminary Plat: Ten (10) prints of a preliminary plat showing the parcel or parcels to be

divided clearly and legibly drawn at a scale of one inch equals forty feet (1" = 40') or one inch equals one hundred feet (1" = 100'). This map will include the following, if applicable:

- a. Subdivision name and number, geographic grid (township, range, section number and location within the section); and vicinity map showing location and boundary of the proposed tract and existing roads and circulation pattern in the vicinity.
 - b. Boundary lines of the tract to be subdivided drawn to scale, together with intersecting property lines, abutting public and private roads.
 - c. The location, dimensions, and area (in acres or square feet) of proposed lots. All proposed lots shall be numbered in a systematic order.
 - d. The location, dimensions, and tentative names of proposed streets.
 - e. Sufficient contours to show the shape of the land and extending at least one hundred feet (100') beyond the subdivision limits (use of USGS map acceptable in some cases).
 - f. Location of all watercourses and approximate areas subject to inundation of storm water overflow.
 - g. Existing wells, springs, drainage, channels, overhead and underground utility lines, structures, sanitary sewers, and culverts within the tract and immediately adjacent thereto.
 - h. A narrative description of the proposed method of water supply, sewage disposal, solid waste disposal and storm water control, if any.
 - i. All easements of record, including sufficient recording data to identify the conveyance.
 - j. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the purpose indicated.
 - k. A statement setting forth the intended land use of the parcels, i.e., residential, agricultural, commercial, industrial, or other appropriate land use classifications.
 - l. North arrow and scale.
 - m. A five hundred foot (500') radius map, together with a list of all property owners' names and addresses within said radius.
 - n. Any other information necessary for consideration of the application.
3. Fee: a Filing fee as set from time to time by resolution.

4. Written Statement: A written statement describing the purpose of the division, i.e., whether for sale or development, and whether development is expected to occur within the next twelve (12) months.

C. Land Survey: The applicant is not required to or advised to have a land survey performed on the proposed subdivision until after approval of the preliminary map by the planning and zoning commission. (Ord. 6-9c, 3-15-2004)

D. Approval Of City Engineer Before Application Is Complete: Any application for preliminary plat must contain the signature of the city engineer confirming that urban services are available to the proposed lots. If the applicant is unable to do so, the preliminary plat shall meet the minimum lot size defined under this title. (Ord. 6-9h, 6-5-2006)

8-1-3: PUBLIC HEARING:

A public hearing is required for any application under this chapter. The city shall mail out notification of the public hearing to property owners within the five hundred foot (500') radius. The planning and zoning commission shall recommend approval or denial to the city council. The city council shall hold a separate public hearing with the same notice provisions and shall make a decision to approve the application as presented or with additional conditions or deny the application in its entirety. The city planning director shall issue a written decision outlining its findings of fact and conclusions of law within twenty eight (28) days. The city council may remand the application to the applicant to make changes. Proposed changes must be clearly outlined for the applicant. (Ord. 2007-3, 5-7-2007)

8-1-4: APPEAL; DEADLINE TO FILE FINAL PLAT:

A. Appeal: Any aggrieved party may appeal the decision to the city council in accordance with the procedures outlined in the administrative procedures act of the state of Idaho.

B. Deadline To File Final Plat; Extension: The applicant shall have two (2) years to complete and file a final plat following the approval of the preliminary plat. The city may grant a one year administrative extension with the approval of the city engineer. The city will notify the applicant approximately thirty (30) days before the deadline to complete final plat. (Ord. 2007-3, 5-7-2007)

8-1-5: ENGINEERING REQUIREMENTS; FEES; BONDS:

A. Improvement Plan: After the preliminary plat is approved, any person desiring to develop one or more lots shown in said plat shall have an improvement plan for the subdivision prepared by a registered civil engineer. Two (2) copies of the improvements plan shall be filed with the city engineer. This plan shall include the following:

1. The subdivision name and number, geographic grid (township, range, section number and location within the section), north arrow, date, and recommended scales, i.e., one inch equals forty feet (1" = 40') or one inch equals one hundred feet (1" = 100').
2. The plan and profile of all proposed roads showing final grades and cross sections of roads at appropriate intervals.
3. The plan and profile of all proposed sanitary and storm water systems with grades and sizes indicated. Drain calculations may be required.
4. A grading plan, showing storm water drainage for each lot.
5. Storm water management plan. (Ord. 6-9c, 3-15-2004)
6. Any other improvements such as curbs, gutters, sidewalks, bridges, lift stations, fire hydrants, streetlights, multi-use pedestrian/bike paths or trails, etc., as required by the city as conditions of preliminary plat approval.
7. All improvements and infrastructure shall extend through the subdivision to the property line boundaries. This requirement may be waived in whole or part by the city during the preliminary plat process. (Ord. 2007-3, 5-7-2007)

B. Checking Fee: A checking fee as determined from time to time by resolution of the city council will be required when filing the improvement plan. (Ord. 6-9, 1994; Ord. 6-9a, 2001; 2008 Code)

C. Bond: If the subdivider/developer wants to file the final plat before all work is completed, the subdivider/developer shall file a bond with the city clerk in the amount of the cost of subdivision improvements times 1.5, signed by a registered civil engineer. (Ord. 6-9c, 3-15-2004)

D. Inspections: The city engineer, or his representatives, shall check inspection reports of the subdivider/developer's engineer and shall perform a final inspection and additional inspections (if called for) at a fee as determined from time to time by resolution of the city council per inspection. (Ord. 6-9c, 3-15-2004; 2008 Code)

E. Agreement In Lieu Of Completing All Improvements:

1. Agreement With City: In lieu of completing all improvements as required before filing of the final plat, the subdivider/developer shall enter into an agreement with the city council, agreeing to complete the improvements in accordance with requirements and within a time specified in the agreement, and to pay to the city the cost of checking and inspecting the work. (Ord. 6-9c, 3-15-2004)

2. Cash Deposit; Bond: A cash deposit in an amount to be determined from time to time by resolution of the city council shall be required of the subdivider/developer at the time of the execution of the agreement, together with such additional surety, either cash deposit or acceptable corporate surety bond, equivalent to the estimated cost of construction of the improvements times 1.5, guaranteeing performance of the work and repair of any defects in improvements which occur within one year of the first acceptance of the work as complete. (Ord. 6-9c, 3-15-2004; 2008 Code)

3. Payment For Labor, Materials, And Any Defects: Payment for labor and materials, and for any defects in improvements which occur as a result of the improvement work set forth in the subdivision agreement, shall be filed with the county recorder.

4. Warranty Of Workmanship And Materials: The subdivider/developer must also provide a one year warranty of workmanship and materials on the work if the work is completed before filing of the final plat. (Ord. 6-9c, 3-15-2004)

F. Preliminary Title Report: A copy of the current preliminary title report shall be submitted to the office of the city engineer. (Ord. 6-9, 1994; Ord. 6-9a, 2001)

G. Final Plat:

1. Number Of Copies: Five (5) copies of the final plat shall be submitted to the office of city planning.

2. County Surveyor Fees: All county surveyor fees shall be paid by the subdivider/developer.

3. Conformance Required: The final plat shall conform with the following items: (Ord. 6-9, 1994; Ord. 6-9a, 2001)

a. Name of subdivider and, if applicable, the name of the developer; and the name of the larger subdivision or tract of which it forms a part, if any. (Ord. 6-9c, 3-15-2004)

b. Name of the surveyor.

c. The "initial point" and description thereof, shall be indicated on the drawing and the location and description in conformance with the Idaho Code.

d. Street lines of all existing or recorded streets, principal property lines, patent lines, township lines, or section lines, intersection, crossing or contiguous to the subdivision (which should be mathematically tied to the lines of the subdivision by distances and bearings), and the status of adjoining property shall be indicated (name of subdivision or unplatted area).

e. The accurate location and description and filing of all monuments shall be in accordance with the corner perpetual and filing act.

f. Basis of bearing.

g. The length and bearings of the lines of all lots, streets, alleys, and easements as laid out, length of arc, points of curvature, radii, and tangent bearings in the case of curved lines (the system of lengths and bearings of the boundary lines).

h. All lots shall be numbered or lettered and all streets should bear tentative names and conform with the Idaho Code.

i. The accurate outline of all property that is offered for dedication for public use, with the purpose indicated thereon, and all property owners in the subdivision and conform with the Idaho Code.

j. Private restrictions, if any.

k. North arrow, graphic scale and date (whether the north arrow is magnetic or true north should be indicated).

l. A certificate of a licensed surveyor of the state of Idaho to the effect that the plat represents a survey made by him, that all of the monuments shown thereon actually exist and that their positions are as shown.

H. Additional Information: The final plat shall also contain the following information:

1. A notarized description of the property encompassed by the plat, dedications and restrictions.
2. A place for certificate of surveyor.
3. A place for health district approval.
4. 5. A place for city engineer's approval.
6. A place for mayor and clerk's approval.
7. A place for county treasurer's approval.
8. A place for county recorder's approval.
9. A place for county surveyor's approval. (Ord. 6-9, 1994; Ord. 6-9a, 2001)
10. A place for planning director approval. (Ord. 2007-3, 5-7-2007)
11. A place for sewer district approval.

8-1-6: ROAD SPECIFICATIONS:

Any new lot is required to have direct access on a public street. Access to up to four lots may be permitted by private drive which shall be constructed to the satisfaction of the city engineer. The following specifications shall apply to design and construction of all new roads built for city acceptance:

- A. Minimum Right Of Way Width: All roads shall have a sixty foot (60') wide minimum right of way.
- B. Culs-De-Sac: All culs-de-sac must have minimum radii of sixty feet (60') and are permitted only as temporary placeholders for future road connection where warranted by city comprehensive plan or other council adopted transportation plans.
- C. Roads Centered In Right Of Way: All roads shall be centered in the right of way. Certain adverse conditions may necessitate an off center placement of the road. These changes shall first be approved by the city engineer.

D. Street Trees: All road rights of way shall be planted with street trees in accordance with a street tree list provided by the planning director, subject to the approval of the city engineer and city planning department.

E. Conformance With Typical Road Section: All slopes, ditches, and particulars of roads designed, constructed or offered for city acceptance shall conform to the "typical road section" as may be adopted from time to time by resolution of the city council. (Ord. 6-9f, 2-7-2005)

F. Slope: A minimum of two percent (2%) slope shall be maintained in all ditches. The culverts shall be adequate to carry water of a 50-year flood. Trash racks may be required in certain areas. The drainage within the right of way shall be adequate to carry all runoff of the surrounding drainage area. An engineered drainage plan may be required for certain areas.

G. Structural Section Of Roadbed: The structural section of the roadbed shall consist of subbase, base and surfacing when required. In general, the base material of the roadbed can be classed in three (3) categories: 1) clay, 2) sand or gravel and 3) rock. The diagrams in sections 8-1-7 and 8-1-8 of this chapter give a "typical road section".

H. Requirements On Different Basement Soils: The following gives the requirements for the structure section on different basement soils:

1. Soft expansive clays:

a. Two feet (2') of subbase of six inch minus (6"-) pit run with a sand equivalent of not less than thirty percent (30%) shall be placed upon fabric and compacted to ninety three percent (93%) density. Fabric specifications should be submitted to the city engineer prior to construction for approval. Most pit run gravel in the county will meet this specification. A good quality shale could be substituted for the pit run.

b. A commercial grade three-fourths inch minus ($\frac{3}{4}$ "-) crushed rock shall be placed and compacted to a depth of six inches (6"), compaction to be ninety five percent (95%) density.

c. Surfacing with asphalt concrete or BST may be required for high traffic volume roads or other environmentally sensitive areas.

2. Moderate clay:

- a. One and one-half feet ($1\frac{1}{2}'$) of subbase of six inch minus (6"-) pit run with a sand equivalent of not less than thirty percent (30%) shall be placed upon fabric and compacted to ninety three percent (93%) density. Fabric specifications shall be submitted to the city engineer prior to construction for approval. Most pit run gravel in the county will meet this specification. A good quality shale could be substituted for the pit run.
- b. A commercial grade three-fourths inch minus ($\frac{3}{4}"$ -) crushed rock shall be placed and compacted to a depth of six inches (6"), compaction to be ninety five percent (95%) density.
- c. Surfacing with asphalt concrete or BST may be required for high traffic volume roads or other environmentally sensitive areas.

3. Silty sand:

- a. One foot (1') of subbase of six inch minus (6"-) pit run with a sand equivalent of not less than thirty percent (30%) shall be placed upon fabric and compacted to ninety three percent (93%) density. Fabric specifications shall be submitted to the city engineer prior to construction for approval. A good quality shale rock may be substituted for the pit run.
- b. A commercial grade three-fourths inch minus ($\frac{3}{4}"$ -) crushed rock shall be placed and compacted to a depth of six inches (6"), compaction to be ninety five percent (95%) density.
- c. Surfacing with asphalt concrete or BST may be required for high traffic volume roads or other environmentally sensitive areas.

4. Sand or gravel:

- a. No subbase will be required if the existing material has a sand equivalent of thirty percent (30%), and meets the six inch minus (6"-) requirements. Compact the existing material to ninety-three percent (93%) density for the top nine inches (9").
- b. A commercial grade three-fourths inch minus ($\frac{3}{4}"$ -) crushed rock shall be placed and compacted to a depth of six inches (6"), compaction to be ninety five percent (95%) density.
- c. Surfacing with asphalt concrete or BST may be required for high traffic volume roads or other environmentally sensitive areas.

5. Rock:

- a. Subbase will only be required as a leveling course for the base material. The subbase

shall meet the six inch minus (6"-) requirement and have a sand equivalent of not less than thirty percent (30%) compacted to ninety three percent (93%) density, and be at least eight inches (8") above all large rock.

- b. A commercial grade three-fourths inch minus ($3/4$ "-) crushed rock shall be placed and compacted to a depth of six inches (6"), compaction to be ninety five percent (95%) density.
- c. Surfacing with asphalt concrete or BST may be required for high traffic volume roads or other environmentally sensitive areas.
- I. Plan For Structural Roadbed Section: If the owner or contractor finds that he can construct a road to meet the heavy traffic load of the city and construct a road which is not susceptible to frost heave, he shall submit a plan for a structural roadbed section designed by a civil engineer licensed in the state of Idaho. If the plan meets all requirements for traffic loads and frost heave, and includes the necessary soils tests to back up the design, the plan will be approved for construction by the city. If no design is submitted for structural section, the final determination of basement soil and structural section will be made by the city engineer.
- J. Road Intersections: All road intersections shall be at a ninety degree (90°) angle.
- K. Maximum Grade: The maximum grade of most roads shall be eight percent (8%). On high traffic density roads the maximum grade shall be six percent (6%) as determined by the city engineer. In rough terrain the grade can be as high as nine percent (9%); provided, that an engineered plan is submitted showing that all other possibilities have been explored.
- L. Minimum Curve Radius: The minimum curve radius for collector and access roads shall be two hundred feet (200'). The minimum curve radius for primary roads shall be four hundred feet (400'). There shall be no broken back curves.
- M. Minimum Culverts: The minimum culvert in the roadway shall be eighteen inches (18") in diameter. The minimum culvert for approach or driveway shall be twelve inches (12") in diameter. All culverts shall be minimum of 16-gauge galvanized corrugated steel, corrugated aluminum or ADS N-12 double wall storm drainage pipe.
- N. Dead End Streets: A city engineer approved turnaround is required for all dead end streets.

- O. Paving Requirements: All streets accepted by the city must be paved with two and one-half inch ($2\frac{1}{2}$ ") compacted depth of asphaltic concrete. (Ord. 6-9, 1994; Ord. 6-9a, 2001)

8-1-7: Development Agreement

Development agreement may be entered into by the city and developer as a condition of, or following preliminary approval for clarification of development standards, timing, and responsibilities for pending improvements.

Chapter 2

LOT LINE ADJUSTMENTS

8-2-1: APPLICATION:

A. Required: An application for the adjustment of lot lines between two (2) or more existing adjacent lots or parcels, whether platted or not, where land taken from one lot or parcel is added to an adjacent lot or parcel, and for notational changes in surveys, plats or property descriptions, shall be required.

B. Notational Changes: Notational changes shall include, but not be limited to:

1. The combining of two (2) or more lots;
2. Any adjustment of lot lines where no additional lots or parcels than originally existed are created, and where no lot or parcel is reduced below the minimum lot or parcel size for the zoning district in which the lots or parcels are located, except that if a lot or parcel is already below the minimum lot or parcel size, said lot or parcel shall not be further reduced in size. (Ord. 6-17, 3-15-2004)

8-2-2: CONTENTS OF APPLICATION:

All applications for adjustments of lot lines and minor notational changes shall include:

A. Preliminary Plat: A preliminary plat containing the minimum information required for a preliminary plat under subsection 8-1-2B of this title.

B. Letter From Health District Regarding Sanitary Restrictions: A letter from the Panhandle health district, and/or the applicable sewer and health districts, stating that the requirements for the sanitary restriction as set forth in Idaho Code title 50, chapter 13, have been met, or are not affected by a readjustment of lot lines.

C. Additional Information: Any additional information required for a thorough review of the

application as may be reasonably requested by the city engineer.

- D. Copy Of Recorded Plat: Applications shall additionally include one copy of the plat currently recorded, marked to clearly indicate the proposed changes to the plat. (Ord. 6-17, 3-15-2004)

8-2-3: DESIGN CRITERIA:

Applications for lot line adjustments shall conform to the design criteria for subdivisions. (Ord. 6-17, 3-15-2004)

8-2-4: FEES:

A lot line adjustment application fee as determined from time to time by resolution of the city council will be required when filing such an application. No application submitted pursuant to this chapter shall be deemed complete nor any plat recorded until all fees have been paid. (Ord. 6-17, 3-15-2004; 2008 Code)

8-2-5: HEARING:

The planning and zoning commission shall conduct a hearing on the application, which need not be a public hearing. The commission shall decide whether to approve or reject the application based on the information provided to it, considering the comprehensive plan, the provisions of this title and of state law, and the best interests of the city and its residents. (Ord. 6-17, 3-15-2004)

8-2-6: APPEAL:

- A. Notice Of Appeal: All appeals from decisions made by the planning and zoning commission shall first be presented to the city council. In order to perfect an appeal to the city council, any aggrieved party must submit, in writing, a notice of appeal, designating the nature and date of the decision appealed from, together with a brief statement explaining why the decision should be overturned. The written notice of appeal must be physically filed with the city clerk within twenty eight (28) days of the date of the decision from which the appeal is taken.

- B. Decision Of Planning And Zoning Commission: The decision of the planning and zoning commission shall be affirmed if there is substantial evidence to support it.

- C. Appeal Decision Of City Council: Any aggrieved party may appeal the decision of the

city council in accordance with the procedures outlined in the administrative procedures act of the state of Idaho, Idaho Code section 67-5201 et seq. (Ord. 6-17, 3-15-2004)

Chapter 3

IMPROVEMENTS

8-3-1: DESIGN:

Before any infrastructure improvements, including, but not limited to, roads and streets, sidewalks, water systems, sewer systems, storm water drainage, are accepted by the city, the developer or builder of said road shall comply with the following design requirements:

- A. Services Of Professional Civil Engineer Required: The developer or builder shall retain the services of a professional civil engineer for the design of all infrastructure improvements, including, but not limited to, roads and streets, sidewalks, water systems, sewer systems, storm water drainage;
- B. Design Materials:
 - 1. Approval Of DEQ Required: The design materials, which shall include all plans and drawings, for water and sewer systems shall be submitted to the Idaho department of environmental quality (DEQ) and the appropriate utility provider for approval, with a copy to be provided to the city for its records;
 - 2. Approval Of City Engineer Required: The design materials, which shall include all plans and drawings, for storm water drainage, roads and streets, and sidewalks shall be submitted to the city for approval by the city engineer; and
- C. Compliance With State Standards And Specifications: The design for all proposed infrastructure improvements shall comply with any relevant standards and specification of the state of Idaho. (Ord. 6-9e, 2-7-2005; Ord. 6-9g, 3-7-2005)
- D. Design Of Infrastructure And Improvements: The design for all proposed infrastructure and improvements shall comply with any relevant standards and specifications of the state of Idaho as well as the international fire code or any subsequent codes adopted by the city. (Ord. 2007-3, 5-7-2007)

8-3-2: INSPECTION:

Before any infrastructure improvements, including, but not limited to, roads and streets, sidewalks, water systems, sewer systems, storm water drainage, are accepted by the city, the developer or builder of said road shall comply with the following inspection requirements:

- A. Performed By Developer Or Builder's Professional Civil Engineer: Inspections of all infrastructure improvements, including, but not limited to, roads and streets, sidewalks, water systems, sewer systems, storm water drainage, shall be performed by the developer or builder's professional civil engineer;
- B. Compliance With State Standards And Specifications: Inspections for roads and streets, and sidewalks shall include, but are not limited to, the sub grade, subbase, base and asphalt, which shall all comply with the relevant standards and specification of the state of Idaho.
- C. Final Report Of Engineer: The developer or builder's professional civil engineer or project engineer shall submit a final report to the city and any applicable governmental agency, as required by law, which report shall include the following:
 - 1. The dates of any and all inspections, a description of the work performed and inspected, and a description of any changes in the design or repairs required by any responsible entity;
 - 2. A description of all engineering operations performed;
 - 3. A copy of all manufacturer's certificates for materials used, and/or certified test results and all preliminary tests to ensure the suitability of the materials used;
 - 4. A copy of all density tests on materials showing test dates and results; and
 - 5. A statement certifying that all work performed during the project was in accordance with the project plans and specifications.
- D. Final Inspection: After the final report required by subsection C of this section has been submitted to the city, a final inspection of the project shall be undertaken by the developer or builder's professional civil engineer or project engineer and the city engineer.

E. Written Recommendation Of City Engineer: The city engineer shall submit a written recommendation to the city council as to whether the city should accept the infrastructure improvements constructed by the developer or builder.

F. Council Decision: Based on the recommendation of the city engineer, the city council shall decide whether to accept the infrastructure improvements constructed by the developer or builder, and shall so notify the developer or builder. (Ord. 6-9e, 2-7-2005; Ord. 6-9g, 3-7-2005)

8-3-3: FEES:

The city shall adopt by resolution a fee schedule for the final inspection by the city engineer as required by subsection 8-3-2D of this chapter, which fee shall be paid prior to the inspection by the developer or builder or owner of the project. (Ord. 6-9e, 2-7-2005; Ord. 6-9g, 3-7-2005; 2008 Code)

Chapter 4

STORMWATER MANAGEMENT

8-4-1: TITLE; PURPOSE:

- A. Title: These regulations shall be known as the *STORMWATER MANAGEMENT ORDINANCE*.
- B. Purpose: The purpose of these regulations shall be to require implementation of stormwater management techniques comply with the Best Management Practices approved by the Idaho Department of Environmental Quality as opposed to collection and conveyance of untreated stormwater into ground water sources or into surface bodies of water. The underlying purposes to be achieved by implementation of such regulations are the protection of groundwater quality through pretreatment of stormwater prior to infiltration, and protection of surface water resources from the effects of contaminants, sedimentation, and erosion. (Ord. 2007-1, 2-5-2007)

8-4-2: DEFINITIONS:

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

AS BUILT DRAWINGS: Design plans which have been revised to reflect all changes to the plans which occurred during construction. These plans shall be signed and stamped by the responsible qualified, licensed professional.

BEST MANAGEMENT PRACTICE (BMP): Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water.

BMP MANUAL: The current version of the Catalog of Stormwater Best Management Practices for Idaho Cities and Counties, hereby incorporated as the standard (or “BMP Manual”) for this Code.

CLEARING: The removal of vegetation, trees, structures, pavement, etc., by manual, mechanical, or chemical methods.

CONVEYANCE: A mechanism for transporting water from one point to another, including pipes, ditches, and channels.

CONVEYANCE SYSTEM: The drainage facilities, both natural and manmade, which collect, contain, and provide for the flow of surface water.

CRITICAL STORM: A specific storm event of Intensity, Duration (i.e., 2, 5, 12, and 24 hour), and Frequency that produces a peak discharge or maximum detention volume requirement as calculated in the developed condition.

DESIGN STORM: A rainfall event of specific return frequency and duration that is used to calculate the critical storm runoff volume and peak discharge rate.

DETENTION: A temporary storage of storm runoff in a BMP, which is used to control the peak discharge rates, and which provides for gravity settling of pollutants and sediments.

EROSION: The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

EROSION/SEDIMENT CONTROL: Any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation.

GROUND WATER: Water in a saturated zone or stratum beneath the land surface or a surface water body.

IMPERVIOUS SURFACE: A hard surface area which either prevents or retards the entry of water into the soil mantle, and/or which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development.

INFILTRATION: The downward movement of water through the soil. Infiltration capacity is expressed in terms of inches/hour.

INTERMITTENT STREAM: A stream or portion of a stream that flows only seasonally. Typically, it is dry for several months of a year.

LAND DISTURBING ACTIVITY: Any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling, and excavation.

NUTRIENTS: Essential chemicals needed by plants or animals for growth. Excessive amounts of nutrients can lead to degradation of water quality and algae blooms. Some nutrients can be toxic at high concentrations.

PEAK DISCHARGE RATE: The calculated maximum design storm discharge rate allowed, usually based on a pre-developed condition.

QUALIFIED, LICENSED PROFESSIONAL: A registered civil engineer or registered landscape architect, licensed in the state of Idaho.

RECONSTRUCTION: Any modification of the cross section or sub grade. Paving or repaving shall not be considered reconstruction.

RETENTION: The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

RUNOFF: Rainfall or snow melt that does not infiltrate into the soil but remains on the surface and travels overland to either natural or manmade collection facilities.

SECURITY: A surety bond, cash deposit or escrow account, assignment of savings, irrevocable letter of credit or other means acceptable to or required by the permit authority to guarantee that work is completed in compliance with the project's drainage plan and in compliance with all local government requirements.

SEDIMENT: Material that originates from weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.

SEDIMENTATION: The deposition of sediment usually in basins or watercourses.

STORM DURATION: The theoretical time of a rainfall event of any given storm frequency, typically a range from five (5) minutes to twenty-four (24) hours.

STORM FREQUENCY: The time interval between storms of predetermined intensity, e.g., a 2-year, 15-year, or 100-year storm.

STORM INTENSITY: The theoretical rainfall amount expressed in inches-per-hour (in/hr).

STORMWATER RUNOFF: Runoff generated by storms.

STREET TREE: Organized public way tree planting, having a tree size of greater than two (2) inch caliper, six inches up from the base.

SWALE: A shallow drainage conveyance or infiltration area with relatively gentle side slopes.

TREATMENT BMP: A BMP that is intended to remove pollutants from stormwater. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration swales, and constructed wetlands. (Ord. 2007-1, 2-5-2007)

8-4-3: APPLICABILITY:

Unless otherwise exempted under this chapter, this chapter shall apply to all development activities for which grading, site development, parking lot paving, construction, street improvement, or building permits are required, pursuant to the codes, laws, and regulations of the city or the state of Idaho. (Ord. 2007-1, 2-5-2007)

8-4-4: GENERAL REQUIREMENTS:

Unless relief from the standards set forth in this chapter is granted by properly approved variance, all development to which this chapter is applicable shall comply with the following requirements and methods for stormwater management control:

A. Comprehensive Stormwater Management Plan:

1. Required: Any activity applicable to this chapter shall require the development of a comprehensive stormwater management plan which addresses and complies with the requirements and standards established by this chapter and the plan criteria, design standards, and BMPs adopted pursuant to this chapter.
2. Preparation And Review: Stormwater management plans shall be prepared by a qualified, Idaho licensed professional civil engineer or landscape architect and submitted for review to the city engineer.

B. Additional Requirements: Each stormwater management plan created in accordance with this chapter shall also establish:

1. Assurance of adequate funding;
2. The necessary maintenance system, including an acceptable plan for sustained functioning of the collection and treatment system; and
3. The easements necessary to provide continued maintenance of the system.

C. Individual Building Sites: Stormwater management plans will not be necessary for individual building sites if runoff from the site has been accommodated by an approved stormwater management plan for the subdivision in which the site is located and development of the site conforms to the assumptions made in the approved plan. However, detailed erosion control plans may still be required. A stormwater management plan will not be required for new residential structures or additions to existing residential structures if the requirements of this chapter can be met by proposed or existing site landscaping.

D. Commercial And Industrial Buildings And Sites: Runoff from commercial and industrial buildings and sites shall meet the treatment and peak-runoff requirements of the city; except, when the increase in impervious surface, resulting from new construction or a onetime addition to existing structures, is less than three thousand (3,000) square feet, runoff may be discharged directly into the existing stormwater conveyance system.

E. Runoff Of Storm Or Surface Waters:

1. All activities subject to the requirements of this chapter shall be carried out such that the runoff of storm or other surface waters shall not be accelerated, concentrated, or otherwise conveyed beyond the exterior property lines or project boundaries of the project in question except in compliance with the provisions of BMPs adopted pursuant to this chapter, or as allowed through joint management of stormwater with adjoining property owners pursuant to agreement approved, in writing, by the city. Drainage shall not be diverted and/or released to a downstream property which had not received drainage prior to development. Flow may not be concentrated onto downstream properties where sheet flow previously existed.
2. The quality of surface runoff shall be protected by strict compliance with the design standards and BMPs adopted pursuant to this chapter or by implementation of measures shown by a qualified, licensed professional to have an effective design capability which exceeds the BMPs adopted hereby.

F. Compliance Required; Permit Authority: This chapter shall be applied in a manner consistent with the procedures set forth in this title and titles 7 and 9 of this code, and such other ordinances as the city may enact to regulate the use and development of land within the city pursuant to authority granted by Idaho Code title 65, chapter 67. For purposes of application of the design standards and other related documents and standards, the city shall be designated as the "permit authority".

G. Existing Streets: When existing streets are widened or otherwise improved, runoff from the new impervious surface may be directed into existing storm drain facilities.

H. Stormwater Treatment Facilities: Where Stormwater Treatment Facilities will be located between curb and sidewalk, both curb and sidewalk shall be considered an integral part of the stormwater management system and shall be installed with the Stormwater Treatment Facility. (Ord. 2007-1, 2-5-2007)

I. Any land disturbing activity not otherwise subject to requirements of a stormwater management plan shall be subject to an erosion control land disturbance notice permit. (Pursuant to PCC 9-5B-5) Administrative exceptions to this section may be granted by the planning director as determined by site specific conditions, or for projects under the purview of other regulatory agencies, following a sketch consultation with the city planning department.

8-4-5: STORMWATER MANAGEMENT PLAN:

A. General Requirements: All stormwater management plans shall conform to the following general requirements:

1. Clearly identify all stormwater facilities including, but not limited to, pipes, inlets, catch basins, stormwater treatment areas, basins, and swales.
2. Plans shall be stamped and signed by a qualified, licensed professional.
3. Plans shall provide a recordable document assuring the city of future maintenance.

B. Plan Requirements: Stormwater management plans shall have the following parts:

1. Project summary narrative with supporting design calculations;
2. Site plan;
3. Erosion and sediment control plan; and
4. Operation and maintenance plan.

C. Project Summary and Design Calculations:

1. The project summary shall present an overview of the proposed project and all pertinent details supporting the design calculations.
2. The plan shall present all pertinent calculations necessary to determine the required size of elements of the system. These elements include, but are not limited to, off site drainage onto the property, pre- and post-development runoff, stormwater treatment areas, detention and/or retention facilities, pipes, swales, culverts, ditches, and catch basins.

D. Site Plan: The site plan shall include the following:

1. Property boundaries and all existing natural and manmade features and facilities within fifty feet (50') of the site (where accessible), including streets, utilities, easements, topography, structures, and drainage channels.
2. Final contours.

3. Location of all proposed improvements, including paving, structures, utilities, landscaped areas, flatwork, and stormwater control facilities.
4. Proposed drainage patterns including ridgelines and tributary drainage areas.
5. Stormwater control facilities, including invert elevations, slopes, length, cross sections, and sizes. Construction details shall be shown for stormwater treatment areas, and/or detention/retention facilities.
6. Existing and proposed drainage/stormwater easements.

E. Erosion Control:

1. An erosion control plan shall be submitted and approved by the planning director prior to initiation of any site clearing, excavation, grading or other development activity. Both temporary and permanent erosion control measures shall be included. The plan shall represent the minimum requirements for the site. Additional measures may be required by the city in the event of unexpected storm occurrences, repair or maintenance of existing systems, or replacement of nonfunctioning systems.
2. The plan shall identify those entities or individuals responsible for maintenance and upkeep of both temporary and permanent erosion control measures.

F. Operation And Maintenance: The stormwater management plan shall identify the entities or individuals responsible for the long-term maintenance of the stormwater facilities. Maintenance activities shall include, but not be limited to, watering, mowing and fertilizing of stormwater treatment areas, sod renovation of stormwater treatment areas, sediment and debris removal from detention/retention basin, debris removal and cleaning of all inlets, piping, outlet structures, slope protection, etc. (Ord. 2007-1, 2-5-2007)

8-4-6: DESIGN STANDARDS:

- A. General: All stormwater facilities shall incorporate the following design standards:
1. All facilities shall be designed to accommodate a 25-year critical storm event.
 2. When on-site facilities must accommodate drainage from off site,

such facilities shall be designed to accommodate a 50-year critical storm event.

3. Peak flows may be calculated by the rational method for areas ten (10) acres or less. Peak flows shall be calculated by the soil conservation service (SCS) spreadsheet method (TR-55) or by a computer program (TR-20), for areas greater than ten (10) acres. Other methods may be approved by the city engineer.
4. The intensity/duration curves from the Idaho Transportation Department shall be used for the rational method.
5. All runoff shall be directed into existing drainage facilities following treatment and retention or detention.
6. Innovative stormwater treatment designs incorporating low impact development practices or cooperation between adjacent sites are encouraged and subject to the discretion of the city engineer.
7. Any required on-site treatment, retention or detention facilities may be considered satisfied by payment of an in lieu of stormwater facility fee, if established for a given drainage basin by resolution of the city council for regional municipal stormwater treatment facilities.

- B. Stormwater Facilities: All Stormwater Facilities shall be designed per the BMP Manual recommendations and approved by the city engineer.

8-4-7: COMPONENT MAINTENANCE AND FUNDING:

The city may establish a department of city government or contract for maintenance in order that drainage system components can be maintained. Establishment of a supportive funding mechanism is hereby authorized. (Ord. 2007-1, 2-5-2007)

8-4-8: PERFORMANCE STANDARDS:

The following performance standards shall be applicable to all design, construction, implementation, and maintenance of stormwater management systems pursuant to this chapter:

- A. Increase In Peak Rate: There shall be no measurable increase in the peak rate of runoff from the site after development when compared with the runoff rate in the undeveloped state for a 25-year critical storm event. For purposes of this chapter, "undeveloped state" shall mean the natural soils and vegetation in place prior to the start of any construction or clearing activity on the site. Sufficient stormwater controls shall be constructed within project boundaries to retain or detain the on-site

surface flow to meet the performance standard established by this section. Existing and/or proposed off site public street drainage shall be controlled separately from the on-site drainage.

B. Channels:

1. Channels which collect or concentrate stormwater shall be protected against erosion and contain energy dissipation measures to prevent further erosion on adjoining lands. Existing unprotected channels shall be protected against further erosion in the course of site development. Any site development or construction shall preserve the existing stormwater management improvements.
2. Sediment resulting from erosion of disturbed soils shall be detained on-site. Sediment shall either be stabilized on-site or removed in an approved manner.

C. Collected Stormwater: Any and all collected stormwater shall be directed to stormwater management system meeting the requirements of the BMP Manual. Approved treatment systems must treat stormwater runoff from all impervious surfaces, excluding roofs. Stormwater detention systems must detain peak runoff rates to pre-developed levels or less. The stormwater conveyance systems shall have a capacity to handle a 25-year storm peak runoff event without damage to the stormwater management system or adjacent land and improvements.

8-4-9: GUARANTEE OF INSTALLATION:

No building permit, final plat approval, or other discretionary approval shall be granted until the stormwater management plan has been certified by the design professional that the project has been fully and satisfactorily completed in accordance with the approved plans and provisions of the City Code and approved by the city engineer.

- A. For new subdivisions, except as allowed by this title, no building permit will be issued until the stormwater management system, curb and sidewalks, has been constructed for the developed portion and will accept the flow of stormwater as designed. For all other cases, no certificate of occupancy will be issued until the stormwater management system has been installed and will accept the flow of stormwater as designed.
- B. If, in the judgment of the city engineer or their designee, project occupancy can be achieved without harm to the environment or potential occupants, occupancy may proceed upon receipt of an acceptable guarantee of financial surety, pursuant to this title, to complete installation when weather conditions or other variables allow. In no case

shall such guarantee be allowed if the incomplete improvements would result in increased erosion, sedimentation, or other damage to the development, public improvements, subsurface or surface waters, the proposed stormwater management system or otherwise endanger the public health or safety.

- C. At any time, the city may stop work on the installation of subdivision improvements, withhold further issuance of building permits in a development, stop work on any individual building or development of any individual building site, or otherwise take steps necessary to protect the waters of the state from damage as a result of development. (Ord. 2007-1, 2-5-2007)

8-4-10: ADOPTION OF SUPPORTING DOCUMENTATION:

The city may, by resolution, adopt additional design standards, definitions of terminology, administrative procedures, etc., intended to implement the general requirements and performance standards set forth in this chapter. Changes in the design standards may be accomplished by subsequently adopted resolution. Such design standards may be complied with in alternative ways that will contribute to rational achievement of the general requirements and performance standards set forth in this chapter. (Ord. 2007-1, 2-5-2007)

8-4-11: PROPERTY OWNER'S MAINTENANCE RESPONSIBILITY:

Unless other provisions are made in the process of development review and approval, responsibility for maintenance of stormwater system elements remains with the property owner, and violation of these maintenance requirements shall constitute a violation of this chapter. (Ord. 2007-1, 2-5-2007)

8-4-12: PROHIBITED CONDUCT:

No person shall damage, harm, fail to install, complete, or maintain, or otherwise impair the stormwater facilities or any portion of a stormwater management system installed pursuant to this chapter. (Ord. 2007-1, 2-5-2007)

8-4-13: ENFORCEMENT:

Provisions of this chapter may be enforced in one or more of the following manners:

A. Penalty:

1. Misdemeanor: Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter is guilty of a misdemeanor and shall be subject to penalty as provided

in section 1-2-1 of this code. (Ord. 2007-1, 2-5-2007; 2008 Code)

2. Separate Offense: Each such person is guilty of a separate offense for each and every day during which any violation of any provision of this chapter is committed, continued, or permitted by any such person, and he shall be punished accordingly.

B. Civil Action: By civil action to compel performance and completion of, or maintenance of, facilities installed pursuant to this chapter.

C. Denying, Revoking Or Suspending Permits Or Certificates: Denying, revoking, or suspending building permits or certificates of occupancy, as the case may be.

D. Occupancy Without Certificate: Occupancy of dwelling or building without an approved certificate of occupancy shall constitute a violation of this chapter in addition to any building or zoning ordinance from which the occupancy requirement derives.

E. Additional Remedies: By any other method or remedy allowed by law. (Ord. 2007-1, 2-5-2007)

8-4-14: PERMIT REQUIREMENTS:

A. Permit Required: Each applicant requiring the preparation of a stormwater management plan shall apply for a stormwater management permit.

B. Permit Fee: There shall be a fee for each permit application. The fee shall be as set by resolution of the city council. (Ord. 2007-1, 2-5-2007)

8-4-15: VARIANCE:

A variance from the requirements of this chapter or from the design standards adopted pursuant to this chapter may be granted only upon a showing of undue hardship due to unique site characteristics. Said variance may only be granted by the city council in such circumstances if the approval of the variance would not otherwise impair achievement of the standards or purposes of this chapter, would not impose an additional burden upon adjoining or downstream lands or landowners, or otherwise disrupt the scheme of stormwater management in the community. It shall be incumbent upon anyone requesting a variance to provide data showing that alternative methods of stormwater handling proposed will produce comparable efficacy of the stormwater management measures required by this chapter. No variance shall be issued unless all elements of this section are met. (Ord. 2007-1, 2-5-2007)

Chapter 1

PURPOSE; INTENT; DEFINITIONS

9-1-1: PURPOSE AND INTENT:

The zoning regulations and districts herein are established in accordance with the comprehensive plan and Idaho Code for the purpose of promoting the health, safety, morals, and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure the citizens and property from fire, panic and other danger; to provide adequate light and air; to prevent overcrowding of the land; to avoid undue concentration of population; and to facilitate provision of transportation, water, sewage, schools, parks and other public requirements and facilities. They have been made with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, and with the view of conserving the value of the land and structures, and of encouraging the most appropriate use of land throughout the incorporated areas of the city. (Ord. 6-2e, 2000)

9-1-2: DEFINITIONS:

- A. Interpretation Of Terms And Words: When consistent with the text, words used in the present tense include the future tense, words used in the future tense include the present tense. Words used in the singular include the plural, and words used in the plural include the singular.
- B. General Definitions: The following definitions shall apply throughout this title, unless otherwise specifically indicated:

ACCESSORY BUILDING: A structure on the same lot as, and of a nature that is incidental and subordinate to, the principal structure.

ACCESSORY DWELLING UNIT: A single family residence constructed or placed on a lot or parcel of land, that is secondary in nature to the primary residence and complies with the square footage limitations outlined in code. It may be attached to the primary single-family residence and or accessory building or it may be detached. Accessory dwelling units shall comply with all building and fire codes in place at the time of construction.

ACCESSORY USE: A use on the same lot as, and of a nature that is incidental and subordinate to, the principal use of the lot.

ADMINISTRATOR: An official having knowledge in the principles and practices of the planning and zoning commission who is appointed by the city council and the planning and zoning commission to administer this title.

AGRICULTURE: The cultivation of soil, horticulture, floriculture, viticulture, animal

and poultry husbandry, and the necessary associated activities and uses for treating and storing agricultural products.

AIRPORT HAZARD AREA: Any area of land or water which is established as an airport hazard.

AIRPORTS: Any runway, land area, or other facility designed or used either publicly or privately by any person for landing and takeoff of aircraft, including all necessary taxiways, aircraft storage and tie down areas, hangars and other necessary buildings.

ANIMAL HOSPITAL: See definition of Veterinary Clinic or Animal Hospital.

APARTMENT: A single room or a suite of more than one room in a multiple-family dwelling, occupied on more than a transient occupancy basis.

ARTERIAL, PRINCIPAL: A public street or highway that connects a network of continuous routes and serves an intercity population concentration and which is designed to carry heavy traffic loads. Frontage and access is limited. The four (4) principal arterials in the city of Ponderay are: Highway 95, Highway 200, Kootenai Cutoff Road and Schweitzer Cutoff Road.

AUTO WRECKING YARD: Any place where two (2) or more vehicles or parts thereof, including farm machinery and parts thereof, not licensable and not in running condition are stored in the open sight of the general public.

BUILDING: Any structure, permanently fixed to the land, for the housing or enclosure of persons or animals.

BUILDING HEIGHT: The vertical distance from the average elevation of the finished grade to the highest point of the coping of a flat roof or the deck line of a mansard roof, or the average height of the highest gable of a pitch or hip roof, excepting chimneys and steeples.

BUILDING LINE: A line established at the minimum distance a building may be located from a property line, as established by this title.

CEMETERY: Land used or intended to be used for the burial of the dead and dedicated for the said purpose.

CITY COUNCIL: The elected local legislative body of the city of Ponderay.

CLINIC: A building or portion of a building containing offices for providing medical, dental or psychiatric/psychological services on an outpatient only basis.

COLLECTOR: A public or recorded private street or highway which affords access

to adjoining property and connects local access roads to roads of higher classification.

COMPREHENSIVE PLAN: The official statement of growth policies, adopted by the city council, including such things as general location and extent of the present and proposed land uses; including residential densities, commercial and industrial uses, major transportation, parks, schools and other community facilities.

CONDITIONAL USE: A use permitted in any given zone only after review by the planning and zoning commission and the city council, and the granting of a conditional use permit imposing such performance standards as will make the use compatible with other permitted uses in the same vicinity and zone and assure against imposing excessive demands upon public utilities.

CONDITIONAL USE PERMIT: The phrase "conditional use permit" under this title shall be synonymous with the phrase "special use permit" as that phrase is used by state law or county ordinance, and the terms shall be used interchangeably.

CONTRACTOR'S YARD: Any lot, or portion thereof, used for the storage, maintenance or repair of equipment or supplies in conjunction with the construction of roads, structures, etc., or used for the processing of materials in conjunction with said construction projects. Said use is deemed to be temporary for the duration of the project.

DAYCARE CENTER: A home or place providing care or supervision to a group of five (5) or more children, not related by blood or marriage to the person or persons providing the care or supervision, for all or part of the twenty-four (24) hour day. The care of less than five (5) children, not related by blood or marriage to the person or persons providing the care or supervision, during any part of a twenty-four (24) hour day, shall be classified as a "home occupation" for purposes of this title.

DWELLING: A building or portion thereof designed exclusively for residential purposes, including single-family, duplex, multiple-family, modular and mobile home dwellings, but shall not include hotels, motels, boarding and lodging houses.

DWELLING, DUPLEX: A detached residential building, containing two (2) dwelling units only.

DWELLING, MOBILE HOME: See definition of Manufactured Home.

DWELLING, MODULAR: A detached residential dwelling unit manufactured and assembled off site to the standards of the latest published international building code standards and designed to be transported to the site and placed on a permanent foundation.

DWELLING, MULTIPLE-FAMILY: A residential building containing three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY: A detached residential building containing one dwelling unit only.

DWELLING UNIT: Space within a dwelling, consisting of one or more rooms which are arranged, designed, or used as living quarters for one family only.

EXCAVATION: The artificial turning, breaking, undermining, or removal of the natural surface or subsurface earth material, exceeding fifty (50) square feet of surface area or two feet (2') in depth; except, excavations incidental to the issuance of a building permit if the building is completed following such excavation, and excavations for the purpose of impounding water for agricultural purpose.

FAMILY: An individual or two (2) or more persons living together as a single housekeeping unit in a single dwelling unit.

FLOODPLAIN: Any relatively flat area of lowland adjacent to the channel of a river, stream, lake or other body of water which has been or may be covered by the water of a flood of 100-year frequency. The floodplain includes the channel. For purposes of this definition, terms as specified by the army corps of engineers are as follows:

CHANNEL: A natural or artificial watercourse of perceptible extent, with a definite bed and bank to confine and conduct continuously or periodically flowing water.

FLOOD: The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water.

FLOOD OF 100-YEAR FREQUENCY: A flood magnitude which has a one percent (1%) chance of being equaled or exceeded in any given year.

FLOODWAY: The channel or watercourse and those portions of the floodplain adjacent to the channel which are reasonably required to carry and discharge the floodwater of any watercourse.

FLOODWAY FRINGE: That part of the floodplain which is beyond the floodway. Such area will include those portions of the floodplain which will be inundated by a flood of 100-year frequency.

GREEN SPACE: That area of developed property, which is not paved or graveled, but which is landscaped with vegetation for aesthetic or decorative purposes.

GREENHOUSE, COMMERCIAL: An establishment where flowers, shrubbery, vegetables, trees and other horticulture products are grown in the open or in an

enclosed building for sale on a retail or wholesale basis.

GROUP HOUSING: A residential facility where meals and lodging are provided for unrelated persons, where no cooking or dining facilities are provided in the individual rooms. The term includes boarding house, barracks, dormitory and rooming house.

HEAVY EQUIPMENT: Self-propelled, self-powered or pull-type equipment and machinery, including engines, weighing 5000 pounds or more, primarily employed for construction, industrial, maritime, mining and forestry uses, as such terms are commonly used and understood as a usage of trade. The term "heavy equipment" shall not include passenger vehicles requiring registration and certificates of title.

HEAVY INDUSTRIAL: Manufacturing or production in which large machines are used to produce raw materials or to make large objects or heavy goods or material in bulk. Heavy industrial uses are typically more intense and include the use of heavy equipment, large machines and tools, large-scale infrastructure and or numerous or complex processes.

HELIPORT: Any land area, pad or other facility designed or used either publicly or privately by any person for the exclusive purpose of landing and taking off of a helicopter or nonfixed-winged aircraft. A heliport may also include storage and tie down areas and other necessary storage buildings.

HIGHWAY: See definition of Street.

HIGHWAY, STATE: The entire width between the boundary lines of every highway right of way in favor of the state which serves interstate and intrastate populations, and which are designed to carry maximum traffic loads, and for which frontage and access is restricted by Idaho department of transportation standards.

HOME OCCUPATION: An occupation, profession or craft carried on by the occupant at his/her principal residence, or by an occupant's immediate family member at said residence. Said occupation, profession or craft shall be clearly incidental to the primary residential use of the property. Further, the occupation, profession or craft shall meet the following criteria:

- A. The use shall be owned and managed by an occupant of the principal residence.
- B. The degree and intensity of the use shall at all times be subordinate to, and in keeping with, the residential neighborhood in which it is located.
- C. Vehicular and pedestrian traffic generated by such home occupation shall not significantly exceed the traffic attributable to a normal dwelling unit, and any need for parking generated by the conduct of such

occupation shall be met on the subject property and off the streets.

- D. The use shall not create health, fire or pollution hazards.
- E. The use shall not create noise, dust, vibration, electrical interference, glare or odors which exceed the amount or type that would be reasonably expected to be emitted by a residential use.
- F. The use shall not impact utilities, including ground water (wells) and septic systems in such a manner so as to restrict or interfere with the right of other residents to the reasonable enjoyment of their property.
- G. No materials, supplies, tools or items of trade shall be stored outside; and
- H. The use as a home occupation shall be clearly incidental and subordinate to the residential use of the property.
- I. Any employee of the home occupation must be the occupant or a member of the occupant's immediate family.

HOSPITAL: An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and injured persons, licensed by state law to provide facilities and services in surgery, obstetrics, and general medical practice.

HOTEL: A building in which there are guestrooms where lodging, with or without meals, is provided for compensation, and where no provisions are made for cooking in any individual room or suite, but shall not include jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed and detained under restraint.

JUNKYARD: An open area where waste and scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, or where commercial salvaging of any goods or machinery is conducted.

KENNEL, BOARDING: A place, other than a veterinary hospital, where five (5) or more domesticated animals (dogs, cats, etc.), four (4) months of age or more, are kept, whether as pets or for commercial purposes.

KINDERGARTEN: A school, public or private, whether operated for profit or not for profit, giving preschool instruction to children under the age of seven (7) years.

LAND MINING: The act, process or business of extracting or collecting soil, rock, gravel, etc., for use off site.

LEGAL ACCESS: A public, or recorded private, street or highway which affords a primary means of access to adjoining properties. A recorded private street or highway may be a recorded easement for ingress or egress or a platted street right of way used as private thoroughfare for access to abutting property and for which the city assumes no responsibility for maintenance. A private street or highway not recorded with the Bonner County recorder's office shall not be considered legal access.

LIGHT INDUSTRIAL: Those uses involving assembly, fabrication, manufacturing or processing that use relatively light machinery and/or produce relatively small products. In addition, the following criteria shall be met:

- A. The use must be carried on in such a manner as to be protected from fire and explosion.
- B. All byproducts, emissions, waste and other discharges must meet minimum local, state and federal standards, including, but not limited to, the standards of the local health district, sewer district and sanitary landfills. In addition, they shall not negatively impact adjoining and/or adjacent properties.
- C. All storage of materials, equipment, supplies, etc., must either be indoors or contained within a six foot (6') high fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements.

LIVING SPACE: The term living space shall refer to the portions of a structure that are designed to be used for human habitation. Living space shall be measured by calculating the square footage of the floor area, by measuring from the interior surface of the walls. It shall exclude all portions of the structure not designed for human habitation including but not limited to attached garages, utility areas, closets, greenhouses and similar spaces commonly understood to be non-habitable.

LOADING SPACE, OFF STREET: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and accessible to and expected to be used by such vehicles. All off street loading spaces shall be located totally outside of any street or alley right of way.

LOCAL ROAD OR LOCAL ACCESS ROAD: A public or recorded private street or highway which affords primary access to adjoining property. A local road may be recorded as an easement for ingress and egress or a platted street which provides access to abutting property.

LOT: An individual parcel of land of at least sufficient size and frontage to meet minimum zoning requirements for use, coverage and area, and to provide such

yards and other open spaces as are herein required.

LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

MANUFACTURED HOME: 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 dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this definition except the 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 section 5401 et seq. This term is used synonymously with "mobile home".

MICROBREWERY— or craft brewery, is a brewery which produces less than fifteen thousand barrels of beer, cider or other fermented beverage.

MOBILE HOME: See definition of Manufactured Home.

MOBILE HOME PARK: A site specifically designed to accommodate, with or without compensation, four (4) or more mobile home or manufactured home units. This term shall not include mobile home subdivisions or recreational vehicle parking.

MOTEL OR TOURIST COURT: A group of attached or detached buildings containing individual sleeping or living units where a majority of such units open individually and directed to the outside, and where a garage is attached or a parking space is conveniently located to each unit for use by automobile tourists or transients, and such words include auto courts, motor lodges, motor inns and similar terms.

NONCONFORMING BUILDING: A building, or portion thereof, which was lawfully erected or altered and maintained at the time this title was adopted, but which, because the application of this title to it, no longer conforms to the use, height or regulations of the zone in which it is located.

NONCONFORMING USE: A use which was lawfully established and maintained at the time this title was adopted, and which, because of the application of this title,

no longer conforms to the use regulations of the zone in which it is located. A nonconforming building or nonconforming position of the building shall be deemed to constitute a nonconforming use of the land on which it is located.

NURSERY SCHOOL: A school or organized program for the care and/or instruction of preschool children under the age of six (6) years, whether public or private and whether or not operated for profit.

NURSING HOME: A home, place or institution for the care of the aged or infirm, or a place for inpatient care for those suffering bodily disorders, including convalescent and retirement homes, but not including facilities for the treatment of sickness or injuries, or for surgical care.

OPEN SPACE: Any open area, including, but not limited to, parks, yards, playgrounds, beaches, waterways, parkways and streets.

OUTDOOR ADVERTISING STRUCTURE: A structure designed to display a name, identification, description, display or illustration, generally relating in its subject matter to products, an object, a place, persons, institutions, businesses, services or activities.

PARKING LOT: An off-street parking area, located totally outside of any road right of way, for motor vehicles and complying with the dimensions designated herein for parallel, angular and perpendicular parking which shall have access to a public street or alley or private driveway. In determining the gross area required for an off-street parking lot requiring a specific number of parking spaces, including driveways and aisles, two hundred (200) square feet per parking space shall be used.



A. Parking Space Design And Dimensions:

	45°	60°	90°	Parallel
Width of parking space	9'	9'	9'	9'
Length of parking space	18'	18'	19'	23'
Width of driveway	15'	20'	25'	12'

B. Compact Car Standards:

1. If the total number of required parking spaces is less than ten (10), no compact car spaces shall be provided.
2. If the total number of required parking spaces equals ten (10), then one parking space may be for compact cars. For each four (4) spaces in excess of ten (10), one space for compact cars may be provided.
3. Each compact car parking space shall be marked for such use.
4. Those spaces designed and signed for compact cars shall have a minimum size of seven and one-half feet (7¹/₂') in width and fifteen feet (15') in length.

PERFORMANCE BOND OR SURETY BOND: A financial guarantee by a subdivider or developer, filed with the city, in the amount of one and one-half (1¹/₂) times the estimated construction cost that guarantees the completion of physical improvements according to plans and specifications, within the time prescribed by the agreement.

PERFORMANCE STANDARDS: Criteria outlined in this title for specific conditions for various uses or classification of uses.

PLANNING AND ZONING COMMISSION: The Ponderay planning and zoning commission, herein also referred to as the "commission".

PRESCHOOL: A school or organized program for the care and/or instruction of preschool children under the age of seven (7) years, whether public or private.

PUBLIC BUILDING: A building or structure used as offices for conducting official business of government entities and political subdivisions.

PUBLIC UTILITIES COMPLEX FACILITY: A public utility facility of major importance, involving construction of facilities of a complex nature including, but not limited to, station grounds, pumping stations, power substations, dam structures, fire stations, telephone transmission stations, telegraph stations, sewage disposal, public libraries, railroad transportation lines or spurs, railroad classification lines, or structures principally used in interstate transmission of electricity, natural gas or fuel.

PUBLIC UTILITY SERVICES: Public utility services, including, but not limited to, water, sewage, telephone, electricity, television, and natural gas transmission lines and facilities, sanitary landfills and public roads and highways.

RECREATIONAL VEHICLE: A vehicle thirty feet (30') or longer in length, designed or used for human habitation on a temporary basis for recreational or other related activities.

RESORT, COMMERCIAL: An area privately owned and devoted primarily to outdoor recreational uses conducted for profit such as swimming, boating, fishing, hunting, camping, picnicking, winter sports and similar uses. A commercial resort may also include facilities for seasonal or overnight living quarters for guests. The term shall also include any premises designed for the rental of two (2) or more recreational vehicle parking stalls or spaces.

RIGHT OF WAY: A strip of land used for access or dedicated for use as a public accessway.

SANITARY LANDFILL: A method of disposing of solid waste on land without creating a nuisance or hazard to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary.

SCHOOL: An institution of learning, whether public or private, teaching children from K-12. Colleges, universities, preschools and trade schools are excluded from this definition.

SERVICES AND SERVICING, INCIDENTAL REPAIR AND MAINTENANCE: Repair, maintenance and service which is clearly incidental to the wholesale or retail use permitted. This will typically involve repairs or service of products sold or leased in the course of the permitted use.

SERVICES, PERSONAL AND FINANCIAL: Business, personal and financial services or offices such as banking, insurance, real estate, accountants, barber/beauticians, medical and dental or governmental offices.

SIGN: A device, descriptive display or illustration generally relating in its subject matter to products, accommodations, services or activities on the premises. However, a "sign" shall not include legal notices or informational, or directional media erected or required by governmental bodies, nor shall it include residential location indicators.

SPECIAL USE PERMIT: A permit required under this title for a use in a specific zone which is permitted only after review by the planning and zoning commission and the city council.

STATE: Any reference to "state", unless otherwise specified, refers to the state of Idaho.

STORY: As defined by that version of the international building code in effect in the city of Ponderay at the time approval is sought.

STREET: The entire width between the boundary lines of every right of way which provides vehicular and pedestrian access to adjacent properties, the public dedication of which has been officially accepted and legally recorded. The term "street" is interchangeable with "highway".

STRUCTURAL ALTERATION: Any change in the supporting members of a building such as foundations, bearing walls, columns, beams or girders, or a structural change in the roof.

STRUCTURE: Any object constructed or erected which requires location on the ground or is attached to something having a location on the ground, including towers, smokestacks and overhead transmission lines; but not including a fence, or a wall used as a fence, less than eight feet (8') in height.

TOPSOIL: The largely organic upper horizon of the soil down to such restrictions as claypans, hardpans, coarse sand and gravel or rock.

TRAVEL TRAILERS: A vehicle other than a motorized vehicle, thirty-five feet (35') or less in length and designed for human habitation on a temporary basis for recreational or other related activities. When used for regular or supplemental living quarters for a period in excess of thirty (30) days in one calendar year, on the same site, a special use permit shall be required.

USE: The purpose for which land or a building is arranged, designed or intended, or for which said land or building is or may be occupied or maintained.

USES, PROHIBITED: Those uses not specifically enumerated as permitted uses in a particular zone. "Prohibited uses" are listed in this title for the purpose of clarity and emphasis only. "Prohibited uses" mentioned include, but are not limited to, the enumerated prohibited uses.

VARIANCE: A modification of the bulk and placement requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other provisions of this title affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.

VETERINARY CLINIC OR ANIMAL HOSPITAL: A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals and those who are in need of medical or surgical attention, which may include overnight accommodations on the premises for treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity of the facility,

as distinguished from a boarding kennel.

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

YARD, FRONT: An open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided in this title, extending across the full width of the lot from the front line of the building to the property line on a street. Any lot extending between two (2) nonintersecting streets shall be deemed to have front yards on both streets regardless of the building orientation.

YARD, REAR: An open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided in this title, extending across the full width of the lot from the rear wall of the building to the rear lot line.

YARD, SIDE: An open space, unoccupied and unobstructed from the ground upwards, except as otherwise provided in this title, extending from the side wall of the building to the side property line of the lot.

ZONES OR DISTRICTS: Land classifications, identified in this title, whose boundaries are enumerated on official maps in the office of the city of Ponderay and in this chapter. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007; 2008 Code)

Chapter 2

USE ZONES; MAP

9-2-1: CREATION OF USE ZONES:

There is hereby created the following use zones within the corporate limits of the city:

Rural zone.
Residential zone.
Commercial zone.
Industrial zone.
Recreational zone.

(Ord. 6-3, 1989)

9-2-2: OFFICIAL ZONING MAP:

The city planning director shall maintain an official map of the aforesaid zones at the city hall and shall update the same as any amendments are made, and the same shall be available for inspection at reasonable hours upon proper request. (Ord. 6-3, 1989)

Chapter 3

AREA OF CITY IMPACT

9-3-1: FACTORS TO BE CONSIDERED:

The following factors were considered by the planning and zoning commission and the city council in identifying the area of city impact for Ponderay, Bonner County, Idaho:

A. Trade areas;

B. Geographic factors;

- C. Areas that can reasonably be expected to be annexed by city in the future;
- D. Areas where extension of city service is possible and reasonable;
- E. Areas where growth is occurring or where growth is anticipated;
- F. Areas in which to encourage and discourage growth or that which the city wants some control over in the future. (Ord. 6-10, 1994; Ord. 6-11, 1994)

9-3-2: GEOGRAPHIC AREA OF CITY IMPACT:

The official adopted geographic area of city impact is shown by section 9-3-3 of this chapter. All parcels of land lying within the area of city impact as delineated by this chapter shall be subject to the provisions of this chapter. (Ord. 6-11, 1994)

9-3-3: AREA OF CITY IMPACT MAP:

- A. Adoption Required: Idaho Code section 67-6526 requires that the governing board of the city adopt, by ordinance, a map identifying an area of city impact within the unincorporated area of the county surrounding said city.

- B. Legal Description: The legal description of the area of city impact shall be:

All of Sections 25 and 36, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho, plus all lands lying East of the threat of Sandcreek in Sections 35 and 26, Township 58 North, Range 2 West, Boise Meridian, Bonner County, Idaho, AND Craig's Forest Tract Subdivision of Section 2 W.B.M., as recorded in Book 3 of Plats, page 29, records of Bonner County, Idaho, excluding those lots within the incorporated limits of Ponderay.

- C. Copy For Public Viewing: The map shall be available for public viewing at the city hall. (Ord. 6-10, 1994)

9-3-4: COMPREHENSIVE PLAN:

The comprehensive plan and subsequent amendments thereof as officially adopted by Bonner County, Idaho, shall apply to the unincorporated portion of Bonner County, Idaho, lying within the area of city impact for the city of Ponderay. (Ord. 6-11, 1994)

9-3-5: COUNTY ZONING AND SUBDIVISION ORDINANCES:

The zoning and subdivision ordinances, and subsequent amendments thereto, as officially adopted by Bonner County, Idaho, shall apply to the unincorporated portion of Bonner County, Idaho, lying within the area of city impact. (Ord. 6-11, 1994)

9-3-6: REVIEW AND COMMENT:

Any request for development, zone change, conditional use permit, variance or subdivision in the unincorporated portion of Bonner County, Idaho, lying within the area of city impact shall be referred to the city council for review and comment. The city council shall have forty (40) days to consider the request and submit a reply to Bonner County. If no reply is received by Bonner County by the conclusion of the forty (40) day comment period, the county will conclude the city has no comment on the request and processing shall continue under the county's administration. (Ord. 6-11, 1994)

9-3-7: ADMINISTRATIVE JURISDICTION:

A. Area Of City Impact: The administration of plans and ordinances which apply to the area of city impact shall be the duty of the governing body which adopted the plans and ordinances originally. (Ord. 6-11, 1994)

B. Unincorporated Areas: The administration of plans and ordinances which apply to the area of city impact delineated by the map incorporated herein shall be the duty of Bonner County, Idaho, which has adopted the plans and ordinances for the unincorporated areas of the county lying within the area of city impact. (Ord. 6-10, 1994)

9-3-8: SEVERABILITY:

If any section, paragraph, sentence or provision hereof, or the application thereof to any particular circumstances, shall ever become invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable

to all circumstances to which it may validly apply. (Ord. 6-10, 1994; Ord. 6-11, 1994)

Chapter 4

ZONING DISTRICT REGULATIONS

9-4-1: INTRODUCTION:

In accordance with the provisions of the Idaho Code and the objectives set forth herein, all land within the boundaries of the city shall be classified as one of the following zones: rural zone, residential zone, commercial zone, industrial zone, or recreational zone. (Ord. 6-2e, 2000)

9-4-2: RURAL ZONE:

The rural zone is established to allow low density residential uses that are compatible with rural pursuits. The purpose of the rural zone is to allow a mixture of uses that can be compatible. (Ord. 6-2e, 2000)

9-4-3: RESIDENTIAL ZONE:

The residential zone is established to promote safe and aesthetically pleasing residential housing. (Ord. 6-2e, 2000)

9-4-4: COMMERCIAL ZONE:

The commercial zone is established to promote the development of land areas for general retail and wholesale sales and general office use. These areas require collector access. (Ord. 6-2e, 2000)

9-4-5: INDUSTRIAL ZONE:

The industrial zone is established to promote the development of areas of land for manufacturing, processing, fabrication, research and testing operations and warehousing, general retail and wholesale sales. These areas require collector access. (Ord. 6-2e, 2000)

9-4-6: RECREATIONAL ZONE:

The recreational zone is established to provide for a wide range of recreational and residential uses in all parts of the city. The recreational district will limit conflicts between uses by guiding the general appearances of the improvements to achieve the objectives of the plan. (Ord. 6-2e, 2000)

9-4-7: GRANDFATHERED USES:

Any use which is extant on the effective date hereof, and which was lawful under any planning and zoning ordinance in effect when the use began, shall be deemed in compliance with the provisions of this title; provided, said use may not be expanded or altered unless the use as expanded or altered complies with the provisions of this title. If a use which is grandfathered in by this section is not exercised for a period of one year, said use shall be deemed abandoned and shall not be revived except in accordance with the

provisions of this title. (Ord. 6-2e, 2000)

ARTICLE A. RURAL ZONE

9-4A-1: GENERAL APPLICATION:

This article provides which uses are permitted in the rural zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4A-2: MINIMUM LOT SIZE AND ACCESS REQUIREMENTS:

- A. Lot Size: The minimum lot size for property in the rural zone is three (3) acres.
- B. Access: All lots in the rural zone shall have at least one existing "legal access" as defined in section 9-1-2 of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4A-3: USES PERMITTED:

The following uses are permitted in the rural zone:

Agricultural pursuits, which include forestry, cultivation of land, storage of related agricultural products and equipment, floriculture, horticulture, nurseries, greenhouses, vineyards, truck gardening, animal and poultry husbandry, and general farming.

Bed and breakfasts.

Churches, grange halls and other nonprofit, public or private, community facilities.

Home occupations as defined in subsection 9-1-2B of this title.

Public and private schools, except where students are kept under restraint.

Roadside stand that is not more than three hundred (300) square feet for the sale of agriculture products from the premises.

Schools, preschools, daycare centers, colleges and universities.

Single-family dwelling, duplex dwelling (subject to the density standards allotted in the rural zone), and manufactured homes used as a single-family dwelling. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Accessory Dwelling Unit (ADU), with the following restrictions:

- A. Shall be limited to one per lot or parcel.
- B. May be attached or detached to the primary single-family dwelling.
- C. Must be secondary in nature to the primary dwelling unit.
- D. May be occupied full time.
- E. Shall be limited in size to 1,250 square feet of living space when constructed or placed on a conforming lot or parcels of record which contains 7,100 square feet or more of land and 600 square feet of living space when constructed or placed on a legal non-conforming lot or parcel of record containing less than 7,100 square feet.
- F. Shall comply with all applicable residential building and fire codes.

9-4A-4: SPECIAL USES:

The following uses are permitted in the rural zone with a special use permit:

Golf courses and athletic facilities.

- A. Minimum Area: No special minimum area.
- B. Site Development Plan: Subject to approval, by the planning and zoning commission, of a detailed site development plan showing parking, traffic circulation, access, landscaping and structures.

Mobile home parks.

Multiple-family dwellings.

Public utility complex facility.

- A. Minimum Area: No minimum area required.
- B. Land Coverage: The area of land covered by buildings shall not exceed thirty five percent (35%) of the total lot area.
- C. Considerations: In considering applications, the planning and zoning commission shall consider public convenience and necessity of the facility. The planning and zoning commission will also consider any adverse effect that the facility will have upon properties in the vicinity and may require such reasonable restrictions or conditions of development; or protective improvements as to uphold the purpose and intent of this chapter and the comprehensive plan.

- D. Conditions: Specified conditions with respect to emissions of noise, particulate matter or vibrations may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards.

Radio and television towers (commercial).

- A. Minimum Area: The base of any tower shall not be closer to any property line than a distance of one and one-half ($1\frac{1}{2}$) times the height of the tower.

Veterinary clinics, orphanages, hospitals, boarding kennels, animal clinics, and animal training schools.

- A. Minimum Area: No special minimum area.
- B. Housing Of Animals: All animals will be housed in permanent structures which can be physically enclosed during nighttime hours, excluding farm animals, but they must be in a fenced area.
- C. Distance From Dwellings: All buildings and fenced running areas will be a minimum of three hundred feet (300') from any existing dwelling other than that of the owner.
- D. Prevention Of Nuisance: The operator of such a use will maintain adequate housekeeping practices to prevent the creation of a nuisance. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

Rental warehouses, boat and/or recreational vehicle storage or ministorage

- A. A minimum of Five (5) acres is required.
- B. Setbacks
 - 1. Structures shall not be located within three-hundred feet (300') from the edge of right-of-way of the nearest arterial as defined under subsection 9-1-2B of this title. The Planning and Zoning Commission may authorize a setback reduction to not less than one-hundred-fifty feet (150') from the edge of right-of-way of the nearest arterial as defined under subsection 9-1-2B of this title, when it can be documented that adequate screening exists onsite. In the event that a setback reduction is granted a condition shall be placed to ensure the screening is retained.
 - 2. All side and rear yard setbacks shall be increased to not less than 25-feet.

- C. Site shall have direct access onto a public right-of-way.
- D. The use, any appurtenant structures and fencing shall be so arranged on the land as to minimize any adverse effects on the surrounding properties and rights-of-ways.
- E. A maximum of 35% of the total lot or parcel, may be used as a storage facility. The storage facility shall include storage structures, associated parking areas and fire lanes, that are located within fenced storage facility boundary.
- F. The exterior of all buildings shall be designed in a manner that is consistent with the rural character of the area.
- G. Fencing shall compliment the exterior building materials (similar color, materials and/or detailing) of the storage buildings, be of an agricultural nature or shall be obscured from view with landscaping and shall be maintained and kept in good repair.
- H. A landscape buffer 25-feet in width shall be installed and maintained around the perimeter of the site, which shall include evergreen trees a minimum of 4-feet in height and spaced no more than 15' on center. Or documentation demonstrating that an adequate buffer is provided by the existing natural vegetation. Exception: Storage located within existing agricultural buildings or new construction on active farmland providing a minimum of 90% open space.
- I. Outdoor storage shall be accessory to the indoor storage facility and shall be limited to major recreational equipment, including travel trailers, recreational vehicles, watercraft, boats or similar, vehicles or equipment.
- J. Units shall not be used as dwellings or as a commercial, service, repair or industrial place of business. The manufacturing, commercial repair or sale of items from or at a rental warehouse, mini storage or boat storage facility is specifically prohibited.
- K. If the property abuts rural or residential zoned property or property which is developed with a residence at the time of construction, the facility hours of public operation shall be limited to seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M.
- L. All lighting shall be shielded and downward directed so as to confine lighting to the premises and produce no glare on adjacent properties or rights of way. External lighting shall be activated by motion and or activity within the facility.

- M. No portion of the above restrictions relating to storage shall be construed in a manner that shall inhibit agricultural pursuits.

ARTICLE B. RESIDENTIAL ZONE

9-4B-1: GENERAL APPLICATION:

This article provides for uses which are permitted in the residential zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4B-2: MINIMUM LOT SIZE AND ACCESS REQUIREMENTS:

- A. Lot Size: The minimum lot size for property in the residential zone is fifty feet (50') of frontage and seven thousand one hundred (7,100) square feet, except as provided in section 9-4B-3 of this article.
- B. Access: All lots in the residential zone shall have at least one existing "legal access" as defined in subsection 9-1-2B of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4B-3: USES PERMITTED:

The following uses are permitted in the residential zone:

Churches.

Home occupations as defined in subsection 9-1-2B of this title.

Hospitals and clinics.

Multiple-family dwellings, containing no more than three (3) dwelling units, with the following restrictions:

- A. The minimum lot size shall be ten thousand six hundred fifty (10,650) square feet, with a minimum frontage on a public street of seventy-five feet (75'); and
- B. The minimum setbacks shall be twenty feet (20') for the front of the structure, fifteen feet (15') for the sides of the structure, and twenty feet (20') for the rear of the structure.

Nonprofit, public or private, community halls, except those whose principal activity is to carry on as a business.

Private and public schools, except those where students are held under restraint.

Retirement homes, convalescent centers, and nursing homes.

Schools.

Single-family dwellings, duplex dwelling (subject to the density standards allotted in the residential zone), and manufactured homes used as single-family dwellings. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Accessory Dwelling Unit (ADU), with the following restrictions:

- A. Shall be limited to one per lot or parcel.
- B. May be attached or detached to the primary single-family dwelling.
- C. Must be secondary in nature to the primary dwelling unit.
- D. May be occupied full time.
- E. Shall be limited in size to 1,250 square feet of living space when constructed or placed on a conforming lot or parcels of record which contains 7,100 square feet or more of land and 600 square feet of living space when constructed or placed on a legal non-conforming lot or parcel of record containing less than 7,100 square feet.
- F. Shall comply with all applicable residential building and fire codes.

9-4B-4: SPECIAL USES:

The following uses are permitted in the residential zone with a special use permit:

Bed and breakfasts.

Golf courses and athletic facilities.

- A. Minimum Area: No special minimum area.
- B. Site Development Plan: Subject to approval, by the planning and zoning commission, of a detailed site development plan showing parking, traffic circulation, access, landscaping and structures.
- C. Commercial Uses: No commercial uses will be permitted, except those related to the sales or rental of equipment associated with use, or food or beverage sales.

Multiple-family dwellings containing more than three (3) dwelling units.

Nursery schools and daycare centers which comply with state guidelines. (Ord. 6-2e,

2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

ARTICLE C. COMMERCIAL ZONE

9-4C-1: GENERAL APPLICATION:

This article provides which uses are permitted in the commercial zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4C-2: LOT RESTRICTIONS AND ACCESS REQUIREMENTS:

- A. Open Space: A minimum of twenty five percent (25%) of the total lot area must remain as open space, free of structures, unless otherwise specifically permitted by the planning and zoning commission.
- B. Compliance Required: No building in the commercial zone shall be altered, erected, reconstructed or moved except in conformance with the provisions of this title and the requirements of this zone.
- C. Parking Space Requirements: All uses in the commercial zone shall meet the minimum parking space requirements as provided in chapter 5, article E of this title.
- D. Signs And Advertising Structures¹: Signs and advertising structures, when adjacent to or alongside of a state highway, must comply with the regulations of the Idaho state transportation department and this title.
- E. Green Space: Consistent with the surrounding uses and aesthetics, "green space", as defined by subsection 9-1-2B of this title, of not less than ten percent (10%) nor more than twenty five percent (25%) of the total lot area, is required. Any area designated to be green space shall be counted toward the area required as open space by this subsection.
- F. Access: All lots in the commercial zone shall have at least one existing "legal access" to a public street as defined in subsection 9-1-2B of this title.
- G. Site Plan: Any site plan submitted for the development of property within the commercial zone shall include sidewalks and/or bicycle paths adjacent to any city street or paved public road bordering the property, if required by the commission or the city council; provided, that nothing herein shall require the construction of sidewalks and/or bicycle paths adjacent to the city street or paved public road bordering property fully developed on the effective date hereof. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4C-3: USES PERMITTED:

The following uses are permitted in the commercial zone:

Churches, community halls, lodges.

Hospitals, sanitariums, clinics and veterinary clinics.

Personal and financial services; incidental repair and maintenance services and servicing.

Theatres and entertainment facilities; eating and drinking establishments, microbreweries and wineries

Rental warehouses and mini storages, provided the location is three hundred feet (300') or farther from the centerline of the nearest arterial as defined under subsection 9-1-2B of this title.

Storage of products, materials, inventory and equipment, providing all such products, materials, inventory and equipment are stored indoors or within the perimeter of a sight obscuring fence.

Transient residential uses (i.e., motel, hotel, and RV parks).

Wholesale and retail sales of up to 20,000 square feet. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Single-family dwellings; duplex dwellings; multiple-family dwellings providing that less than six residential units are allowed per parcel of land without a special use permit, also providing that on the ground floor of primary commercial frontages as determined by the planning director, only 20 feet of said primary commercial frontage width in the fronting 100 feet of the parcel depth, of any given parcel of land may be occupied by residential uses.

9-4C-4: SPECIAL USES:

The following uses are permitted in the commercial zone with a special use permit:

Animal clinics, orphanages, hospitals, boarding kennels and runs, animal training schools:

A. Minimum Area: No special minimum area.

B. Housing Of Animals: All animals will be housed impermanent structures which can be physically enclosed during nighttime hours. Excluding farm animals, but they must be in a fenced area.

- C. Distance From Dwellings: All buildings and fenced running areas will be a minimum of three hundred feet (300') from any existing dwelling other than that of the owner.
- D. Prevention Of Nuisance: The operator of such a use will maintain adequate housekeeping practices to prevent the creation of a nuisance.

Auto Wrecking Yard:

- A. Minimum area: Five (5) acres.
- B. A sight obscuring fence must be constructed around the entire storage area, a minimum of eight feet (8') in height or higher to conceal the sight of public nuisance.
- C. No materials, parts, automobiles or junk will be visible from any public right of way.
- D. A performance bond may be required for assurance of compliance with the provisions of this special use; said bond will be renewable every two (2) years, after inspection of the premises determines the advisability of such a renewal.

Daycare centers, but not schools.

Heliports.

Light industrial which meets the following criteria:

- A. Carried on in such a manner as to not create a hazard of fire or explosion.
- B. All byproducts, emissions, waste and other discharges must meet the minimum standards of all local, state and federal agencies with jurisdiction, including, but not limited to, EPA, health district, sewer district and sanitary landfill district. In addition, said use shall not negatively impact adjoining and/or adjacent properties.
- C. All storage of materials, equipment, supplies, etc., must either be indoors or contained within a six foot (6') high, sight obscuring fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements.

Mobile home parks.

Outdoor theater.

Recreational facilities; amusement parks and facilities

Wholesale and retail sales with building footprints greater than 20,000 square feet.

Public utility complex facility:

- A. Minimum Area: No minimum area required.
- B. Land Coverage: The area of land covered by buildings shall not exceed thirty five percent (35%) of the total lot area.
- C. Considerations: In considering applications, the planning and zoning commission shall consider the public convenience and necessity of the facility. The planning and zoning commission will also consider any adverse effect that the facility will have upon properties in the vicinity and may require such reasonable restrictions or conditions of development; or protective improvements as to uphold the purpose and intent of this title and the comprehensive plan.
- D. Conditions: Specified conditions with respect to emissions of noise, particular matters or vibrations may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards.

Servicing, repair and maintenance of equipment and products.

Multiple-family dwellings having six or more total residential units per parcel of land.

Temporary buildings or structures may be permitted in the commercial zone for a period not to exceed ninety (90) days for the purpose of special sales, demonstrations, advertisements, displays or the like, but such temporary facilities shall be removed on expiration of the special sale, demonstration, advertisement, display, etc., or ninety (90) days, whichever is shorter. Such facilities may remain beyond ninety (90) days upon a showing of good cause and written permission issued by the planning and zoning commission and approved by the city council.

Temporary residential structure:

- A. The use shall carry a specified time limit for removal not to exceed a one-year period. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

ARTICLE D. INDUSTRIAL ZONE

9-4D-1: GENERAL APPLICATION:

This article provides which uses are permitted in the industrial zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4D-2: LOT RESTRICTIONS AND ACCESS REQUIREMENTS:

- A. Lot Size: Minimum lot size shall be fifteen thousand (15,000) square feet.
- B. Compliance Required: No building in the industrial zone shall be altered, erected, reconstructed or moved except in conformance with the provisions of this title and the requirements of this zone.
- C. Parking Space Requirements: All uses in the industrial zone shall meet the minimum parking space requirements as provided in chapter 5, article E of this title.
- D. Green Space: In the discretion of the planning and zoning commission, and consistent with the surrounding uses and aesthetics, "green space" as defined by subsection 9-1-2B of this title, not to exceed twenty five percent (25%) of the total lot area, may be required.
- E. Access: All lots in the industrial zone shall have at least one existing "legal access" to a public street as defined in subsection 9-1-2B of this title.
- F. Additional Specific Conditions: The planning and zoning commission and the city may add specific conditions to any industrial district to require compatibility with surrounding uses and to assure compliance with the intent of this title and the health and safety of the public. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4D-3: USES PERMITTED:

The following uses are permitted in the industrial zone:

Golf courses and other athletic facilities.

Light Industrial and small-scale manufacturing, processing, fabrication or assembly of products that meet the following criteria:

- A. Carried on in such a manner as to not create a hazard of fire or explosion.
- B. All byproducts, emissions, waste and other discharges must meet the minimum standards of all local, state and federal agencies with jurisdiction, including, but not limited to, EPA, health district, sewer district and sanitary landfill district. In addition, said use shall not negatively impact adjoining and/or adjacent properties.
- C. All storage of materials, equipment, inventory, supplies, etc., must either be indoors or contained within a six foot (6') high, sight obscuring fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements. All storage structures must comply with the structure setback requirements of this title.

Equipment and automobile maintenance or repair facilities, provided that they do not have a retail store front.

Rental warehouses, storage facilities and mini storages

- A. No commercial sales of any kind are permitted onsite.
- B. All storage must be indoors or within a six foot (6') high, sight obscuring fence.
- C. All lighting shall be confined to the premises and shall produce no glare visible from adjacent properties or rights of way. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2007-5, 6-4-2007)

Sales of goods produced on site.

Single-family dwelling

- A. The single-family residential use must be secondary in nature to the industrial use occurring on-site.
- B. May be attached to or detached from the industrial structure located on-site.
- C. Must comply with all applicable building and fire codes.
- D. May not be used in a transient residential capacity (i.e., no short term or vacation rentals)

- E. The site must contain a minimum of two designated parking spaces for the residential use.

9-4D-4: SPECIAL USES:

The following uses are permitted in the industrial zone with a special use permit:

Heavy Industrial, Factories, Mining related activities, Asphalt Batch Plants and Concrete Plants, which meet the following criteria.

- A. Carried on in such a manner as to not create a hazard of fire or explosion.
- B. All byproducts, emissions, waste and other discharges must meet the minimum standards of all local, state and federal agencies with jurisdiction, including, but not limited to, EPA, health district, sewer district and sanitary landfill district. In addition, said use shall not negatively impact adjoining and/or adjacent properties.
- C. C. All storage of materials, equipment, supplies, etc., must either be indoors or contained within a six foot (6') high, sight obscuring fence. Storage of hazardous, flammable or explosive materials must be in accordance with Northside fire department requirements.

Auto wrecking yards:

- A. Minimum area: Five (5) acres.
- B. A sight obscuring fence must be constructed around the entire storage area, a minimum of eight feet (8') in height or higher to conceal the sight of public nuisance.
- C. No materials, parts, automobiles or junk will be visible from any public right of way.
- D. A performance bond may be required for assurance of compliance with the provisions of this special use; said bond will be renewable every two (2) years, after inspection of the premises determines the advisability of such a renewal.

Food processing plants, not including slaughterhouses and rendering plants.

Heliports.

Plants for the manufacture of explosives.

Public utility complex facility:

- A. Minimum Area: No minimum area required.
- B. Land Coverage: The area of land covered by buildings shall not exceed thirty five percent (35%) of the total lot area.
- C. Considerations: In considering applications, the planning and zoning commission shall consider the public convenience and necessity of the facility. The planning and zoning commission will also consider any adverse effect that the facility will have upon properties in the vicinity and may require such reasonable restrictions or conditions of development; or protective improvements as to uphold the purpose and intent of this title and the comprehensive plan.
- D. Conditions: Specified conditions with respect to emissions of noise, particulate matter or vibrations may be prescribed differently from those required in a given district, as to be compatible with other applicable state and federal standards.

ARTICLE E. RECREATIONAL ZONE

9-4E-1: GENERAL APPLICATION:

This article provides which uses are permitted in the recreational zone and the restrictions for such uses, and those uses for which a special use permit is required. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4E-2: STANDARDS AND RESTRICTIONS:

A. Detailed Plan Required: In any development on property in the recreational zone, the sponsor of the proposal shall submit a detailed plan that shows the relationship between the development and the following:

1. The proposed physical and legal ingress and egress to the site.
2. The surrounding neighboring land uses.
3. The availability of water and wastewater treatment services.
4. Site drainage and features.
5. Topographical features.
6. The proposed building's size, shape and location on the property, including dimensions, total square feet of each structure, and site area dimensions.
7. Parking facilities.

B. Design, Operation And Maintenance: Any development in the recreational zone shall be designed, operated and maintained in a manner which is harmonious with, and appropriate in appearance to, the existing or intended general character of the area; and so that the development will not substantially change the character of the area.

C. Access: All lots in the recreational zone shall have at least one existing "legal access" to a public street as defined in subsection 9-1-2B of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-4E-3: USES PERMITTED:

The following uses are permitted in the recreational zone:

Commercial resorts, with a minimum lot size of one acre, which are operated for profit and which may include facilities for food and beverage sales, rented seasonal living units, and retail sales of recreational and sporting equipment, supplies or services so long as such sales are incidental to operation of the resorts.

Public Parks and Civic Facilities

9-4E-4: SPECIAL USES:

The following uses are permitted in the recreational zone with a special use permit:

Mobile home parks.

Private resorts, with a minimum lot size of one acre, which may contain facilities for nonprofit outdoor recreational uses including boating, camping, swimming, skiing, golfing and shooting, and areas for group meetings. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

Single-family dwellings

Chapter 5

PERFORMANCE STANDARDS

9-5-1: GENERAL APPLICATION:

- A. Applicability: The following performance standards are applicable to all construction and development in any zone, unless otherwise specifically indicated.
- B. Use Or Occupation Restricted: No land or building in any zone shall be used or occupied in such a manner as to create dangerous, injurious, noxious or otherwise objectionable conditions adversely affecting any other lot, except as provided in this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5-2: FENCE REQUIREMENTS:

- A. Residential, Rural And Recreational Zones: In residential, rural and recreational zones, no fence, whether sight obscuring or not, shall be over eight feet (8') in height. No fence shall be over four feet (4') in height in the required front yard setback.
- B. Multiple-Family Dwelling: No fence, whether sight obscuring or not, on property containing a multiple-family dwelling, in any zone, shall be over eight feet (8') in height.
- C. Commercial And Industrial Zones: In commercial and industrial zones, no fence shall be over ten feet (10') in height. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5-3: ADDITIONAL RESTRICTIONS FOR MULTIPLE-FAMILY DWELLINGS:

- A. Minimum Dwelling Size: For purposes of calculating densities, parking requirements and other development requirements, the minimum dwelling size shall be six hundred (600) square feet or the actual size, whichever is greater.
- B. Minimum Lot Size: The minimum lot size shall be fifteen thousand (15,000) square feet, with a minimum frontage on a public street of one hundred twenty five feet (125'), except as provided in section 9-4B-3 of this title.
- C. Green Space: A minimum of twenty five percent (25%) of the lot shall be maintained as "green space", as defined in subsection 9-1-2B of this title.
- D. Building, Including Common Spaces And Appurtenant Structures: The building, including common spaces and appurtenant structures, shall not occupy more than forty percent (40%) of the total surface area of the lot.
- E. Driveways: Driveways shall not be located closer than five feet (5') from the residential structure, except where necessary to access covered parking. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5-4: PERFORMANCE STANDARDS FOR COMMERCIAL AND INDUSTRIAL USES:

Any commercial or industrial use or occupation of land or buildings in any zone which creates dangerous, injurious, noxious or otherwise objectionable conditions adversely affecting any other lot must comply with the following performance requirements. The planning and zoning commission, prior to giving approval as required by this title, may require the submission of statements and plans indicating the manner in which dangerous, injurious, noxious or otherwise objectionable conditions involved in commercial and industrial uses will be eliminated or reduced to acceptable limits and tolerances: (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

- A. Fire Hazards: Any lot on which flammable or explosive materials are used or stored shall have adequate firefighting and fire prevention equipment immediately available. Such materials shall be kept from other uses or structures to a distance which is compatible with the potential fire danger involved, as specified in the international fire code as adopted by the city. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2008-2, 1-7-2008)

- B. Radioactive Particles Or Electrical Disturbance: No activity shall emit harmful radioactive particles or cause any electrical disturbance which adversely affects the operation of any equipment other than the source of such particles or disturbance.
- C. Noise: Excessive or unusual noise shall be muffled or otherwise controlled. Air raid sirens and related apparatus used solely for public purposes are exempt from the requirement.
 - 1. Excessive or unusual noise includes noise that exceeds fifty-five (55) decibels, or any lower decibel level fixed by law, generated between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.
 - 2. Excessive or unusual noise includes noise that exceeds sixty-five (65) decibels, or any lower decibel level fixed by law, generated between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
- D. Vibration: Any use which causes intense vibrations shall be controlled to prevent transmission of vibrations beyond lot lines which are discernible by persons of normal sensitivity.
- E. Air Pollution: Air pollution shall be subject to the requirements and regulations established by the public health authority with jurisdiction in the area of the city.
- F. Glare: Direct or reflected glare which is visible from any property outside an industrial zone or from any street shall not be permitted.
- G. Water Pollution: Water pollution shall be subject to the requirements and regulations established by the public health authority with jurisdiction in the area of the city. (Ord.6-2e, 2000; Ord. 6-2f, 2002)

ARTICLE A. PROPERTY LINE SETBACK AND HEIGHT REGULATIONS

9-5A-1: COMPLIANCE REQUIRED:

Unless otherwise specified by setback and height regulations in state law or in other sections of this chapter, the provisions contained in this article shall be adhered to. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5A-2: VISIBILITY AT INTERSECTIONS:

On the corner lot in any zone, nothing shall be erected, placed, planted or allowed to grow where the sight obstruction constitutes a potential traffic hazard. In no case shall the sight obstruction extend more than two and one-half feet (2¹/₂') or less than ten feet (10') in height above the centerline grades of the intersecting streets within the vision triangle. The boundaries of the vision triangle are defined by measuring along the edges of the two (2) intersecting streets twenty-five feet (25') from the point of intersection and connecting the two (2) points with a straight line. This restriction shall not apply to public traffic or highway signs. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5A-3: PROPERTY LINE SETBACKS:

A. Residential, Rural And Recreational Zones: Property line setbacks for structures in the residential, rural and recreational zones shall be as follows:

1. From the front of any structure to the edge of the lot, fifteen feet (15'); excepting front porches or entryways.
2. From the rear of any structure to the edge of the lot, five feet (5');
3. From the side of any structure to the edge of the lot, five feet (5');
4. From the side of any structure to the edge of the lot in the case of a flanking street, ten feet (10');
5. If the front, side or rear of any structure faces a principal arterial, there shall be a minimum property line setback of seventy-five feet (75') from the center of the right of way or twenty-five feet (25') from the edge of the right of way abutting the property, whichever is greater.
6. From the front of any front porch or entryway to the edge of the lot, five feet (5')
7. From any front facing garage or carport to the front edge of the lot, twenty

(20')

B. Multiple-Family Dwellings: Property line setbacks for multiple-family dwellings in any zone shall be as follows:

1. For all structures not exceeding eighteen feet (18') in height or one story:
 - a. From the front of any structure to the edge of the lot, twenty feet (20');
 - b. From the rear of any structure to the edge of the lot, twenty feet (20');
 - c. From the side of any structure to the edge of the lot, fifteen feet (15').
2. For all structures not exceeding twenty-eight feet (28') in height or two (2) stories:
 - a. From the front of any structure to the edge of the lot, twenty feet (20');
 - b. From the rear of any structure to the edge of the lot, twenty feet (20');
 - c. From the side of any structure to the edge of the lot, twenty feet (20').
3. If the front, side or rear of any structure faces a principal arterial, there shall be a minimum property line setback of seventy-five feet (75') from the center of the right of way or twenty-five feet (25') from the edge of the right of way abutting the property, whichever is greater.
4. With the approval of the planning and zoning commission the property line setbacks may be reduced to zero feet (0') where buildings are designed with common party walls or, where the proposed use is part of a neighborhood subarea plan, shopping center, mall, PUD or other development that has an overall plan approved by the planning and zoning commission.

C. Commercial And Industrial Zones: Property line setbacks for structures in commercial and industrial zones shall be as follows:

1. If the front, side or rear of any structure faces a principal arterial, there shall be a minimum property line setback of seventy-five feet (75') from the center of the right of way or twenty-five feet (25') from the edge of the right of way abutting the property, whichever is greater.
2. The minimum property line setback from all other streets and legal accesses shall be forty-five feet (45') from the center of the street or legal access right of way or twenty-five feet (25') from the edge of the right of way, whichever is greater. The minimum property setback from a recorded private access right of way shall be twenty-five feet (25'), measured from the edge of the

right of way.

3. The minimum property line setback from all other property lines shall be ten feet (10'); provided, if the adjoining property is zoned residential, the minimum property line setback for commercial structures shall be twenty-five feet (25').
4. With the approval of the planning and zoning commission, the property line setbacks may be reduced to zero feet (0') where buildings are designed with common party walls or, where the proposed use is part of a, neighborhood subarea plan, shopping center, mall, PUD or other development that has an overall plan approved by the planning and zoning commission.

D. From Lakes, Rivers, Streams Or Other Bodies Of Water: Property line setbacks for all zones and for all uses from lakes, rivers, streams or other bodies of water shall be as follows:

1. No structure shall be erected closer than forty feet (40') from the mean highwater elevation of any lake, river, stream, channel or other body of public water.

E. Administrative Exception: An administrative exception, not to exceed two feet (2') of the required property line setbacks for front, side, rear and flanking street setbacks, may be granted by administrative action of the planning director without public notice and without public hearing. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5A-4: HEIGHT RESTRICTIONS:

Height restrictions are as follows:

- A. Maximum Height: No structure, in any zone, shall be over two (2) stories in height unless approved by the planning and zoning commission.
- B. Exceptions: The restrictions on the height of any structure under this title do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and which are not intended for human occupancy; provided, that no such appurtenance may be erected or maintained which constitutes a hazard to the safe landing and takeoff of aircraft at an established airport; further provided, that the height limitation contained in subsection B of this section does not apply to uninhabited attic space,. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

ARTICLE B. UNIQUE LAND USES

9-5B-1: COMPLIANCE REQUIRED:

Certain unique land uses pose special problems that may have detrimental influence on surrounding land uses. In all zones, the following performance standards for such unique land uses shall be adhered to in addition to all other provisions of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5B-2: BULK STORAGE OF FLAMMABLE LIQUIDS, GASES AND EXPLOSIVE MATERIALS FOR RESALE:

- A. Distance From Residential Districts; Compliance With Codes: Storage of flammable liquids, gases and explosive materials shall be at least three hundred feet (300') from a residential district and will meet the requirements of all local, state and federal codes.
- B. Aboveground Storage: Storage of flammable liquids and gases aboveground may be permitted only for quantities over twenty thousand (20,000) gallons; provided, that all of the most restrictive local, state or federal fire codes and fire insurance underwriters' requirements are met.
- C. Underground Storage Prohibited: No flammable liquids, gases or explosive materials will be stored below the surface of any lake, river, stream or body of water in the city. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5B-3: CHEMICAL, PESTICIDE AND FERTILIZER STORAGE AND MANUFACTURING:

- A. Approval Of Fire District Required: Any activity involving the storage or manufacture of chemicals, pesticides or fertilizer shall be permitted only after submission of a plan demonstrating adequate fire protection, the location and construction of any storage area, and the procedures and equipment for handling and disposal of said materials, and upon approval by the Northside fire district.
- B. Distance From Residential Zone, Residential Structure, Motel Or Hotel: Any activity involving the storage or manufacture of chemicals, pesticides or fertilizer shall be

located at least three hundred feet (300') from any residential zone, residential structure, motel or hotel, except for the residence of the owner or operator of said activity.

- C. Underground Storage Prohibited: Chemicals, pesticides and fertilizer shall not be stored below the surface of any lake, river, stream or body of water in the city. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5B-4: CONTRACTOR'S YARD:

- A. Distance From Residential Structure: Any contractor's yard shall be located a minimum distance of three hundred feet (300') from any established residential structure, except for the residence of the owner or operator of said yard. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)
- B. Fence: All contractor's yards shall have minimum six foot (6') high sight obscuring fence around the areas utilized for the storage of equipment or supplies. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; 2008 Code)
- C. Use Restricted: A contractor's yard shall be limited to storage, maintenance, repair and processing incidental to contracting work. There shall be no general industrial or commercial uses. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5B-5: FILLING, GRADING, LAGOONING, DREDGING OR OTHER EARTHMOVING ACTIVITY:

- A. Exposure: The smallest amount of bare ground shall be exposed for the shortest time feasible.
- B. Temporary Ground Cover: Temporary ground cover, such as mulch, shall be provided.
- C. Sediments: Silting basins, terraces and other methods to trap sediments shall be used

when appropriate.

- D. Lagoon: Any lagoon shall be designed and constructed in such a manner as to avoid conditions which will create a fish trap.
- E. Floodway, Channel Or Natural Drainageway: No floodway, channel or natural drainageway shall be restricted.
- F. Erosion Or Soil Failure: The sides and bottoms of cuts, fills and channels, and artificial watercourses shall be designed and constructed to prevent erosion or soil failure.
- G. Over Excavation: Over excavation for planned grades at commercial and industrial construction sites shall not occur within fifty feet (50') of any lot line or public right of way, except for drainageways.
- H. Topsoil Or Loam: Topsoil or loam shall be restored to its natural condition following completion of the work.
- I. Level Of Property: The level of the property, or any portion thereof, shall not be raised by fill or otherwise, either temporarily or permanently, so as to cause harm to adjacent properties. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5B-6: OUTDOOR STORAGE OF COMMERCIAL AND INDUSTRIAL MATERIALS OR EQUIPMENT:

- A. Screening Required: When commercial or industrial materials or equipment are stored outdoors, said materials and equipment shall be screened from view from any existing adjoining residence or any residentially zoned area, whether or not such property is separated by an alley or street.

- B. Storage Prohibited: Commercial and industrial materials or equipment shall not be stored outdoors in front yard setback area. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5B-7: SANITARY LANDFILL:

- A. Hours Of Operation: Operation of sanitary landfills shall conform to times set by the governing board.
- B. Bond: Operators of privately owned sanitary landfills shall provide a bond in an amount to be determined by the planning and zoning commission, to ensure compliance with the provisions of the zoning approval.
- C. Paved Street Required: A paved street to the facility shall be provided prior to the start of operations.
- D. Supervision: All sanitary landfills shall be supervised during the hours of operation. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

ARTICLE C. SUPPLEMENTAL GENERAL PROVISIONS

9-5C-1: ADDITIONAL PROVISIONS:

In addition to all regulations as specified in this title, the provisions contained in this article shall be adhered to in all zones. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-2: ADDITION OF DWELLING UNITS TO ANY DWELLING:

- A. Setbacks: The setbacks for the lot must meet the setbacks required by this title for the dwelling as modified in its zone.
- B. Lot Size: The minimum lot size shall be the minimum lot size required for the dwelling as modified in its zone.
- C. Floor Area: The floor area per dwelling unit shall not be reduced to less than that which is required for new construction in its zone.
- D. Compliance With Applicable Codes And Ordinances: The dwelling as modified shall comply with all other applicable codes and ordinances.
- E. Approvals Required: Approval must first be obtained from the planning and zoning commission and the city council. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-3: TEMPORARY BUILDINGS, CONSTRUCTION TRAILERS, EQUIPMENT AND MATERIALS:

Temporary buildings, construction trailers, equipment and materials used in conjunction with construction shall be permitted in any zone during the period of construction work only, but such temporary facilities shall be removed on completion of construction work. Such facilities or the storage of equipment and materials beyond the completion date of the construction work shall require a permit issued by the planning and zoning commission and approved by the city council. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-4: PARKING AND STORAGE OF CERTAIN VEHICLES:

Any vehicle or vehicle body which is not properly and currently licensed, and which is not in operating condition or which has not been used for a period of one year or more, and which is offensive to the sight of the community or neighborhood or to a person passing by on a public road, shall be considered a public nuisance. Said vehicle or vehicle body must be removed or hidden by a sight obscuring fence. In any event, no more than two (2) such vehicles or vehicle bodies shall be permitted on any lot without a special use permit. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-5: REQUIRED TRASH AREAS:

All trash and/or garbage collection areas for commercial or industrial uses, and multiple-family dwellings shall be enclosed on at least three (3) sides by a solid wall or sight obscuring fence of at least four feet (4') in height, or within an enclosed building or trash and/or garbage collection dumpster. Adequate vehicle access to and from such area or areas for collection of trash and/or garbage shall be provided. Trash and/or garbage collection areas must also be animal proof. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-6: ACCESSORY BUILDING:

A. Location: No accessory building may be located in any required front yard area.

B. Area; Distance From Property Line Or Street Right Of Way: No accessory building greater than one hundred twenty (120) square feet in area shall be located closer than five feet (5') from any side or rear property line or fifteen feet (15') from the edge of any street right of way, whichever is greater. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-7: NONCONFORMING LOTS OF RECORD:

The minimum lot size requirements shall not prohibit permitted uses on a lot divided prior to the date of the enactment of the original planning and zoning ordinance. All structures built after the enactment of the original planning and zoning ordinance, however, shall meet the minimum setback requirements as provided in the planning and zoning ordinance in effect at the time of construction. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-8: NONCONFORMING USE:

A. Deemed Abandoned: When a nonconforming use ceases or remains dormant for one year or more, it shall be conclusively deemed abandoned. Said nonconforming use shall not be reinstated or reactivated under any circumstance.

- B. Expansion Or Alteration: A valid nonconforming use shall not be expanded nor substantially altered without approval by the planning and zoning commission and the city council; provided, normal repair and maintenance, plus minor improvements, made necessary or desirable by the passage of time and by continued use shall be permitted without approval. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-9: INTERNAL COMBUSTION ENGINES:

The operation of internal combustion engines in any zone, whether for intermittent, sustained, continuous or testing purposes, shall be permitted only if said engine is equipped with a working legal muffler. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-10: TEMPORARY HARDSHIP RESIDENCE:

- A. Definition: A "temporary hardship residence" is a separate residential structure used on a temporary basis only in, or in conjunction with, the primary residential structure on the lot.

B. Requirements: All temporary hardship residences shall comply with the following:

1. Lot Size: The temporary hardship residence shall be permitted only on a lot having a minimum size of one acre.
2. Limited To One: Only one temporary hardship residence shall be permitted on any lot.
3. Occupation: The temporary hardship residence shall be occupied by either the dependent relative or by the family providing care.
4. Dependency: "Dependency", for the purpose of the temporary hardship residence, shall mean medical dependency or physical or mental handicap. Dependency shall be determined by the planning and zoning commission and the city council prior to issuance of a building permit.
5. Sponsor: The owner of the real property on which the temporary hardship residence is located, or an adult member of the family providing care, if the owner of the property is the dependent relative, shall be the sponsor when making a request for a permit. If the living quarters of the temporary hardship residence is a manufactured home, the sponsor shall also obtain a manufactured home setting permit¹.
6. Statement Of Licensed Physician: A written statement shall be provided by the sponsor

from a licensed physician stating the nature of the medical dependency or physical or mental handicap when making a request for a permit.

7. Permit Provisions: The permit for a temporary hardship residence shall provide the following:
 - a. A representation that the temporary hardship residence will be removed upon termination of occupancy of either dependent relative or family providing care;
 - b. A representation that the temporary hardship residence will be removed upon sale or lease of the property;
 - c. That the temporary hardship residence is to be used as living quarters for the dependent relative named in the permit or for the family providing the care; and
 - d. That the temporary hardship residence is not considered a use which is to be transferred with the property when said property is sold or leased.
8. Conflict With Restrictive Covenants: It shall be the responsibility of the sponsor to submit a statement that the location of the temporary hardship residence is not in conflict with any recorded restrictive covenant or plat dedication upon request for a permit.
9. Water And Sewer Facilities: When applying for the permit, it shall be the responsibility of the sponsor to show proof of adequate water and sewer facilities for the temporary hardship residence.
10. Annual Renewal: The permit for a temporary hardship residence shall be renewed every year by the sponsor.
11. Prohibited In Commercial And Industrial Zones: The temporary hardship residence shall be prohibited in the commercial and industrial zones. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-11: LAND MINING:

Land mining shall be prohibited in the residential zone and within one thousand feet (1,000') of a residence in the rural zone. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-12: COMPLIANCE WITH FAA REGULATIONS:

All use and development of property within the city shall comply with the regulations of the federal aviation administration (FAA) if said property is located in an area governed by such regulations. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-13: CURBS AND GUTTERS:

Any curbs or gutters constructed in the city shall conform to the standards and

specifications of the state of Idaho. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-14: ROADS AND STREETS:

Any roads or streets hereafter constructed which are intended for use by the public, whether or not said roads or streets are to be dedicated to and accepted by the city, must be constructed to city and/or state standards and specifications. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5C-15: Conservation and Urban Reserve Density Allocation:

The minimum lot sizes may be converted to gross density units per acre(DU)and averaged for a given subdivision plan for the purpose of conserving natural resources, conserving working lands, creating parkland or additional public ways, or other public benefit. Such subdivision designs are sometimes referred to as cluster developments. In the interest of furthering efficient growth patterns, lots may also be clustered to provide for future intended growth areas where the comprehensive plan indicates future water or sewer service or public ways but where none exists today. Such development shall provide dryline utilites or public right-of-way to the satisfaction of the applicable service providers. Administration of this section shall be conducted as a sketch plan review prior to submission of a preliminary subdivision application. The allowance provided in this section is only intended for exceptional projects that will have positive long term consequences for the City of Ponderay as discretionally determined by the planning director, with deference to the City of Ponderay Comprehensive Plan and the appropriate Idaho Smart Growth Development evaluation resource. The planning director shall issue a written opinion accompanying a sketch plan review as to the reasons for allowing or denying a request for a conservation or urban reserve project to proceed to preliminary plat application and review. Nothing in this section shall be construed as to guarantee the subsequent preliminary plat approval which shall follow the standard subdivision review process.

ARTICLE D. MOBILE HOME PARK STANDARDS

9-5D-1: SITE REQUIREMENTS:

- A. Area Required: A mobile home park may be permitted on a lot of not less than twenty five thousand (25,000) square feet and with adequate access to a public street, when accompanied by a plan that incorporates the following provisions of this article and has been approved by the planning and zoning commission and the city council.
- B. Stall Or Space Size: A mobile home park shall provide stalls or spaces for each mobile home of not less than three thousand (3,000) square feet.
- C. Services: Laundry and convenience related services may be provided for the use of the tenants of the park only. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5D-2: DESIGN STANDARDS:

Mobile home parks shall be designed to the following standards:

- A. Open Space: Seventy percent (70%) of each mobile home stall or site shall be left open space.
- B. Distance From Park Property Line: Each mobile home shall be located at least twenty five feet (25') from any park property line.
- C. Distance From Another Mobile Home Or Permanent Building: A mobile home may not be closer than twenty feet (20') from any other mobile home or permanent building within the mobile home park.
- D. Access: Each stall or space within a mobile home park shall have direct access to a park street. The park street shall consist of unobstructed area twenty feet (20') wide

and shall be well marked to provide for continuous traffic flow. The street system shall have direct legal access to a public road.

- E. Streets And Walkways: Streets and walkways designed for the use of the mobile home park residents shall be lighted during the hours of darkness.
- F. Off Street Parking: Each stall or space shall have two (2) off street parking areas of not less than two hundred (200) square feet in each area. Said parking spaces shall not be more than two hundred feet (200') from said stall or space.
- G. Stall Or Space Requirements: Each stall or space shall be provided with utility connections, ground anchors, piers or pads, and stabilizing connections of sufficient size to properly accommodate the mobile home placed on the site. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)
- H. Water Source For Fire Protection: A water source for fire department operations shall be provided as required by the international fire code for mobile home parks. Hydrants shall be located within five hundred feet (500') of all stalls or spaces unless otherwise specified. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 2008-2, 1-7-2008)

ARTICLE E. PARKING STANDARDS

9-5E-1: PARKING SPACES:

All parking spaces required by this title will be exclusive of drives and access lanes, and each space shall have adequate ingress and egress. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5E-2: RESIDENTIAL OFF STREET PARKING AREAS:

Residential off street parking areas shall comply with the following standards:

A. Location: Parking spaces for detached residential uses shall be located on the same lot as the use they are intended to serve.

B. Parked Or Stored Vehicles: All vehicles, including automobiles, recreational vehicles, boats and campers that are to be parked or stored for a period exceeding twenty four (24) hours, shall be within the required setback limits of any lot in the applicable zone.

C. Multiple-Family Dwellings:

1. Location: Parking spaces for multiple-family dwellings shall be located not more than three hundred feet (300') from the residential building.

2. Number Of Spaces Required: For multiple-family dwellings, there shall be one parking space for each six hundred (600) square feet of total building space, including common areas.

D. All Other Residential Dwellings: All other residential dwellings will be provided with at least one off street parking space of not less than two hundred (200) square feet in area. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5E-3: COMMERCIAL OFF STREET PARKING:

Commercial off street parking shall comply with the following standards:

A. Retail Or Service Establishments: Any retail or service establishment shall provide one

parking space for each two hundred (200) square feet of gross floor area of the building.

- B. Restaurants, Taverns And Establishments For Sale And On Premises Consumption: Restaurants, taverns and any establishment for the sale and consumption on the premises of food, refreshment or beverage shall provide one parking space for each one hundred (100) square feet of gross floor area of building.
- C. Theaters: Theaters shall provide one parking space for each four (4) fixed theater seats.
- D. Bowling Alleys: Bowling alleys shall provide five (5) parking spaces for each alley.
- E. Motels And Motor Hotels: Motels and motor hotels shall provide one parking space for each unit.
- F. Variance In Number Required: The number of off street parking spaces required under this title may be altered by the city council upon recommendation of the planning and zoning commission upon showing of special circumstances.
- G. Off Street Loading Spaces: All commercial uses shall be provided with off street loading spaces of not less than twelve feet (12') in width, exclusive of access area. Loading spaces shall not project into public rights of way or setback areas. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5E-4: INDUSTRIAL AND INSTITUTIONAL OFF STREET PARKING AREAS:

Industrial and institutional off street parking areas shall comply with the following standards:

- A. Number Of Spaces Required: All industrial or institutional uses shall provide one space (200 square feet in area) for each one thousand (1,000) square feet of gross floor area.
- B. Location: Parking spaces for industrial and institutional uses shall be located not more than eight hundred feet (800') from the principal structure or use.
- C. Off Street Loading Spaces: All industrial and institutional uses shall be provided with off street loading spaces of not less than twelve feet (12') in width, exclusive of access areas. Loading spaces shall not project into public rights of way or setback areas. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-5E-5: EXCEPTIONS:

The following parking standards shall apply in all zones:

- A. Worship Hall: One space for each six (6) seats in the largest worship hall for purposes of religious assembly. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

Chapter 6

ZONING TEXT AND MAP AMENDMENTS

9-6-1: AMENDMENTS TO ZONING TEXT:

- A. Request For Amendment: A request for an amendment to the text of this title, other than an amendment which would effect a change in the zoning map, shall be submitted, in writing, to the city council. Such a request may be initiated by the planning and zoning commission or the city council, or by any citizen of the city.

- B. Written Statement: Any request for an amendment to the text of this title, other than an amendment which would effect a change in the zoning map, must be accompanied by a written statement addressing the following. Incomplete applications shall not be accepted:
 - 1. Why the proposed amendment is necessary or desired.
 - 2. That the proposed amendment conforms to the comprehensive plan.
 - 3. The effect of the proposed amendment on property within the city.

- C. Public Hearing: The planning and zoning commission shall hold a public hearing on any such request for amendment to the text of this title, other than an amendment which would effect a change in the zoning map, and make a recommendation to the city council.

- D. Consideration by city council: The city council shall then consider any such request for amendment to the text of this title.

- E. Costs Of Hearing: In the case of an amendment request initiated by a private party, the city may collect the costs of said public hearing from the person or entity requesting the amendment.

- F. Change Adopted By Ordinance: Any amendment to the text of this title, other than an amendment which would effect a change in the zoning map, shall be adopted by ordinance of the city council in accordance with the procedure specified in Idaho Code.

- G. Evaluation By City Council: The city council shall evaluate any application for an amendment to the text of this title in light of the general specified objectives of the comprehensive plan. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-6-2: AMENDMENTS TO ZONING MAP:

- A. Application To Amend: The owner and/or contract buyer of any property seeking an amendment to the zoning map or a zone change shall submit an application to amend the zoning map to the planning and zoning commission.
- B. Initiation: The planning and zoning commission or city council may initiate action to amend the zoning map.
- C. Consideration By Planning And Zoning Commission: The planning and zoning commission shall give due consideration to any and all such applications to amend the zoning map and shall hold a hearing and take evidence, only after all requirements, as specified in this chapter, are met by the applicant or applicants requesting a change in the zoning map.
- D. Evaluation By Planning And Zoning Commission: The planning and zoning commission shall evaluate any application for an amendment to the zoning map in light of the general specified objectives of the comprehensive plan and shall make recommendations to the city council with respect to the approval or denial of the application in accordance with the standards and procedures set forth in the Idaho Code and in this chapter.
- E. Recommendation Of Planning And Zoning Commission: The planning and zoning commission shall issue its recommendation on any application to amend the zoning map within six (6) months of the filing of the application.
- F. Application; Contents: Any application for an amendment to the zoning map must

include the following. Incomplete applications shall not be accepted. Ten (10) copies of all documentary evidence, including maps, plans and the application itself, must be submitted with any application.

1. A written narrative statement addressing the following:

- a. Whether the proposed amendment will, in fact, constitute a zone change.
- b. Why the proposed amendment is necessary or desired.
- c. Whether the proposed amendment conforms to the comprehensive plan; that is, whether the proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective, of the comprehensive plan and/or this chapter.
- d. Whether the use under the proposed amendment will be designed, constructed, operated and maintained to be harmonious and appropriate with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- e. The effect of the proposed amendment on adjacent property and whether it will be hazardous or disturbing to existing neighboring uses.
- f. The identity of the owner or purchaser of the lot which is subject to the proposed amendment.
- g. Whether the property will be served adequately by essential public services and utilities such as highways, streets, police and fire protection, drainage systems, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service or utility.
- h. Whether the proposed amendment will create excessive additional requirements at public cost for public services and utilities or will be detrimental to the economic welfare of the community.
- i. Whether the proposed amendment will lead to uses, activities, processes, materials, equipment and conditions of operation detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
- j. Whether the property under the proposed amendment will have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public roads.

- k. Whether the proposed amendment will result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.
 - l. The previous use of the property and the intended use, including hours of operation or use, number of employees or occupants, the system for delivery of materials, and the general nature of the business or occupancy.
2. The name, address and telephone number of applicant.
 3. The legal description of property.
 4. A copy of the recorded deed showing proof of ownership.
 5. The signature of the legal title holder, if different from the applicant, signifying approval of the application.
 6. The names and addresses of all adjoining property owners within three hundred feet (300') of the external boundaries of the subject property, provided on a separate sheet of paper.
 7. A vicinity map at the scale of one hundred feet to the inch (1" = 100') showing the current zone classifications and existing land uses within three hundred feet (300') of the subject property.
 8. Ten (10) copies of the following plans (suggested scale: 1" = 20'):
 - a. Site plans showing the location and dimensions of all building setbacks, road frontage, curb cuts, circulation patterns, loading service areas, parking, sidewalks, landscaped areas, signs, lighting, easements, utilities and drainage patterns and listing the total open space area, impervious surfaces, lot size and total building floor area.
 - b. Floor plans, elevations: front, side and rear, and property lines and roofline dimensions.
 9. The planning and zoning commission may require a land capability report prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. The report will identify the capability of the land to withstand disturbance without the risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation or geological or surface slippage.
 10. Prior to granting a zone change, the planning and zoning commission may require a professional study of the social, economic, fiscal and environmental effects of the proposed amendment.

G. Compliance Required: A zone change shall not be recommended for approval unless the commission makes specific findings of fact based directly on the particular evidence presented to it which supports the conclusion that the standards and conditions contained herein and in the Idaho statutes have been met by the applicant.

H. Supplementary Conditions And Safeguards: In recommending approval of any zone change, the planning and zoning commission may also recommend appropriate conditions, bonds and safeguards. Violations of such conditions, bonds and safeguards, when made a part of the terms under which the zone change is granted, shall be deemed a violation of this chapter. Conditions may involve, but are not limited to:

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

I. Payment Of Fees: An application for an amendment to the zoning map shall not be processed until all filing fees are paid in full. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-6-3: CITY COUNCIL ACTION:

A. Review; Hearing: The city council shall review the recommendation by the planning and zoning commission to approve or deny a zone change and shall hold a public hearing within a reasonable time after receiving the recommendation.

B. Notice Of Hearing: Notice of said public hearing shall be provided as required by section 9-8-13 of this title.

C. Recommendation Of Planning And Zoning Commission: The city council may accept or reject the recommendation of the planning and zoning commission, in whole or in part, and may impose additional conditions as it deems appropriate. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-6-4: APPEAL:

A. Right To Appeal: Any aggrieved party may appeal the decision of the city council to approve or deny an application for a zone change.

B. Time Limitation: An appeal must be made, in writing, and filed with the city clerk within thirty (30) days of the decision from which the appeal is taken.

C. Evidence: Unless otherwise ordered by the city council, no new evidence may be presented to the city council on any appeal.

D. Decisions: Decisions on appeal shall be by majority vote of those members of the city council present and voting.

E. Appeal Decision Of City Council: Any aggrieved party may appeal a decision of the city council to the courts as provided by law. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

Chapter 7

VARIANCES AND SPECIAL USES

9-7-1: VARIANCES:

A variance shall not be considered a right or special privilege, but will be authorized according to procedures outlined herein, where, owing to specific site circumstances or conditions, a strict enforcement of the provisions of this title would result in undue hardship and where the applicant makes a showing that the variance is not in conflict with the public interest. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-29, 2003)

9-7-2: SPECIAL USES:

A. Stipulated Conditions: Special uses may be granted according to procedures outlined herein that meet the standards set forth in this title for that specific use. Special use permits may, in addition to standards set forth, also stipulate conditions which may include:

1. Specific time limits that the use will be permitted.
2. Provisions for setbacks that are greater than the minimum standards set forth in this title.
3. Landscaping requirements and other requirements to assure that the property is maintained properly.
4. Sight restrictions, including designations of the exact location and nature of the proposed special use.
5. Safeguards to protect and to minimize adverse impact on adjacent property.
6. Standards that are more restrictive than those otherwise required by this title.

B. Term: Special use permits shall expire if work has not commenced within one year after the date of issuance. Special use permits may be revoked if the sponsor fails to comply with the restrictions or conditions that were required.

C. Use Not Permissible If Prohibited In Zone: Under no circumstances shall the planning and zoning commission recommend that a variance or special use be granted to allow a use not permissible in the zone involved or any use expressly prohibited by the terms

of this title.

- D. Not Binding Precedent; Transferability: A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one parcel of land to another.
- E. Commence Work: The proposed work shall commence within one year following the date the city council approves the special use permit and shall be diligently pursued or said approval and permit shall be rendered automatically null, void and of no right or recourse. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-29, 2003; Ord. 6-2h, 1-20-2004)

9-7-3: APPLICATIONS:

- A. In Writing: An application for a variance or a special use permit shall be made, in writing, to the planning and zoning commission.
- B. Required Information: Any application for a variance or a special use permit must include the following. Incomplete applications shall not be accepted. Ten (10) copies of all documentary evidence, including maps, plans and the application itself, must be submitted with any application.
 - 1. A written narrative statement addressing the following:
 - a. How the proposed use will, in fact, constitute a variance or a special use.
 - b. Why the proposed variance or special use is necessary or desired.
 - c. Whether the proposed variance or special use will be harmonious with and in accordance with the general objectives, or with any specific objective, of the comprehensive plan and/or this title.
 - d. Whether the proposed variance or special use will be designed, constructed, operated and maintained to be harmonious and appropriate with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
 - e. The effect of the proposed variance or special use on adjacent property and

whether it will be hazardous or disturbing to existing neighboring uses.

- f. The identity of the owner or purchaser of the lot which is subject to the proposed variance or special use.
- g. Whether the property will be served adequately by essential public services and utilities such as highways, streets, police and fire protection, drainage systems, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the proposed variance or special use shall be able to provide adequately any such service or utility.
- h. Whether the proposed variance or special use will create excessive additional requirements at public cost for public services and utilities or will be detrimental to the economic welfare of the community.
- i. Whether the proposed variance or special use will lead to uses, activities, processes, materials, equipment and conditions of operation detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odor.
- j. Whether the property under the proposed variance or special use will have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public roads.
- k. Whether the proposed variance or special use will result in the destruction, loss or damage of the natural, scenic or historic features of major importance.
- l. A description of the previous use of the property and the intended use, including hours of operation or use, number of employees or occupants, the system for delivery of materials, and the general nature of the business or occupancy.

- 2. The name, address and telephone number of applicant.
- 3. The legal description of property.
- 4. A copy of the recorded deed showing proof of ownership.
- 5. The signature of the legal title holder, if different from the applicant, signifying approval of the application.
- 6. The names and addresses of all adjoining property owners, provided on a separate sheet of paper.
- 7. A vicinity map at the scale of one hundred feet to the inch (1" = 100') showing the current

zone classifications and existing land use of adjoining property.

8. Ten (10) copies of the following plans (suggested scale: 1" = 20'):

- a. Site plans showing the location and dimensions of all building setbacks, road frontage, curb cuts, circulation patterns, loading service areas, parking, sidewalks, landscaped areas, signs, lighting, easements, utilities and drainage patterns and listing the total open space area, impervious surfaces, lot size and total building floor area.
- b. Floor plans, elevations: front, side and rear, and property lines and roofline dimensions.

9. The planning and zoning commission may require a land capability report prepared by a person or firm qualified by training and experience to have expert knowledge of the subject. The report will identify the capability of the land to withstand disturbance without the risk of substantial harmful consequences of floods, sewage, drainage, erosion, sedimentation or geological or surface slippage, considering the variance or special use requested.

10. Prior to granting a variance or special use, the planning and zoning commission may require a professional study of the social, economic, fiscal and environmental effects of the proposed variance or special use. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-29, 2003)

C. Public Hearing: The planning and zoning commission shall conduct a public hearing as provided by law, after proper notice, and thereafter shall issue a recommendation to the city council whether to approve or deny any application for a variance or special permit.

1. The recommendation of the planning and zoning commission shall be based upon the evidence presented at the public hearing, both written and oral.
2. The planning and zoning commission shall not recommend approval of an application for a variance except upon a showing of undue hardship because of the characteristics of the site, and upon a showing that the proposed variance is not in conflict with the public interest.
3. The planning and zoning commission shall not recommend approval of an application for a special use permit unless the proposed use is conditionally permitted by the term of the ordinance and is not in conflict with the comprehensive plan. A special use permit shall be subject to conditions pursuant to specific provisions of this title and shall be subject to the availability of services for the proposed use.

D. Council Action: The planning and zoning commission shall transmit its recommendation, together with the record of the public hearing and any evidence presented during said public hearing, promptly to the city council. Upon the written request of any interested person filed with the city clerk within ten (10) days of the date of the planning and zoning commission recommendation, the city council shall conduct a public hearing on the application for a variance or special use permit. If no request is made for a public hearing, the city council shall grant or deny the application for a variance or a special use permit based upon the record before the planning and zoning commission.

1. The city council shall not approve an application for a variance except upon a showing of undue hardship because of the characteristics of the site, and upon a showing that the proposed variance is not in conflict with the public interest.
2. The city council shall not approve an application for a special use permit unless the proposed use is conditionally permitted by the terms of the ordinance and is not in conflict with the comprehensive plan. A special use permit shall be subject to conditions pursuant to specific provisions of this title and shall be subject to the availability of services for the proposed use. (Ord. 6-2h, 1-20-2004)

9-7-4: APPEAL:

Any aggrieved party may appeal a decision of the city council to the courts as provided by law. (Ord. 6-2h, 1-20-2004)

Chapter 8

ADMINISTRATION AND ENFORCEMENT

9-8-1: INTERPRETATION:

- A. In the interpretation and application of the provisions of this title, the requirements will be held to be minimum requirements. This title is adopted in compliance with the Idaho Code for the purpose of promoting the health, safety and general welfare of the citizens of Ponderay and the state of Idaho.

- B. When this title imposes a greater restriction upon the use of buildings or lots than, or requires larger spaces than imposed by, other codes, laws, resolutions, rules and regulations, or restrictive covenants, the provisions of this title shall control.

- C. The provisions of this title shall be so interpreted as to carry out the purpose and intent of the zone districts as shown on the official zoning map and of the comprehensive plan, on file at the city hall.

- D. All questions of the interpretation and enforcement of this title shall first be presented to the planning director who may forward any unresolved question to the planning and zoning commission. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-16, 2003; Ord. 6-21, 2005)

- E. Any required application materials may be submitted electronically at the discretion of the planning director.

- F: Development agreement may be entered into by the city and developer in the course of approval for clarification of development standards, timing, and responsibilities for proposed improvements and land uses.

9-8-2: PERMITS REQUIRED:

- A. Activities Requiring A Permit: No person shall undertake any of the following activities without first obtaining a permit from the proper authority:

1. Any construction or use that will result in the creation of land coverage greater than one hundred twenty (120) square feet.
 2. Any activity requiring a permit as specified by any code adopted by the city.
 3. Any construction or use for which a zone change, special use or variance is required by this title.
- B. Compliance Required: No permit shall be issued unless the intended use of the buildings and lot conforms in all respects with the provisions of this title.
- C. Availability Of Water And Sewer Or Septic Service: No permit shall be issued for residential use in any zone until adequate proof of the availability of water and sewer or septic service is provided.
- D. Time For Completion Of Work: All work authorized by a permit issued hereunder shall be completed within two years from date of issuance of such permit or within the time provided by any building code adopted by the city, whichever is shorter. Work, as used herein, shall include any and all final inspections required by the city or by any applicable code. It is the duty and obligation of the owner of the project to request and obtain such final inspection(s) as is required within the time period hereunder. Failure to request and obtain such final inspection(s) in a timely manner shall be deemed a violation of this title. All permits expire after one year of inactivity or after the period of time set by any building code adopted by the city, whichever is shorter, unless a longer period of time has been authorized, in writing, by the city council.
- E. Issuance Required Prior To Site Work; Payment Of Fees: When a building permit is required by this title or any applicable code, no site work of any kind shall be performed until said building permit has been issued and a building permit shall not be issued until all applicable fees have been paid. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-16, 2003; Ord. 6-21, 2005)

9-8-3: SITE PLAN APPROVAL:

- A. Required; Exception: Site plan approval by the planning and zoning commission is

required in advance for any work to be performed under a permit required by this title, except in the case of a single-family dwelling which does not require a special use permit, or in the case of an addition to an existing permitted use encompassing less than four hundred (400) square feet.

B. Application: An application for site plan approval shall be made upon a form approved and provided by the planning director.

C. Additional Documentation: In addition to the application required by subsection B of this section, the applicant shall provide ten (10) copies or one 11x17 of the following:

1. Site Plan: Site plan, drawn to scale (1" = 4'; 1" = 10'; 1" = 20'; or 1" = 40'), showing the location and dimensions of all buildings, setbacks, road frontages, curb cuts, circulation patterns, loading service areas, parking, sidewalks, landscaped areas, signs, lighting, easements, utilities, floor plans, elevations and roofline dimensions;
2. Plan Showing Drainage Pattern: A plan showing drainage patterns for sites deemed by the planning director, to be minimally critical;
3. Storm Water Management Plan And Erosion Control Plan: Specific, detailed engineered storm water management plan and erosion control plan for the site, if requested by the planning director.
4. Open Space, Impervious Surface Area, Lot Size, Total Building Floor Area: A statement listing the total open space area, the total impervious surface area, the lot size, and the total building floor area;
5. Vicinity Map: A vicinity map, at the scale acceptable to the planning director, showing the current land segregation and existing land use within three hundred feet (300') of the subject property;
6. Dust Control: A statement demonstrating the measures to be taken to control dust, if deemed necessary by the planning director.
7. Ownership; Legal Right: A statement, together with good and sufficient documentary proof, of the applicant's ownership of the subject property or, if not the owner, the applicant's legal right or authorization to do the proposed work, such as lease agreement, easement, contract, etc.; and
8. Other Information: Any other plans, maps, artistic renderings, 3D Computer Models or

information as the planning director may deem appropriate.

- D. Waiver: Any item required under this section may be waived, in writing, by the planning and zoning commission upon a showing of good cause.
- E. Deadline For Approval: Site plan approval must be obtained within six (6) months of the date the application is filed or the application will be deemed invalid and a new application will have to be filed.
- F. Commencement Of Construction: Construction must begin within one (1) year after the site plan is approved. An extension of time for beginning construction may be requested, in writing, from the planning and zoning commission, which shall grant such an extension for a specified reasonable time upon a showing of good cause.
- G. Supplementary Conditions and Safeguards: In recommending approval of any site plan the planning and zoning commission may also recommend appropriate conditions, bonds and safeguards. Conditions may involve, but are not limited to:
 - 1. Minimizing adverse impact on adjacent property.
 - 2. Controlling the sequence and timing of development.
 - 3. Controlling the duration of development.
 - 4. Assuring that the development is maintained properly.
 - 5. Designating the exact location and nature of development.
 - 6. Requiring a provision for on site or off site public facilities or services.
 - 7. Requiring more restrictive standards than those generally required by this title.
 - 8. Requiring buffers, lighting restrictions, and building materials as necessary to protect the nature and character of any scenic byways within the city.
 - 9. Requiring professional design review, by criteria and process established by the planning director and adopted from time to time by resolution of the council.

H. Site plan approval shall be considered to be a concurrent signage plan, landscape plan, lighting plan, stormwater and erosion control plan or other required plan if submission is adequate to satisfy the above requirements.

I. Revisions: Any revision to an approved site plan must be approved by the city prior to proceeding with the additional work, revision or modification. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-21, 2005)

9-8-4: CERTIFICATE OF OCCUPANCY:

A. Required: Where this chapter requires that a permit is to be obtained, it shall be unlawful to use or occupy, or permit the use or occupancy of, any building or premises, or part thereof, created, erected, changed, converted, or wholly or partially altered or enlarged in its use or structure until a certificate of occupancy has been issued therefor by the city.

B. Sewer, Water And Fire Services Required: No certificate of occupancy shall be issued until and unless any required sewer, water and fire services have been approved and are operating. Temporary or portable water and sewer service shall be deemed insufficient to comply with this provision. (Ord. 6-24, 8-1-2005)

C. Compliance With Codes: No certificate of occupancy shall be issued unless and until the city's inspector certifies that the building or structure complies with the international codes adopted and in effect at the time construction began. (Ord. 6-24, 8-1-2005; 2008 Code)

D. Required Prior To Being Occupied: Notwithstanding any other provision of this title or any other statute, ordinance or regulation, a certificate of occupancy, as required by this section, shall be required for any residential structure before it may be occupied. (Ord. 6-24, 8-1-2005)

9-8-5: CHANGE IN USE:

A. Notification Required: Whenever the use of land or building changes, the owner and/or the occupant of said land or building shall notify city planning department and within seven (7) days, in writing.

B. Investigation: The planning director shall investigate the change of use and may require the owner and/or occupant to seek site plan approval as set out herein, if said approval is consistent with the intent and purposes of this title.

C. Issuance Of Temporary Permit: If site plan approval is required by the planning director for a change of use, the planning and zoning commission may grant a temporary permit for the use pending site plan approval. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-16, 8-18-2003; Ord. 6-21, 3-7-2005)

9-8-6: STORM WATER MANAGEMENT PLAN:

Upon the completion of an approved storm water management plan, the owner of property shall contact the city engineer and request an inspection of the implementation of the plan. No occupancy of the property shall be allowed until the implementation of the storm water management plan is approved by the city engineer, in writing. The city shall adopt, by resolution, a fee schedule for inspection of the implementation of an approved storm water management plan by the city engineer. All fees shall be paid before any occupancy of the property is allowed by the city. (Ord. 6-2i, 5-1-2006)

9-8-7: AGRICULTURAL BUILDINGS:

A. Definition: For purposes of this exemption, the term "agricultural building" shall mean a structure designed, constructed and actually used to house farm implements, hay, grain, poultry, livestock or other horticultural products. Such structures shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

B. Exempt: Pursuant to Idaho Code subsection 39-4116(4), agricultural buildings are exempt from the provisions of this title. It is the intent of the city that should the state of Idaho repeal the exemption, the provisions of this title shall thereafter apply to agricultural buildings without further action by the city council. (Ord. 6-16, 8-18-2003)

9-8-8: AS BUILT SITE PLAN AND SITE SURVEY IN ELECTRONIC FORMAT:

An as built site plan and site survey for every project requiring a site plan shall be submitted to the city on a CD-ROM in AutoCAD DWG format and in one or more of the following formats: DXF, JPG, DGN or BMP. Said site plan and site survey shall be tied to at least two (2) known GLO corners and shall include:

A. Utilities: All utilities and their appurtenances (i.e., power poles, transformers, storm drains, water valves, manholes, etc.);

B. Parking Lots: Parking lots (paved and unpaved);

C. Approaches: Approaches onto public and/or private access roads and/or streets;

D. Physical Features: All physical features, such as greenbelts, trees, storm water collecting ponds, swales, and the like; and

E. Any Other Physical Features: Any other physical features deemed necessary by the city based on the nature and extent of the project. (Ord. 6-21, 3-7-2005)

9-8-9: COMPLAINTS AND INVESTIGATIONS:

A. Duty To Investigate And Enforce: It shall be the duty of the chairperson of the planning and zoning commission, or such person as may be designated by the mayor and the city council, to investigate and enforce this title.

B. Written Complaint: Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the chairperson of the planning and zoning commission.

C. Investigation Of Complaint; Fees: The chairperson of the planning and zoning commission, or its duly authorized agent, shall properly record such complaint, immediately investigate it and take action thereon as provided for by this title. If a

violation is found to have occurred, the violator shall be required to pay the cost of investigation incurred by the city. No building permit or occupancy permit shall be issued until all such costs of investigation have been paid.

- D. Report To City Council: The chairperson of the planning and zoning commission shall report to the city council regarding all actions undertaken pursuant to the complaint. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-8-10: PENALTIES AND ENFORCEMENT:

- A. Misdemeanor: A violation of any of the provisions of this title, or a failure to comply with any of requirements of the planning and zoning commission or the city council imposed pursuant to this chapter, shall constitute a misdemeanor.
- B. Separate Offense: Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder or any other person who commits, participates in, assists in or maintains such violation, may be found guilty of the violation.
- C. Additional Remedies: Nothing herein contained shall prevent the city council, or any other public official or private citizen, from taking such lawful action as is necessary to restrain or prevent any violation of this title or of the Idaho Code. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)
- D. Penalty: Any person found guilty of violating this title shall be subject to penalty as provided in section 1-2-1 of this code. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; Ord. 6-16, 2003; 2008 Code)
- E. Civil Action: In addition to criminally prosecuting any person allegedly guilty of violating this title, the city may take steps to civilly enjoin any violation of this title. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-8-11: MEDIATION:

- A. Request For Mediation: Pursuant to Idaho Code section 67-6510, any applicant, affected person, the commission or the governing board may request, in writing, that any issue arising under this title be submitted to mediation.
- B. When May Be Requested: Mediation may be requested at any point in the decision making process or after a final decision has been made; provided, that if mediation is requested after a final decision has been made any resolution of differences through said mediation must be subject to a public hearing before the decision making body.
- C. Participation In Mediation Session: The applicant and any other affected person objecting to the application shall participate in at least one mediation session if mediation is requested by the commission or the governing board.
- D. Expenses Of Mediation: The governing board shall select and pay the expense of the mediator for the first meeting among the interested parties. In all other cases, and for subsequent meetings after the commission or the governing board requests mediation, compensation of the mediator shall be determined among the parties at the outset of any mediation undertaking.
- E. Decline To Participate: An applicant may decline to participate in mediation requested by an affected person and an affected person may decline to participate in mediation requested by the applicant, except that the parties shall participate in good faith in at least one mediation session if requested to do so by the commission or the governing board.
- F. Tolling: During mediation, any time limitation relevant to the application shall be tolled. Such tolling shall cease when the applicant or any other affected person, after having participated in at least one mediation session, states, in writing, that no further participation is desired and so notifies the other parties, or upon notice of a request to mediate wherein no mediation session is scheduled for twenty eight (28) days from the date of such request.

G. Not Included In Official Record: The mediation process shall not be part of the official record regarding the application. (Ord. 6-2e, 2000; Ord. 6-2f, 2002)

9-8-12: SCHEDULE OF FEES:

Whenever a public hearing is required by this title, the person or persons requesting the hearing shall pay a fee according to the general fee schedule as set from time to time by resolution. All fees collected will be nonrefundable. Until all fees have been paid in full, no action shall be taken on any application or appeal. The planning and zoning commission may initiate action on a change in a zoning district or in this chapter, in accordance with Idaho Code section 67-6509, without a fee. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; 2008 Code)

9-8-13: PUBLIC HEARING:

A. Notice: Notice shall be provided in accordance with state law.

B. Delay In Hearing: The city shall mail the notice required in subsection A of this section; provided, that the applicant shall provide in a timely manner all required documents, including, but not limited to, maps and mailing lists, to the city. A failure to provide the required documents in a timely manner will result in a delay in the hearing.

9-8-14: APPEAL:

Any person aggrieved by a decision of the planning and zoning commission with regard to site plan approval, certificate of occupancy, change of use or the investigation of any violation of this title, may appeal to the city council by filing a written statement with the city within thirty (30) days of the decision by the planning and zoning commission or, in the case of an alleged violation of this title, by the chairperson of the planning and zoning commission or planning director. Said statement shall explain the disagreement with the decision and the reasons thereof. It is the duty of the applicant to timely request that the appeal be placed on the agenda for consideration by the city council. The applicant shall bear the burden of demonstrating, by a preponderance of the evidence, an abuse of discretion by the planning and zoning commission or its planning director. A decision of the planning and zoning commission or the planning director shall not be overturned absent an abuse of discretion. (Ord. 6-2e, 2000; Ord. 6-2f, 2002; 2008 Code)

9-8-15: SEVERABILITY:

Should any section or provision of this title be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of this title as a whole or any part hereof, other than the part declared to be unconstitutional or invalid. (Ord. 6-2e, 2000)