TITLE 13

ZONING REGULATIONS

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CHAPTER 1

TITLE; INTERPRETATION AND ENACTMENT

SECTION:

13-1-1: Title
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13-1-3: Interpretation; Application
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13-1-5: Ex Post Facto Application
13-1-6: Variances, Conditional And Nonconforming Uses; Amendments

13-1-1: **TITLE:** This Title shall be known and may be cited as the *ZONING ORDINANCE* of the City. (Ord. 468, 4-15-1980)

13-1-2: **AUTHORITY:** This Title is adopted pursuant to authority granted by title 67, chapter 65 of the Idaho Code and article XII, section 2 of the Idaho Constitution, as amended or subsequently codified. (Ord. 468, 4-15-1980)

13-1-3: **INTERPRETATION; APPLICATION:** In their interpretation and application, the provisions of this Title shall be held to the minimum requirements, adopted for promotion of the public health, safety and the general welfare. Whenever the requirements of this Title conflict with requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive or that imposing the higher standards shall govern. (Ord. 468, 4-15-1980)

13-1-4: **COMBINING OF PERMITS:** The Commission is hereby required to coordinate with other departments and agencies concerning all permits which may be required in this Title and previous or subsequently adopted City ordinances. A one-step permit application and processing procedure shall be developed with the respective departments

and agencies for the purpose of reducing errors, misunderstanding, confusion and unnecessary delay for those involved. (Ord. 468, 4-15-1980)

13-1-5: **EX POST FACTO APPLICATION:** This Title is not to be applied in an ex post facto manner and any use in any zone which is nonconforming at the time of the passage hereof to the area that is now zoned will be allowed to continue and any lot which does not meet the minimum lot requirements of any zone at the time of the passage hereof will be allowed to be used for all purposes for which the area is now zoned if it meets the other requirements of the zone. (Ord. 468, 4-15-1980)

13-1-6: **VARIANCES; CONDITIONAL USES AND NONCONFORMING USES; AMENDMENTS:** The Commission notes that the terms variances, conditional uses, nonconforming uses, and amendments are terms which have separate and distinct, legal meanings and it is the intention of the Commission that their legal meaning be applied whenever and wherever the aforesaid terms are used in this Title. (Ord. 468, 4-15-1980)

CHAPTER 2

ADMINISTRATION

SECTION:

13-2-1: Administrator And Commission Created
13-2-2: Administrator
13-2-3: Commission
13-2-4: Conflict Of Interest

13-2-1: **ADMINISTRATOR AND COMMISSION CREATED:** For the purpose of carrying out the provisions of this Title, an Administrator and Commission are hereby created. (Ord. 468, 4-15-1980)

13-2-2: **ADMINISTRATOR:**

A. Designation: The chairman of the Planning and Zoning Historic Preservation Commission shall act as Administrator to administer this Title. (2000 Code)

B. Assistants: The Administrator may be provided with the assistance of such other persons as the Council may direct.

C. Duties: For the purpose of this Title, the Administrator shall have the following duties:

1. Advise Interested Parties: Advise interested parties of the provisions of this Title.

2. Notify News Media: Notify the news media regarding matters of public interest.

3. Aid Applicants: Aid applicants in the preparation and expedition of required applications.

4. Issue Approval: Issue zoning approval.

5. Investigate Violations: Investigate all violations of this Title and notify in writing the person responsible for such violations, ordering the action necessary to correct such violation.

6. Assist Commission And Council: Assist the Commission and Council in carrying out the provisions of this Title. (Ord. 468, 4-15-1980)

13-2-3: **COMMISSION**[1]**:** For the purpose of this Title, the Commission shall have the following duties:

A. Initiate Amendments; Review: Initiate proposed amendments to this Title and conduct a review of this Title every two (2) years.

B. Review Amendments; Recommendations: Review all proposed amendments to this Title and make recommendations to the Council.

C. Review Planned Unit Developments: Review all planned unit developments and make recommendations to the Council.

D. Special Use Permits: Grant special use permits as specified in the Official Schedule of District Regulations[2] and under the conditions as herein specified such additional safeguards as will uphold the intent of this Title.

E. Appeals: Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Administrator.

F. Variances: Authorize such variances from the terms of this Title as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of this Title will result in unnecessary hardship, and so that the spirit of this Title shall be observed and substantial justice done.

G. Review Fees: Periodically review fees charged and make recommendations to the Council for adjustments. (Ord. 468, 4-15-1980)

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1. See also Title 12, Chapter 2 of this Code, and Section 13-8-3 of this Title for additional duties.
2. See Chapter 6 of this Title.

13-2-4: **CONFLICT OF INTEREST:** The Council creating a Commission shall provide that the area and interests within its jurisdiction are broadly represented on the Commission. A member or employee of the Council shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of this Section shall be a misdemeanor. (Ord. 468, 4-15-1980)

CHAPTER 3

DEFINITIONS

SECTION:

13-3-1: Interpretation
13-3-2: General Definitions

13-3-1: **INTERPRETATION:** For the purpose of the Title, certain terms or words used herein shall be interpreted as follows:

A. The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

B. The present tense includes the future tense; the singular number includes the plural; and the plural number includes the singular.

C. The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.

D. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".

E. The word "lot" includes the words "plot", "parcel", and "tract". (Ord. 468, 4-15-1980)

13-3-2: **GENERAL DEFINITIONS:** As used in this Title, the following words and terms shall have the meanings ascribed to them in this Section:

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot with another nature customary incidental and subordinate to, the principal use of structure.

ADMINISTRATOR: An official having knowledge in principles and practices of zoning, who is appointed by the Council to administer this Title.

ALTERATION: Any exterior change or modification, through public or private action, of any cultural resource or of any property located within an historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

AMENDMENT: See Chapter 14 of this Title.

AUTOMOTIVE, MOBILE HOME, TRAVEL TRAILER AND FARM IMPLEMENT SALES: The sale or rental of new and used motor vehicles, mobile homes, travel trailers or farm implements, but not including repair work except incidental warranty repair of same to be displayed and sold on the premises.

AUTOMOTIVE REPAIR OR GARAGE: The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including service, painting and steam-cleaning of vehicles.

BASEMENT: Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a "first story" as defined in this Section.

BUILDING: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind.

BUILDING, ACCESSORY: A subordinate building detached from but located on the same lot as the principal building, use of which is incidental and accessory to that of the main building or use.

BUILDING HEIGHT: The vertical distance measured for the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the top of building walls for gable, hip and gambrel roofs.

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

CEMETERY: Land used or intended to be used for the burial of human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection and within the boundaries of such cemetery for which perpetual care and maintenance is provided.

CLINIC: A building used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons, and those who are in need of medical and surgical attention, but which building does not provide board, room or regular hospital care and services.

CLUB: A building or portion thereof or premises owned or operated by an organized association of persons for social, literary, political, educational, or recreational purposes primarily for the exclusive organization, group, or association, a principal activity of which is to render a service usually and ordinarily carried on in a business.

COMMERCIAL ENTERTAINMENT FACILITIES: Any profit-making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges and similar entertainment activities.

COMMISSION[1]:	The Planning and Zoning Historic Preservation Commission appointed by the City of Wallace.
COMPREHENSIVE PLAN:	A plan, or any portion thereof, adopted by the Board, including such things as the general location and extent of present proposed physical facilities including housing, industrial commercial uses, major transportation, parks, schools, and other community facilities.
CONDITIONAL USE:	See Chapter 9 of this Title.
COUNCIL:	City Council of the City of Wallace.
CULTURAL RESOURCE:	Improvements, buildings, structures, signs, features, sites, places, areas or other objects of scientific, aesthetic, educational, cultural, architectural, or historical significance to the citizens of the City.
DENSITY:	A unit of measurement. The number of gross dwelling units per acre of land.
Gross Density:	The gross number of dwelling units per acre of total land to be developed, including public right of way.
Net Density:	The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right of way.
DISTRICT:	Synonymous with "Zone".
DWELLING, MULTI-FAMILY:	A dwelling consisting of three (3) or more dwelling units, including townhouses, and condominiums with varying arrangements of entrances and parting walls. Multi-family housing may include public housing and company owned and/or sponsored housing development.

1. See also Title 12, Chapter 2 of this Code, and Sections 13-2-3 and 13-8-3 of this Title.

DWELLING, ROOMING HOUSE (BOARDING HOUSE, LODGING HOUSE, DORMITORY):	A dwelling or part thereof, other than a hotel, motel or restaurant, where meals and/or lodging are provided for the compensation for three (3) or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.
DWELLING, SINGLE-FAMILY:	A dwelling consisting of a single dwelling unit only, separated from other building units by open space.
DWELLING, TWO-FAMILY:	A dwelling consisting of two (2) dwelling units which may be either attached side by side, or one above the other.
DWELLING UNIT:	Space within a dwelling comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities all used by only one family and its household employees.
EASEMENT:	Authorization by a property owner for the use by another, for a specified purpose, of any designated part of their property.
EXTERIOR ARCHITECTURAL FEATURE:	The architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including but not limited to, the kind, color and texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.
FAMILY:	One or more persons occupying a single dwelling unit, providing that all members are related by blood, adoption or marriage.
HEALTH AUTHORITY:	The local district health department or the State Department of Health and Welfare that has jurisdictional authority.
HISTORIC, CULTURAL RESOURCE OR LANDMARK SITE:	A parcel or part thereof on which a cultural resource is situated, and any abutting parcel or part thereof constituting part of the premises on

which the cultural resource is situated, and which has been designated a designated site pursuant to Federal or State designation or this Title.

HISTORIC DISTRICT: Any area containing improvements which have a special character, historical interest or aesthetic value or which represent architectural periods or styles typical to the history of the City, and which improvements constitute a distinct section of the City that has been designated an historic district pursuant to Federal or State designation or this Title.

HISTORIC LANDMARK, OR CULTURAL RESOURCE STRUCTURE: Any improvement that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the City, the State or the Nation and that has been designated pursuant to Federal or State designation or this Title.

HOLDING ZONE: A zone designated to serve as a reservoir pending future designation of land use.

HOME OCCUPATION[1]: An occupation conducted entirely within a dwelling unit. (See the required performance standards.)

HOTEL OR MOTEL AND APARTMENT HOTEL: A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a "Dwelling, Rooming House (Boarding House, Lodging House, Dormitory)" which is separately defined in this Section.

IMPROVEMENT: Any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

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1. See subsection 13-7-5I of this Title for required performance standards.

INSTITUTION: Building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.

JUNK: Any material, (metal, glass, paper or other waste) that has ceased to serve the initial purpose for which it was designed. The sale of portions of the initial object to be used again in some form.

JUNK BUILDINGS, JUNK SHOPS, JUNKYARDS: Any land, property, structure, building or combination of the same, on which junk is stored or processed.

KENNEL: Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, roomed, bred, boarded, trained or sold and which may offer provisions for minor medical treatment.

LOADING SPACE, OFF-STREET: Space logically and conveniently located for both pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right of way.

LOT: For the purposes of this Title, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on improved public street or on an approved private street and may consist of:

A. Single lot of record;

B. A portion of a lot of record;

C. A combination of complete lots of record, or portion of lots of record.

LOT COVERAGE: The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed to the percentage.

LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street shall be considered frontage, and yard shall be provided as indicated under "yards" in this Section.

LOT, MINIMUM AREA OF: The area of a lot is computed exclusive of any portion of the right of way of any public or private street.

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

LOT TYPES: Terminology used in this Title with reference to corner lots, interior lots, and through lots is as follows:

Corner Lot: A lot located at the intersection of two (2) or more streets.

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

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

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

MANUFACTURING, EXTRACTIVE: Any mining, quarrying, excavating, processing, storing, separating, cleaning and marketing of any mineral natural resource.

MANUFACTURING, HEAVY: Manufacturing, processing, including wood processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond a district boundary.

MANUFACTURING, LIGHT: Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

MOBILE HOME: A structure transportable in one or more sections and is eight (8) body feet or more in width and is thirty two (32) body feet or more in length, and which is built on a permanent chassis, and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

MOBILE HOME COURT OR TRAILER COURT: Land under single ownership designed for the temporary or permanent parking of three (3) or more vehicles used for human habitation within a minimum lot area for each mobile home site which is less than the requirements for a single-family home and/or where an individual septic tank is not provided for each mobile home. Mobile home park or trailer court also includes a continuous parcel or land under single ownership where the density of mobile

homes is over three (3) per acre. Mobile home park or trailer court does not include land designated or designed for the display or sale of mobile homes.

NATURAL RESOURCE ZONE: A zone designed to permit multiple uses in the rural areas of the County.

NONCONFORMING USE: A building, structure or use of land existing at the time of enactment hereof, and which does not conform to the regulations of the district in which it is situated.

NURSERY FOR CHILDREN: A place, home or facility providing care for more than five (5) children of preschool age.

NURSING HOME, HOME OF THE AGED: A home or facility for the care or treatment of more than five (5) pensioners or elderly people.

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

OBJECT: A material thing of functional, aesthetic, cultural, symbolic or scientific value, usually by design or nature movable.

OPEN SPACE: An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included.

PARKING SPACE, OFF-STREET: For the purpose of this Title, an off-street parking space shall consist of area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and

maneuvering room, but should be located totally outside of any street or alley right of way.

PERFORMANCE BOND OR SURETY BOND: A financial guarantee by a subdivider or developer with the City in the amount of the estimated construction costs guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the agreement.

PERSONAL SERVICES: Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors and similar activities.

PLANNED UNIT DEVELOPMENT: An area of land in which a variety of residential, commercial and industrial uses developed under single ownership or control are accommodated in a preplanned environment with more flexible standards, such as lot sizes and setbacks, and those restrictions that would normally apply under these regulations.

PRESERVATION: The identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

PROFESSIONAL ACTIVITIES: The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects and engineers and similar professions.

PUBLIC SERVICE FACILITY: The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility or by a railroad whether publicly or privately owned or by Municipal or other governmental agency, and including the furnishing of electrical, gas, rail transport, communication, public water and sewage services.

PUBLIC USES: Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials.

RESEARCH ACTIVITIES: Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering.

RIGHT OF WAY: A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment), such as grade separation, landscape areas, viaducts and bridges.

ROADSIDE STAND: A temporary structure designed or used for the display of any product.

SEATS: For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated for each twenty four (24) lineal inches of benches, pews or space for loose chairs.

SEMI-PUBLIC USE: Churches, Sunday schools, parochial schools, colleges, hospitals, and other facilities of an educational, religious, charitable, philanthropic or nonprofit nature.

SERVICE STATION: A. Building and premises where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made:

1. Sales and service of spark plugs, batteries and distributor parts.

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2. Tire servicing and repair, but not recapping or regrooving.

3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors and the like.

4. Radiator cleaning and flushing.

5. Washing, polishing and sale of washing and polishing materials.

6. Greasing and lubrication.

7. Providing and repairing fuel pumps, oil pumps, and lines.

8. Minor servicing and repair of carburetors.

9. Adjusting and repairing of brakes.

10. Minor motor adjustment, not involving removal of the head or crankcase or racing the motor.

11. Sales of cold drinks, packaged food, tobacco and similar conveniences for service station customers, as accessory and incidental to principal operations.

12. Providing road maps and other informational material to customers; provisions for rest room facilities.

13. Warranty maintenance and safety inspections.

B. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an

extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

SETBACK LINE: A line established by this Title, generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in this Code.

SIDEWALK: That portion of the road right of way outside the roadway which is approved for use of pedestrian traffic.

SIGN: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located.

Sign, Illuminated: Any sign illuminated by electricity, gas or other artificial light including reflecting or phosphorus light.

Sign, Lighting Device: Any light, string of lights, or group of lights located or arranged so as to cast illumination on sign.

Sign, Off Premises: Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where said sign is located.

Sign, On Premises: Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises, where such sign is located.

Sign, Projecting: Any sign which projects from the exterior of the building.

SPECIAL USE: A special use permitted within a district, other than a principally permitted use, requiring conditional use permit and approval of the Commission. Conditional uses permitted in each

district are listed in the Official Schedule of District Regulations[1].

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six feet (6') above grade for more than fifty percent (50%) of the total perimeter or is more than twelve feet (12') above grade at any point, such basement or unused under-floor space shall be considered as a story.

STORY, FIRST: The lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet (4') below grade, for more than fifty percent (50%) of the total perimeter, or more than eight feet (8') below grade at any point.

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

Alley: Minor street providing secondary access to the back or side of a property otherwise abutting a street.

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

1. See Chapter 6 of this Title.

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

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

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

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

SUPPLY YARDS: A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain and similar goods.

TRAILER OR TRAVEL TRAILER: A structure transportable in one or more sections less than eight (8) body feet in width or less than thirty two (32) body feet in length, which is built on a permanent chassis, and is 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.

USE: The specific purpose for which land or a building is designated, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE: A variance is a modification of the requirements of this Title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other provisions affecting the size or shape of a structure or the size of lots. A variance shall not

be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and upon the further showing that the variance is not in conflict with the public interest.

VETERINARY ANIMAL HOSPITAL OR CLINIC: 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, and may include overnight accommodations on the premises for their treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

VICINITY MAP: A drawing which sets forth by dimensions or other means the relationship of the proposed development to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

WALKWAY: A public way, four feet (4') or more in width, for pedestrian use only, whether or not along the side of a road.

WOOD PROCESSING: The sawing of logs, post and pole processing, hard wood and cedar products, and such operations associated with the industry. Not to include pulp mills, chipping plants and creosote plants.

WRECKING YARD: The dismantling or wrecking of two (2) or more used motor vehicles, mobile homes, trailers or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

YARD: An open space on a lot which is required by this Title to be unoccupied and unobstructed from the ground upward except as otherwise provided in this title:

Yard, Front:	A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
Yard, Interior Side:	A yard extending from the principal building to the side lot on both sides of the principal building between the lines establishing the front and rear yards.
Yard, Rear:	A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of principal building.
Yard, Street Side:	A yard extending from the principal building to the secondary street that adjoins the lot between the lines establishing the front and rear yards.
ZONE:	Providing for definitions of district relations.
ZONING APPROVAL:	Approval by the Administrator or that person designated assistant, that the use is in compliance with the Zoning Map and this Title. (Ord. 468, 4-15-1980; amd. 2000 Code)

CHAPTER 4

ESTABLISHMENT AND PURPOSE OF DISTRICTS

SECTION:

13-4-1: Intent
13-4-2: Zoning Districts

13-4-1: **INTENT:** The following zoning districts are hereby established. For the interpretation of this Title, the zoning districts have been formulated to realize the general purposes as set forth in this Title. In addition, the specific purpose of each zoning district shall be as stated. (Ord. 468, 4-15-1980)

13-4-2: **ZONING DISTRICTS:**

A. Natural Resource District (NR): The purpose of the Natural Resource District is to preserve and maintain the rural character of the land. This District is also established to allow uses as designated by the Comprehensive Plan in areas where commercial, industrial and residential uses can exist side by side, and where the establishment of a separate district or single use district would not be desirable.

B. Holding District (H): The purpose of a Holding District is to maintain the current vacant character of the site until such time as logical development shall occur.

C. Single-Family Residential District (R-0): The purpose of the R-0 District is to promote the establishment of medium low-density, single-family dwellings, excluding mobile homes, not to exceed ten (10) dwelling units per net acre. Centralized water and sewer facilities are required.

D. Residential District (R-1): The purpose of the R-1 District is to promote the establishment of medium-low density, single-family dwellings not to exceed ten (10) dwelling units per net acre. Centralized water and sewer facilities are required.

E. Multi-Family Residential District (R-2): The purpose of the R-2 District is to promote the establishment of medium density, two-family and multiple-family dwellings not to exceed twelve (12) dwelling units per net acre. This District is also designed to promote the logical transition of larger older homes in well established neighborhoods to multi-family dwellings.

F. Neighborhood Business District (C-1): The purpose of the C-1 District is to permit the establishment of convenience business uses which tend to meet the daily needs of the residents of an immediate neighborhood. Such District shall be strategically located with access to a collector thoroughfare. Marginal strip development shall be prohibited.

G. Service Business District (C-2): The purpose of the C-2 District is to permit the establishment of areas for highway and service business uses only. This District is specifically designed in clusters to service the motoring public. This District is generally associated with interchange areas along the major limited access highways.

H. General Commercial (GC): The GC District is intended to create, preserve or enhance areas with a wide range of retail sales and service establishments serving both long- and short-term needs in compact locations typically appropriate to commercial clusters developed in urban density areas. This District also includes some development which does not strictly fit the description of this Chapter, but also does not merit a zoning district.

I. Light Manufacturing District (M-1): The purpose of the M-1 District is to encourage the development of manufacturing and wholesale business establishments which are clean, quiet and free of hazardous, or objectionable, elements such as noise, odor, dust, smoke or glare; operate entirely within enclosed structures and generate little industrial traffic. Research activities are encouraged. This District is further designed to act as a transitional use between heavy manufacturing uses and other less intense business and residential uses.

J. Heavy Manufacturing District (M-2): The purpose of the M-2 District is to encourage the development of major manufacturing, processing, warehousing and major research and testing operations. These activities require extensive community facilities and reasonable access to arterial thoroughfares. (Ord. 468, 4-15-1980)

CHAPTER 5

OFFICIAL ZONING MAP

SECTION:

13-5-1: Adoption
13-5-2: Interpretation Of District Boundaries

13-5-1: **ADOPTION:** The districts established in Chapter 4 of this Title as shown on the Official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this Title. (Ord. 468, 4-15-1980)

13-5-2: **INTERPRETATION OF DISTRICT BOUNDARIES:** Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following shall apply:

A. Center Line: Where district boundaries are indicated as approximately following the center line of street lines, highway right-of-way lines, streams, lakes or other bodies of water, the center line shall be construed to be such boundary.

B. Lot Lines: Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

C. Parallel To Center Lines: Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.

13-5-2

D. Railroad Line: Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracts of said railroad line. (Ord. 468, 4-15-1980)

CHAPTER 6

DISTRICT REGULATIONS

SECTION:

13-6-1: Minimum Regulations
13-6-2: Official Schedule Of District Regulations Adopted
13-6-2- 1: Natural Resource District (NR)
13-6-2- 2: Holding District (H)
13-6-2- 3: Single-Family Residential District (R-0)
13-6-2- 4: Residential District (R-1)
13-6-2- 5: Multi-Family Residential District (R-2)
13-6-2- 6: Neighborhood Business District (C-1)
13-6-2- 7: Service Business District (C-2)
13-6-2- 8: General Commercial District (GC)
13-6-2- 9: Light Manufacturing District (M-1)
13-6-2-10: Heavy Manufacturing District (M-2)

13-6-1: **MINIMUM REGULATIONS:** The regulations for each district set forth by this Title shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

A. No building, structure or land shall be used or occupied; no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

B. No building or other structure shall be erected or altered:

1. To provide for greater height or bulk;

2. To accommodate or house a greater number of families;

3. To occupy a greater percentage of lot area;

4. To have narrower or smaller rear yards, front yard, side yards or other open spaces, than herein required, or in any manner be contrary to the provisions of this Title.

C. No lot existing at the time of passage of this Title shall be reduced in dimension or area below the minimum requirements set forth herein, yards or lots created after effective date hereof shall meet at least the minimum requirements set forth herein. (Ord. 468, 4-15-1980)

13-6-2: **OFFICIAL SCHEDULE OF DISTRICT REGULATIONS ADOPTED:** District regulations shall be as set forth in Sections 13-6-2-1 through 13-6-2-10 of this Chapter and in the performance standards in Chapter 7 of this Title. The official schedule of district regulations is divided into four (4) land use groups: rural or natural resource, residential, commercial and industrial. (Ord. 468, 4-15-1980)

13-6-2-1: **NATURAL RESOURCE DISTRICT (NR):**

A. Purpose: The purpose, as earlier stated, of the Natural Resource District is to preserve and maintain the rural character of the land. This District is also established to allow uses as designated for by the City Comprehensive Plan in areas where commercial, industrial and residential uses can exist side by side, and where the establishment of a separate district for single use would not be desirable.

B. Change Of Use:

1. Review By Planning Commission: Any change of use that will occur in the Natural Resource District will be subject to review by the Planning Commission for approval or disapproval within sixty (60) days.

2. Considerations: When a change of use is requested in the Natural Resource District the following considerations will be taken into account:

a. The use proposed is compatible with the site characteristics such as slope, flood hazards, etc.

b. The uses proposed will not substantially alter the character of the rural area.

c. The proposal complies with the goals and policies of the land use plan.

d. The proposal meets all the subdivision and zoning site and performance standards as set out in the subdivision and zoning ordinances.

3. Residential Uses: The following criteria will be considered concerning a request for a residential use in the Natural Resource District:

a. The characteristics of the change of use requested and its compatibility to the site. Example: potential flooding, faultline slippage or access to roads, services, etc.

b. That the proposal complies with the goals and policies of the City Comprehensive Plan.

c. The proposal meets all the subdivision and zoning site and performance standards as set out in the subdivision and zoning ordinances.

4. Commercial: The following criteria will be considered concerning a request for commercial uses in the Natural Resource District:

a. That the commercial use is compatible with existing uses.

b. The proposal complies with the goals and policies established in the Land Use Plan.

c. The proposal meets all the subdivision and zoning site and performance standards as set out in the subdivision and zoning ordinances.

d. The proposal is designed in such a way as to minimize the impact on adjacent land uses.

5. Industrial: The following criteria will be considered concerning a request for industrial uses in the Natural Resource District:

a. That the proposal complies with the goals and policies established in the land use plan.

b. That the proposal meets all the subdivision and zoning site and performance standards as set out in the subdivision and zoning ordinances.

6. Parks And Open Space: The following criteria will be considered concerning a request for recreation areas in the Natural Resource District:

a. That the site is suitable for the type of recreational activity proposed.

b. That natural limitations are taken into consideration both as a deterrent or as an enhancement to the proposal and that these are adequately addressed.

c. That the proposal complies with the goals and policies of the City Comprehensive Plan.

d. The proposal meets all the subdivision and zoning site and performance standards as set out in the subdivision and zoning ordinances. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-6-2-2: **HOLDING DISTRICT (H):** The purpose of a Holding District is to maintain the current vacant character of the site until such time as logical development will occur in that area. (Ord. 468, 4-15-1980)

13-6-2-3: **SINGLE-FAMILY RESIDENTIAL DISTRICT (R-0):**

A. Purpose; Density: The purpose of the R-0 District is to promote the establishment of medium low-density, single-family dwellings, excluding mobile homes, not to exceed ten (10) dwelling units per net acre.

B. Required Facilities: Centralized water and sewer facilities are required.

C. Permitted Uses: The following permitted uses are allowed in the R-0 Zone:

Home occupations.

Single-family dwellings (excluding mobile homes).

D. Conditional Uses: The following are conditional uses:

Churches.

Day nursery.

Foster care homes.

Hospital, nursing home, home of the aged.

Medical or dental clinic.

Multiple units not to exceed four (4).

Public use.

E. Yards: Yards shall be as follows:

1. Front Yard: Minimum front setback - twenty five feet (25').

2. Side Yard: Minimum side setback - five feet (5').

F. Maximum Height: No buildings in Zone R-0 shall be more than four (4) stories in height. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-6-2-4: RESIDENTIAL DISTRICT (R-1):

A. Purpose; Density: The purpose of the R-1 District is to promote the establishment of medium-low density, single-family dwellings, not to exceed ten (10) dwelling units per net acre.

B. Required Facilities: Centralized water and sewer facilities are required.

C. Permitted Uses: The following permitted uses are allowed in the R-1 Zone:

Home occupations.

Single-family dwellings (excluding mobile homes).

D. Conditional Uses: The following are conditional uses:

Day nursery.

Dormitories.

Foster care homes.

Fraternity house.

Hospital, nursing home, home of the aged.

Medical or dental clinic.

Multiple-family dwellings.

Planned unit developments.

Public use.

Semi-public use.

Sorority.

E. Yards: Yards shall be as follows:

1. Front Yard: Minimum front setback - twenty five feet (25').

2. Side Yard: Minimum side setback - five feet (5').

F. Maximum Height: No buildings in Zone R-1 shall be more than four (4) stories in height. (Ord. 468, 4-15-1980; 2000 Code)

13-6-2-5: MULTI-FAMILY RESIDENTIAL DISTRICT (R-2):

A. Purpose; Density: The purpose of an R-2 District is to promote the establishment of medium density, two-family and multiple-family dwellings not to exceed twelve (12) dwelling units per net acre.

B. Permitted Uses: The following uses are permitted in an R-2 District:

Home occupation.

Multi-family dwelling.

Rooming, boarding house.

Single-family dwelling.

Two-family dwelling.

C. Conditional Uses: The following uses are conditional uses:

Cemetery.

Church.

Elementary or high school.

Foster care homes.

Fraternity, sorority house, dormitory.

Home for children (daycare center).

Hospital.

Hotel.

Mobile home park.

Mobile homes.

Nursery for flowers and plants.

Nursing home for the aged.

Planned unit development.

Public use.

Semi-public use.

D. Yards: Yards shall be as follows:

1. Front Yard: Minimum front setback - twenty five feet (25').

2. Side Yard: Minimum side setback - three feet (3').

E. Mobile Home Park: Mobile home parks are acceptable as a conditional use provided that they shall meet or exceed the following design standards:

1. Minimum Density And Area Requirements: Lot areas and density as hereby established shall be considered the minimum requirements within a mobile home park:

a. Minimum Area Requirement: Minimum area requirements for a mobile home park shall be three (3) acres.

b. Play Areas; Open Space: A minimum of ten percent (10%) of the land area within the mobile home park shall be provided for definable play areas and open space within the mobile home park. Such areas of open space and/or play area shall not be areas included within any setback, parking area or roads, nor shall they include any areas of less than twenty feet (20') in length or width.

c. Minimum Lot Area: Minimum lot area per unit shall be three thousand seven hundred fifty (3,750) square feet, including underground utility easements, private drives and parking spaces, but excluding street rights of way.

2. Lot Coverage And Setback Requirements:

a. Maximum Lot Coverage: Maximum lot coverage for the mobile home park development shall be fifty percent (50%). Computations shall be based on all structures within said park.

b. Minimum Distance Between Mobile Homes: Minimum distance between mobile homes shall be not less than ten feet (10'), the point of measurement being a straight line between the closest point of the units being measured.

c. Buffer Area Required: When a mobile home park abuts a single-family residential use area, there shall be a buffer area of thirty feet (30'). There will be a twenty five foot (25') street setback from the public right-of-way line to any mobile home structure. Landscaping shall be according to a landscape plan to be submitted at the time of application. Such plan shall show the type of planting material, size and planting schedule.

d. Street Access: All mobile home parks shall have access to an arterial or collector street and street access shall be discouraged into or upon local single-family residential area streets.

e. Average Density: Average park density shall not exceed eight (8) mobile home units per gross acre.

3. General Internal Park Development Requirements:

a. Setback: There shall be a minimum front yard setback from the mobile home unit to the street line of twenty five feet (25') except where otherwise stipulated in this subsection E3.

b. Mobile Home Stand:

(1) Location: The mobile home stand shall be at such elevation, distance and angle relative to the street and driveway that placement and removal of the mobile home with a car, tow truck or other customary moving equipment is practical.

(2) Grade: The mobile home stand shall have a longitudinal grade of less than four percent (4%) and transverse crown or grade to provide adequate surface drainage.

(3) Surface: The stand shall be compacted and surfaced with material which will prevent the growth of vegetation while supporting the maximum anticipated loads during all seasons.

4. Parking And Street Requirements:

a. Parking:

(1) Surface: Off-street parking areas shall be surfaced in accordance with the street surface standards below.

(2) Location: All required off-street parking space shall be located not further than two hundred feet (200') from the unit or units for which they are designated.

(3) Number Required: A minimum of one and one-fourth ($1^1/_4$) spaces of parking must be provided for each mobile home unit space provided within the park. The one unit space for occupant use must be within the distance from the unit established above. The remaining space equivalent to one-fourth ($^1/_4$) space must be in group compounds at an appropriate location within the park.

b. Streets:

(1) Required Width: Streets shall be of sufficient width so as to permit ease of access to the mobile home parking stands

and the placement and removal of mobile homes without causing damage to or otherwise jeopardizing the safety of any occupants or mobile homes in the park.

(2) Minimum Width: Streets shall have a minimum width so as to permit two (2) moving lanes of traffic, minimum lane width shall be ten feet (10').

(3) Public Access: Public access to a mobile home park shall be so designated as to permit a minimum number of ingress and egress points to control traffic movement, and to keep undesirable traffic out of the park.

(4) Grading: Streets shall be graded to ensure surface drainage to the storm sewer system.

(5) Surface: Streets and parking areas shall be surfaced for all travel with crushed stone gravel or other suitable material.

5. Storage: Storage of large items such as boats, boat trailers, etc., shall not be accomplished at the site of the mobile home unit, but rather shall be provided in separate screened areas of the park.

6. Maintenance: The operator of any mobile home park, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with said operator, for the violation of provisions of these regulations to which said operator is subject.

F. Maximum Height: No building in Zone R-2 shall be more than four (4) stories in height. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-6-2-6: NEIGHBORHOOD BUSINESS DISTRICT (C-1):

A. Purpose: The purpose of the Neighborhood Business District is to permit the establishment of convenience business uses which tend to meet the daily needs for the residents of the immediate neighborhood.

B. Location: Such District shall be strategically located with access to a collector thoroughfare.

C. Marginal Strip Development: Marginal strip development shall be prohibited.

D. Permitted Uses: The following uses are permitted in the Neighborhood Business Zone:

Beauty or barber shop.

Drug store.

Food store.

E. Conditional Uses: The following uses are conditional uses permitted in the Neighborhood Business Zone:

Service station.

F. Yards: In the Neighborhood Business Zone, the yards shall be as follows:

1. Front Yard: Minimum front yard - ten feet (10').

2. Rear Yard: Minimum rear yard - five feet (5').

3. Interior Sides: No requirements for interior sides.

4. Street Side: Street side - ten feet (10').

G. Building Height: No building shall be more than four (4) stories in height. (Ord. 468, 4-15-1980)

13-6-2-7: SERVICE BUSINESS DISTRICT (C-2):

A. Purpose: The purpose of a C-2 District is to permit the establishment of areas for highway and service business uses only. This District is specifically designed in clusters to service the motoring public. This District is generally associated with interchange areas along the major limited access highways.

B. Permitted Uses: The following uses are permitted in the C-2 Zone:

Gift shop.

Motel or hotel.

Restaurant.

Self-service laundry.

Service station.

Travel trailer or campground park.

C. Conditional Uses: The following are conditional uses permitted within the C-2 Zone:

Bar or tavern.

Car or trailer sales and service.

Car wash.

Livery stable.

Public use.

Semi-public use.

D. Yards: In the C-2 Zone, a side or rear yard abutting a residential zone shall be screened and have a minimum of fifteen feet (15') from the rear of the structure to the back lot line.

E. Maximum Height: Buildings shall not exceed four (4) stories in height. (Ord. 468, 4-15-1980)

13-6-2-8: GENERAL COMMERCIAL DISTRICT (GC):

A. Purpose: The GC District is intended to create, preserve or enhance areas with a wide range of retail uses and service establishments serving both long and short term need in compact locations typically appropriate to commercial clusters developed in urban density areas. This District also includes some development which does not strictly fit the description of this Chapter, but also does not merit a zoning district.

B. Permitted Uses: The following uses are permitted in a GC District:

Automotive sales and service.

Bakery.

Bank or other financial institution.

Beauty shop, barber shop or other personal business.

Boat or house trailer sales and services.

Bowling alley or other commercial amusement establishment.

Building materials supply outlet.

Business or professional office.

Day nursery.

Foster care homes.

Frozen food locker service.

Laundry, self-service.

Laundry and dry cleaning establishment.

Medical and dental clinic.

Motel or hotel.

Print plant.

Restaurant.

Retail store.

C. Conditional Uses: The following uses are conditional uses in the GC Zone:

Bar or tavern.

Car wash.

Drive-in theater.

Farm equipment or heavy equipment and service.

Long-term parking.

Mortuary.

Public use.

Semi-public use.

Service station.

Veterinary clinic or kennel.

Wholesale bakery.

D. Maximum Height: Buildings shall not be more than four (4) stories in height. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-6-2-9: LIGHT MANUFACTURING DISTRICT (M-1):

A. Purpose: The purpose of the M-1 District is to encourage development of manufacturing and wholesale business establishments which are clean, quiet, and free of hazardous or objectionable elements, such as noise, odor, dust, smoke or glare; operate entirely within an enclosed structure and generate little industrial traffic. Research activities are encouraged. This District is further designed to act as a transitional use between any manufacturing uses and other less intense business and residential uses.

B. Permitted Uses: The following uses are permitted in the M-1 Zone:

Auto sales, service, storage and rental.

Billboard manufacture.

Building supply outlet.

Cabinet shop.

Car wash.

Cleaning and laundry agency.

Contractor storage yard.

Dairy products processing.

Food processing plant.

Furniture refinishing.

Grain storage.

Laundry, commercial plant.

Lumber yard, retail.

Machine shop.

Nursery for flowers and plants.

Parking lot, garage facility.

Public utility yard.

Railroad yards or shops.

Sanitary landfill.

Shop for building contractor.

Sign shop.

Terminal trucking, yard trucking.

Tire shop, including recapping.

Trailer, mobile home, farm equipment sales yard.

Warehousing and wholesaling.

C. Conditional Uses: The following uses are conditional uses permitted in the M-1 District:

Those uses permitted in C-1 and C-2 Districts.

Billboard manufacturer.

Chemical storage and manufacturing.

Drive-in theater.

Feedlots, stockyards.

Food store, delicatessen.

Fuel yard.

Hospital.

Ice manufacture, cold storage plant.

Junkyard.

Machine shop.

Meat packing plant.

Monument works, stone.

Planned unit development.

Prescription pharmacy.

Printing and blueprinting.

Rendering plant.

Roadside stand.

Service station.

Truck and tractor repair.

Wood processing plant except pulp mill, chipping plant, creosote plant.

Wrecking yard.

D. Yards: There are no yard requirements in the M-1 District.

E. Maximum Height: Buildings shall not exceed four (4) stories in height. (Ord. 468, 4-15-1980)

13-6-2-10: HEAVY MANUFACTURING DISTRICT (M-2):

A. Purpose: The purpose of the M-2 District is to encourage development of major manufacturing, processing, warehousing and major research and testing operations.

B. Requirements: These activities require extensive community facilities and reasonable access to arterial thoroughfares.

C. Permitted Uses: Those uses permitted in the M-2 District are as follows:

Asphalt plant.

Auto sales, service, storage and rental.

Beverage bottling plant.

Concrete batch plant or clay products manufacturing.

Contractor's storage yard.

Dairy products, processing.

Food processing plant.

Fuel yard.

Grain storage.

Ice manufacture, cold storage plant.

Junkyard.

Lumberyard retail.

Machine shop.

Meat packing plant.

Monument works, stone.

Parking lot, garage facility.

Petroleum storage.

Planing mill.

Public utility yard.

Railroad yard or shops.

Shop for building contractor.

Sign shop.

Terminal trucking yard.

Tire shop.

Trailer, mobile home, farm equipment sales yard.

Truck and tractor repair.

Warehousing and wholesaling.

Wood processing plant.

Wrecking yard.

D. Conditional Uses: The following are conditional uses permitted in the M-2 Zone:

Chemical storage and manufacturing.

Railroad.

E. Yards: There are no yard requirements in the M-2 Zone.

F. Maximum Height: Buildings in Zone M-2 shall not be more than four (4) stories in height. (Ord. 468, 4-15-1980)

CHAPTER 7

PERFORMANCE STANDARDS

SECTION:

13-7-1: General
13-7-2: Supplemental Yard And Height Regulations
13-7-3: Supplemental General Provisions
13-7-4: Commercial And Industrial Uses
13-7-5: Unique Land Uses

13-7-1: **GENERAL:** The purpose of performance standards is to set specific conditions for various uses, classification of uses, or areas where problems are frequently encountered. (Ord. 468, 4-15-1980)

13-7-2: **SUPPLEMENTAL YARD AND HEIGHT REGULATIONS:**

A. Visibility At Intersections: On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet ($2^1/_2$') and ten feet (10') above the center line grades of the intersection streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along said street right-of-way lines twenty five feet (25') from the point of intersection.

B. Yard Requirements For Multi-Family Dwellings: Multi-family dwellings shall be considered as one building for the purpose of determining front, side and rear yard requirements. The entire group as a unit shall require one front, one rear and two (2) side yards as specified for dwellings in the appropriate district.

C. Side And Rear Yard Requirements For Nonresidential Uses Abutting Residential Districts: Nonresidential buildings or uses shall not be located nor conducted closer than forty feet (40') to any lot line of a residential district, except that the minimum yard requirements may be reduced to fifty percent (50%) of the requirement if acceptable

landscaping or screening approved by the Commission is provided. Such screening shall be masonry or solid fence between four feet (4') and eight feet (8') in height maintained in safe condition and free of all advertising or other signs on residential side of lot. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than twenty feet (20') in width planted with an evergreen hedge or dense planting of evergreen shrubs not less than four feet (4') in height at the time of planting.

D. Architectural Projections: Open structures such as canopies, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard.

E. Exceptions To Height Regulations: The height limitations contained in the official schedule of district regulations 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 not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and takeoff of aircraft at an established airport. (Ord. 468, 4-15-1980)

13-7-3: **SUPPLEMENTAL GENERAL PROVISIONS:** In addition to all other regulations as specified in this Title, the following provisions shall be adhered to:

A. Conversion Of Dwellings To More Units: A residence may not be converted to accommodate an increased, number of dwelling units unless:

1. Yards: The yard dimensions still meet the yard dimensions required by this Title for new structures in that district.

2. Lot Area: The lot area per dwelling unit equals the lot area requirements for new structures as prescribed by the most current edition of the Uniform Building Code.

3. Floor Area: The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district as prescribed by the most current edition of the Uniform Building Code.

4. The conversion is in compliance with all other relevant codes and ordinances.

B. Temporary Buildings: Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work only may be permitted in any district during the period construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work. Storage of such facilities or equipment beyond the completion date of the project shall require a zoning permit authorized by the Administrator.

C. Parking And Storage Of Certain Vehicles: Any automobile body which is not properly and currently licensed and it is not in operating condition or has not been used for a period of six (6) months or more, whether left on public or private property and which is offensive to the sight of the community or neighborhood or to persons passing by on a public thoroughfare, shall be considered as an attractive nuisance, and removed at the request of the City Council, the Commission or City law enforcement official. If not removed, the City may remove same at owner's expense.

D. Required Trash Areas: All trash and/or garbage collection areas for commercial, industrial and multi-family residential uses shall be enclosed on at least three (3) sides by a solid wall or fence of at least four feet (4') in height or within an enclosed building or trash and/or garbage collection dumpster. Adequate vehicular access to and from such area or areas for collection of trash and/or garbage as determined by the Administrator shall be provided.

E. Architectural Conformity: It is recognized that the existing structures found in Zones R-0 and GC have historical value and that it is in the best interest to preserve and maintain this historical setting. Therefore, all construction in Zones R-0 and GC will be of a nature that will blend with and not detract from the period architecture in these zones. Metal buildings of any nature in these zones are to be discouraged and prohibited unless designed in such a manner as to blend with existing structures. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-7-4: **COMMERCIAL AND INDUSTRIAL USES:** No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this Title may be undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the following performance requirements:

A. Fire Hazards: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire-prevention equipment. Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved as specified in the Uniform Fire Code as adopted by the State.

B. Radioactivity Or Electrical Disturbance: No activity shall emit harmful radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance.

C. Noise: Objectionable noise as determined by the Administrator which is due to volume, frequency, or beat shall be muffled or otherwise controlled. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement.

D. Vibration: No vibration shall be permitted which is discernible without the use of vibration detection instruments on any adjoining lot or property.

E. Air Pollution: Air pollution shall be subject to the requirements and regulations established by the health authority.

F. Glare: No direct or reflected glare shall be permitted which is visible from any property outside a manufacturing district or from any street.

G. Erosion: No erosion, by man, wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.

H. Water Pollution: Water pollution shall be subject to the requirements and regulations established by the health authority.

I. Enforcement Provisions: The Administrator, prior to giving zoning approval, may require the submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances.

J. Measurement Procedures: Methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to applicable standard measurement procedures published by the American Standards Institute, New York; the Manufacturing Chemists Association, Inc., Washington,

D.C.; the United States Bureau of Mines and the health authority. (Ord. 468, 4-15-1980)

13-7-5: **UNIQUE LAND USES:** Certain unique land uses pose special problems that may have detrimental influences on surrounding land uses. The following performance standards for such unique land uses shall be adhered to in addition to all other provisions of this Title:

A. Accessory Building:

1. Prohibited In Front Yard: Will not be located in any required front yard area; and

2. Setback From Property Line: Will not be located closer than five feet (5') from any side or rear property line.

B. Agriculture (Buffer Area): Will be maintained to minimize soil erosion, sedimentation, contamination and nutrient enrichment of ground and surface water.

C. Animal Clinic, Animal Hospital, Veterinary Office And Kennel:

1. Location: Will be located at least three hundred feet (300') from any residence including motels and hotels, except for an owner's residence. The Administrator may modify these requirements if the animals are completely housed in soundproof structures that completely screen them from view of the abutting residential property.

2. Compliance With Regulations: Will comply with all State and local regulations, relative to such an operation, and maintain adequate housekeeping practices designed to prevent the creation of a nuisance and to reduce to a minimum the factors of noise and odor.

D. Bulk Storage Of Flammable Liquids And Gases And Explosive Materials Aboveground And For Resale:

1. Location: Will be located at least three hundred feet (300') from a residential zone, a residence, motel or hotel except for the owner's residence.

2. Fire Official Approval: Will be erected subject to the approval of the appropriate fire official.

3. Off-Street Parking And Loading: Will have suitable loading and unloading spaces and off-street parking facilities subject to the approval of the appropriate fire official.

E. Chemicals, Pesticide And Fertilizer Storage And Manufacturing: Will have adequate fire protection, storage area, handling and disposal as approved by the appropriate fire official.

F. Contractor's Yard (i.e., Road, Housing, Anything With Heavy Equipment):

1. Location: Will be located a minimum distance of three hundred feet (300') from any residence except for an owner's residence.

2. Screening: Will have a screening fence around areas utilized for storage of equipment.

3. Use Limitations: Will be limited to storage, maintenance and processing incidental to contracting work. There shall be no general industrial or commercial uses.

G. Drive-In Restaurant:

1. Enclosed On Property Line: Will be enclosed on the property line with landscaping and fencing except for ingress and egress, to prevent trash from moving onto other properties.

2. Sight-Obscuring Fence: Will have a six foot (6') high sight-obscuring fence along the property lines that adjoin a residence.

3. Trash: Will provide for adequate trash receptacles.

4. Lighting: Will avoid the direction of night lighting toward any residence.

H. Filling, Grading, Lagooning, Dredging Or Other Earth Moving Activity:

1. Exposure Of Bare Ground: The smallest amount of bare ground shall be exposed for the shortest time feasible.

2. Temporary Ground Cover: Provide temporary ground cover, such as mulch.

3. Methods To Trap Sediment: Use diversions, silting basins, terraces and other methods to trap sediment.

4. Lagooning: Provide lagooning in such a manner as to avoid conditions which will create fish traps.

5. Restriction Prohibited: A floodway, channel or natural drainageway shall not be restricted.

6. Prevent Erosion Or Soil Failure: Construct and stabilize sides and bottom of cuts, fills, channels and artificial watercourses to prevent erosion or soil failure.

7. Below Grade Excavation: Below grade excavation shall not occur except for drainageways within fifty feet (50') of any lot line or public right of way.

8. Restoration: Topsoil or loam will be restored to its existing natural condition.

I. Home Occupation:

1. Employees: No more than one person other than members of the family residing on the premises shall be engaged in such occupation.

2. Use Of Dwelling: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residence purposes by its occupants, and not more than twenty five percent (25%) of floor area of the dwelling unit shall be used to conduct the home occupation.

3. Outside Appearance; Sign: There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four (4) square feet in area, nonilluminated, and made of nonreflective materials and mounted flat against the wall of the principal building.

4. Traffic; Off-Street Parking: No significant traffic shall be generated by such home occupation and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this Title, and shall not be located in a required front yard.

5. Prohibited Equipment, Processes: No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interferences detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

J. Mobile Home Park[1]:

1. Essential Character Of Area: Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

2. Future Neighboring Uses: Will not be hazardous or detrimental to existing or future neighboring uses.

3. Essential Public Facilities And Services: Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage, refuse disposal and schools, or that the persons or agencies responsible for the establishment of the proposed park shall be able to provide adequately any such services.

4. Consistent With Intent And Purpose: Will be consistent with the intent and purpose of this Title and the City Comprehensive Plan.

5. Vehicular Approaches: Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

6. Natural, Scenic Or Historic Features: Will not result in the destruction, loss or damage of natural, scenic or historic features of major importance.

7. Health Standards: Will meet the minimum health standards as set forth by the Idaho State Department of Health and Welfare.

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1. See subsection 13-6-2-5E of this Title for additional regulations.

K. Outdoor Storage Of Commercial And Industrial Materials:

1. Screening: Will be screened from view from any existing adjoining residence or residentially zoned area, whether or not such property is separated by an alley or street.

2. Location: Will not be located in any front yard setback area.

L. Riding Stables And Schools:

1. Location: Will locate all stables or loafing sheds not nearer than ten feet (10') from any residence, except for an owner's residence. All facilities shall be set back a distance of thirty feet (30') from any property line.

2. Design: Will be designed and located with full consideration being given to their proximity to adjacent uses and their effect upon adjacent uses and their effect upon adjacent and surrounding properties as to the storage of horse trailers and the factors of noise and odor.

3. Housekeeping Practices: Will require that the owner or operator of such use shall have a continuous obligation to maintain adequate housekeeping practices to prevent the creation of a nuisance.

M. Outdoor Rifle And Pistol Range:

1. Backstop: Will be designed with a backstop.

2. Line Of Fire: Will be designed to avoid a line of fire that is directed toward any residence or business within one mile.

3. Landscaping: Will incorporate landscaping that is compatible with the surrounding landscaping.

4. Supervision; Security Measures: Will provide supervision and security measures during periods of use. (Ord. 468, 4-15-1980)

CHAPTER 8

CULTURAL RESOURCE MANAGEMENT

SECTION:

13-8- 1: Purpose
13-8- 2: Area Of Application
13-8- 3: Powers And Duties Of Commission
13-8- 4: Cultural Resource Designation Criteria
13-8- 5: Cultural Resource Designation Procedures
13-8- 6: Permits
13-8- 7: Appeals
13-8- 8: Ordinary Maintenance And Repair
13-8- 9: Duty To Keep In Good Repair
13-8-10: Showing Of Hardship
13-8-11: Enforcement; Penalties

13-8-1: **PURPOSE:** It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, perpetuation and use of structures, natural features, sites and areas within the City having historic, architectural, archeological, cultural or aesthetic significance is required in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. The purpose of this Chapter is to:

A. Safeguard the heritage of the City by providing for the protection of historic structures representing significant elements of its history;

B. Enhance the visual character of the City by encouraging and regulating the compatibility of architectural styles within historic districts reflecting unique and established architectural traditions;

C. Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;

D. Strengthen the economy of the City by protecting and enhancing the City's attractions to residents, tourists and visitors;

E. Stabilize and improve property values within the City;

F. Promote the private and public use of historic structures and historic districts for the education, prosperity and general welfare of the people. (Ord. 468, 4-15-1980)

13-8-2: **AREA OF APPLICATION:** This Chapter shall apply to all cultural resources within the City. (Ord. 468, 4-15-1980)

13-8-3: **POWERS AND DUTIES OF COMMISSION:** In addition to the powers and duties described elsewhere in this Code[1], the Commission shall have the following powers and duties:

A. Comprehensive Survey: Establish criteria and conduct or cause to be conducted a comprehensive survey of properties within the boundaries of the City. Publicize and periodically update survey results.

B. Guidelines For Designation Of Cultural Resources: Adopt specific guidelines for the designation of cultural resources including landmarks, landmark sites, and historic districts.

C. Local Register: Maintain a local register of cultural resources including historic districts, landmark sites, and landmarks within the City.

D. Land Use: Review and comment upon the conduct of land use, housing and redevelopment, Municipal improvement, and other types of planning and programs undertaken by any agency of the City, the County, or State, as they relate to the cultural resources of the community.

E. Prescriptive Standards: Adopt prescriptive standards to be used by the Commission in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any cultural resource.

F. Purchase Of Property: Recommend to the City Council the purchase of fee or less-tha-fee interests in property for purposes of cultural resources preservation.

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1. See also Title 12, Chapter 2 of this Code, and Section 13-2-3 of this Title.

G. Funding Sources And Mechanisms: Investigate and report to the City Council on the use of various Federal, State, local, or private funding sources and mechanisms available to promote cultural resource preservation in the City.

H. Historic Properties: Preserve, restore, maintain, and operate historic properties under the ownership of the City or control of the Commission.

I. Approve/Disapprove Applications For Permits: Approve or disapprove, in whole or in part, applications for permits.

J. Review Applications: Review all applications for permits, environmental assessments, environmental impact reports, environmental impact statements, and other similar documents as set in this Title, pertaining to cultural resources, or related neighboring property within public view. The Commission shall forward its comments to the City Council.

K. Staff; Consultants; Studies: Hire staff, retain consultants and conduct studies, as the Commission deems desirable or necessary, except that all expenditures of City funds are subject to prior approval by the City Council.

L. Contracts: Contract, with prior approval of the City Council, with County, State or Federal government, or any agency or subdivision of said governments, or with any other organization.

M. Cooperation: Cooperate with local, County, State and Federal governments in the pursuit of the objectives of historic preservation.

N. Procedural Rules: Adopt procedural rules for the conduct of its business in accordance with the provisions of this Chapter.

O. Minutes; Records: Keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be public record.

P. Advice; Guidance: Render advice and guidance, upon the request of the property owner or occupant, on the restoration, alteration, decoration, landscaping or maintenance of any cultural resource including landmark, landmark site, historic district, or neighboring property within public view.

Q. Cultural Resource Programs: Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to cultural resources.

R. Other Functions: Perform any other functions that may be designated by resolution or motion of the City Council. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-8-4: **CULTURAL RESOURCE DESIGNATION CRITERIA:** For the purposes of this Chapter, an improvement may be designated a cultural resource by the City Council, and any area within the City may be designated an historic district by the City Council pursuant to Section 13-8-5 of this Chapter if it meets the following criteria:

A. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering, or architectural history; or

B. It is identified with persons or events significant in local, State, or national history; or

C. It embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or

D. It is representative of the notable work of a builder, designer, or architect. (Ord. 468, 4-15-1980)

13-8-5: **CULTURAL RESOURCE DESIGNATION PROCEDURES:** Cultural resources and historic districts shall be established by the City Council in the following manner:

A. Initiation Of Proceedings: Any person may request the designation of an improvement as a cultural resource or the designation of an historic district by submitting an application for such designation to the Commission. The Commission or City Council may also initiate such proceedings on their own motion.

B. Study: The Commission shall conduct a study of the proposed designation and make a preliminary determination based on such documentation as it may require, as to its appropriateness for consideration. If the Commission determines that the application

merits consideration, but only if it so determines, it shall schedule a public hearing with due speed.

C. Public Hearing: The Commission's decision to schedule or not to schedule a public hearing shall be in writing and shall be filed with the Administrator and the City Clerk. Notice of a decision not to schedule a public hearing shall be given by mail to the applicant. No building, alteration, demolition or removal permits for any improvement, building or structure within the proposed historic district or relative to a proposed cultural resource shall be issued while the public hearing or any appeal related thereto is pending.

D. Cultural Resource And Cultural Resource Site: In the case of a proposed cultural resource and cultural resource site, notice of the date, place, time and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of the improvement at least twenty (20) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls, and shall be advertised once in a daily newspaper of general circulation.

E. Notice: In the case of a proposed historic district, notice of the date, place, time and purpose of the hearing shall be given by first class mail to the applicant, owner and occupant of all properties within the proposed district at least twenty (20) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls, and shall be advertised five (5) consecutive days in a daily newspaper of general circulation.

F. Action Of Commission: At the conclusion of the public hearing, but in no event more than thirty (30) days from the date set for the initial public hearing for the designation of a proposed cultural resource or historic district, the Commission shall recommend approval in whole or in part, or disapproval in whole or in part of the application in writing.

G. City Council Action: The City Council, within thirty (30) days of receipt of the recommendations from the Commission, shall by ordinance approve the application in whole or in part, or shall by motion disapprove it in its entirety.

H. Failure To Send Notice: Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with

the proposed designation. The Commission and Council may also give such other notice as they may deem desirable and practicable. (Ord. 468, 4-15-1980)

13-8-6: **PERMITS:**

A. Written Approval Required: It is unlawful for any person to tear down, demolish, construct, alter, remove, or relocate any improvement, or any portion thereof, which has been designated a cultural resource or cultural resource site pursuant to the provisions of this Chapter, or which lies within an historic district, or to alter in any manner any exterior architectural feature of such a cultural resource, cultural resource site or improvement within an historic district, or to place, erect, alter or relocate any sign within an historic district or on a cultural resource or cultural resource site, without first obtaining written approval to do so in the manner provided in this Chapter, nor shall the Administrator or Commission grant any permit to carry out such work on a designated cultural resource or cultural resource site or within an historic district, without the prior written approval of the Commission.

B. Permit Procedure: The following procedures shall be followed in processing applications for approval of work covered by this Chapter:

1. Administrator's Report: The Administrator shall report any application for a permit to work on a designated cultural resource to the Commission.

2. Application For Approval: If no permit is required to pursue work on a designated cultural resource, whoever is responsible for the work, whether it is the tenant, resident, or property owner, shall apply for approval to the Commission directly.

3. Additional Materials: Such applications shall be accompanied by such materials as are required by the Commission and are reasonably necessary for the proper review of the proposed project.

4. Review By Commission: The Commission shall complete its review and make a decision within thirty (30) days of the date of receipt of the application. Unless legally required, there shall be no notice, posting or publication requirements for action on the application, but all decisions, interim or final, shall be made at regular meetings of the Commission. The Commission's decision

shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. This decision may be appealed.

5. Approval/Disapproval: In review of permits sought in order to wholly or partially remove or demolish a cultural resource, cultural resource site or historic district, the Commission may approve or disapprove the issuance of said permit or permits.

C. Permit Criteria: The Commission, or the City Council upon appeal, shall issue an approval for any proposed work as described in subsection A of this Section, if, and only if, it determines:

1. Cultural Resource: In the case of a designated cultural resource, the proposed work would not detrimentally alter, destroy or adversely affect any exterior architectural feature; or

2. Historic District: In the case of any property located within an historic district, the proposed construction, removal, rehabilitation, alteration, remodeling, excavation or exterior alteration conforms to the prescriptive standards as adopted by the Commission, and does not adversely affect the character of the district; or

3. Exterior Of Improvements: In the case of construction of a new improvement, building or structure upon a cultural resource site, the exterior of such improvements will not adversely affect and will be compatible with the external appearance of existing designated improvements, buildings and structures on said site. (Ord. 468, 4-15-1980)

13-8-7: **APPEALS:** The following actions by the Commission may be appealed by any interested party to the City Council:

A. The Commission's decision not to hold a public hearing on an application for designation of a cultural resource or historic district;

B. A determination made after a public hearing not to designate a proposed cultural resource or historic district;

C. The Commission's decision to grant or to not grant a permit. (Ord. 468, 4-15-1980)

13-8-8: **ORDINARY MAINTENANCE AND REPAIR:** Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this Chapter that does not involve a change in design, material or external appearance thereof, nor does this Title prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when the Administrator certifies to the Commission that such action is required for the public safety due to an unsafe or dangerous condition. (Ord. 468, 4-15-1980)

13-8-9: **DUTY TO KEEP IN GOOD REPAIR:** The owner, occupant or other person in actual charge of a cultural resource, or an improvement, building or structure in an historic district shall keep in good repair all of the exterior portions of such improvement, building or structure, all of the interior portions thereof when subject to control as specified in the designating ordinance or permit, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature. (Ord. 468, 4-15-1980)

13-8-10: **SHOWING OF HARDSHIP:** The Commission or City Council need not disapprove an application for permit to carry out any proposed work in an historic district, or on a landmark or a landmark site, if the applicant presents clear and convincing evidence of facts demonstrating to the satisfaction of the Commission or City Council that such disapproval will work immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work, whether this be property owner, tenant or resident, or because of conditions peculiar to the particular improvement, building or structure or other feature involved, and that failure to disapprove the application will be consistent with the purposes of this Chapter. If a hardship is found to exist under this Section, the Commission or City Council shall make a written finding to that effect, and shall specify the facts and reasons relied upon in making such finding. (Ord. 468, 4-15-1980)

13-8-11: **ENFORCEMENT; PENALTIES:**

A. Methods Of Enforcement: In addition to the regulations of this Chapter, other Chapters of this Title and other provisions of law which govern the approval or disapproval of applications for permits or licenses covered by this Chapter, the Administrator shall have the

authority to implement the enforcement thereof by any of the following means:

1. Serving notice requiring the removal of any violation of this Chapter upon the owner, agent, occupant or tenant of the improvement, building, structure or land;

2. Calling upon the City Attorney to institute any necessary legal proceedings to enforce the provisions of this Chapter, and the City Attorney is hereby authorized to institute any actions to that end;

3. Calling upon the Chief of Police and authorized agents to assist in the enforcement of this Chapter.

In addition to any of the foregoing remedies, the City Attorney may maintain an action for injunctive relief to restrain or enjoin or to cause the correction or removal of any violation of this Chapter, or for an injunction in appropriate cases.

B. Penalties. Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in Section 1-4-1 of this Code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. 468, 4-15-1980; amd. 2000 Code)

CHAPTER 9

CONDITIONAL USE PERMITS

SECTION:

13-9-1: General
13-9-2: Application
13-9-3: General Standards
13-9-4: Public Sites And Open Spaces
13-9-5: Supplementary Conditions And Safeguards
13-9-6: Procedure For Hearing, Notice
13-9-7: Action By Commission
13-9-8: Notification To Applicant
13-9-9: Appeal To Council

13-9-1: GENERAL:

A. Individual Consideration: It is recognized that an increasing number of new kinds of uses are appearing daily and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually.

B. Commission Action: The Commission shall hold a public hearing on each conditional use permit application as specified in the official schedule of district regulations. The Commission may approve, conditionally approve or deny a conditional use permit under the conditions as herein specified and considering such additional safeguards as will uphold the intent of this Title. (Ord. 468, 4-15-1980)

13-9-2: **APPLICATION:** An application for conditional use permit shall be filed with the Administrator by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

A. Name, address and phone number of applicant.

B. Legal description of property.

C. Description of existing use.

D. Zoning district.

E. Description of proposed special use.

F. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards and such other information as the Commission may require to determine if the proposed conditional use meets the intent and requirements of this Title.

G. A narrative statement evaluating the effects of adjoining property; the effects of adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Comprehensive Plan. (Ord. 468, 4-15-1980)

13-9-3: **GENERAL STANDARDS:** The Commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

A. Official Schedule Of District Regulations: Will, in fact, constitute a conditional use as established on the official schedule of district regulations for the zoning district involved.

B. Comprehensive Plan; Title: Will be harmonious with and in accordance with the general objective or with any specific objective of the Comprehensive Plan and/or this Title.

C. Character Of Vicinity: Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

D. Future Neighboring Uses: Will not be hazardous or disturbing to existing or future neighboring uses.

E. Essential Public Facilities And Services: Will be served adequately by essential public facilities and service such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

F. Economic Welfare: Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. Detrimental Effect: Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

H. Traffic: Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

I. Natural Scenic Or Historic Features: Will not result in the destruction, loss, or damage of a natural scenic or historic feature of major importance. (Ord. 468, 4-15-1980)

13-9-4: **PUBLIC SITES AND OPEN SPACES:** Shall conform to the following:

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

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

C. Special Developments: In the case of planned unit developments and large scale developments, the Commission may require sufficient park or open space facilities of acceptable size, location and site characteristics that may be suitable for the proposed development. (Ord. 468, 4-15-1980)

13-9-5: **SUPPLEMENTARY CONDITIONS AND SAFEGUARDS:** In granting any conditional use, the Commission may prescribe appropriate conditions, bonds and safeguards in conformity with this Title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the conditional use, if granted, shall be deemed a violation of this Title. (Ord. 468, 4-15-1980)

13-9-6: **PROCEDURE FOR HEARING, NOTICE:**

A. Hearing Required: Prior to granting a conditional use permit, at least one public hearing in which interested persons shall have an opportunity to be heard shall be held.

B. Notice Of Hearing:

1. Publication: At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction.

2. Other Media: Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement.

3. Written Notice: Notice shall also be provided to property owners and residents within the land area being considered, three hundred feet (300') of the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed conditional use as determined by the Commission.

4. Notice To Two Hundred Or More: When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of mailed notice, such as by publication in a local newspaper of general circulation each week for three (3) consecutive weeks. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-9-7: ACTION BY COMMISSION:

A. Approval; Conditional Approval; Disapproval: Within thirty (30) days after the public hearing, the Commission shall either approve, conditionally approve, or disapprove the application as presented. If the application is approved or approved with modifications, the Commission shall direct the Administrator to issue a conditional use permit listing the specific conditions specified by the Commission for approval.

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

1. Minimizing adverse impact on other development;

2. Controlling the sequence and timing of development;

3. Controlling the duration of development;

4. Assuring that development is maintained properly;

5. Designating the exact location and nature of development;

6. Requiring the provision for on-site or off-site public facilities or services.

7. Requiring more restrictive standards than those generally required for an ordinance.

8. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

C. Studies: Prior to granting a conditional use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed conditional use.

D. Binding Precedent: A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits.

E. Transferability: A conditional use permit is not transferrable from one parcel of land to another.

F. Specifications On Granting Or Denying: Upon granting or denying an application the Commission shall specify:

1. The ordinance and standards used in evaluating the application;

2. The reasons for approval or denial; and

3. The actions, if any, that the applicant could take to obtain a permit.

G. Appeal: The applicant or any affected person who appeared in person or in writing before the Commission may appeal the decision of the Commission to the Council in writing, provided the appeal is submitted to the Board within fifteen (15) days from the Commission's action. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-9-8: **NOTIFICATION TO APPLICANT:** Within ten (10) days after a decision has been rendered, the Administrator shall provide the applicant with written notice of the action on the request. (Ord. 468, 4-15-1980)

13-9-9: **APPEAL TO COUNCIL:** Upon receipt of a written appeal from the action of the Commission, the Council shall set a hearing date to consider all information, testimony and Commission's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision of the Commission. The Council shall only overrule the Commission by a favorable two-thirds ($^2/_3$) vote. (Ord. 468, 4-15-1980)

CHAPTER 10

NONCONFORMING USES

SECTION:

13-10-1: Intent
13-10-2: Incompatibility Of Nonconforming Uses
13-10-3: Avoidance Of Undue Hardship
13-10-4: Nonconforming Lots Of Record
13-10-5: Nonconforming Uses Of Structures Or Structures And Land Combination
13-10-6: Repairs And Maintenance
13-10-7: Uses Under Special Use Provisions Not Nonconforming Uses

13-10-1: **INTENT:** It is the intent of this Title to permit nonconforming uses to continue until they are removed, but not to encourage their survival. It is further the intent of this Title that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Ord. 468, 4-15-1980)

13-10-2: **INCOMPATIBILITY OF NONCONFORMING USES:** Nonconforming uses are declared by this Title to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use shall not be extended or enlarged after passage hereof by attachment on a building or premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located. (Ord. 468, 4-15-1980)

13-10-3: **AVOIDANCE OF UNDUE HARDSHIP:** To avoid undue hardship, nothing in this Title shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date hereof or amendment hereof and upon which actual building construction has been carried on diligently. (Ord. 468, 4-15-1980)

13-10-4: **NONCONFORMING LOTS OF RECORD:** The following shall be exceptions to the required lot areas:

A. Lots of record with less than the area required by each use district or by an imposed subdistrict which existed prior to the adoption hereof.

B. Lots or development sites which, as a process of their creation were approved with substandard area by the Commission. (Ord. 468, 4-15-1980)

13-10-5: **NONCONFORMING USES OF STRUCTURES OR STRUCTURES AND LAND COMBINATION:** If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date hereof or amendment hereof that would not be allowed in the district under the terms of this Title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Enlarged, Altered, Reconstructed: No existing structure devoted to a use not permitted by this Title in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

B. Extended: No nonconforming use shall be extended to occupy any additional land area.

C. Change In Use: If no structural alterations are made, any nonconforming use of a structure and land, may, upon the issuance of a conditional use permit by the Commission, be changed to another nonconforming use provided that the Commission shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Commission may require appropriate conditions and safeguards in accordance with other provisions of this Title.

D. Superseded By Permitted Use: Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

E. Discontinued; Abandoned: When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than two (2) years (except when government action

impedes access to the premises) the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

F. Removal, Destruction Of Structure: Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. (Ord. 468, 4-15-1980)

13-10-6: **REPAIRS AND MAINTENANCE:** On any nonconforming structure, or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof which is unsafe. Nonconforming structures may not be replaced if sixty six percent (66%) of the structure is destroyed. (Ord. 468, 4-15-1980)

13-10-7: **USES UNDER SPECIAL USE PROVISIONS NOT NON-CONFORMING USES:** Any use which is permitted as a special use in a district under the terms of this Title shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use. (Ord. 468, 4-15-1980)

CHAPTER 11

SIGNS

SECTION:

13-11-1: Intent
13-11-2: Public Signs Excluded
13-11-3: General Requirements
13-11-4: Permitted Signs
13-11-5: Violations

13-11-1: **INTENT:** The purpose of this Chapter is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising signs. It is intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right of way. (Ord. 468, 4-15-1980)

13-11-2: **PUBLIC SIGNS EXCLUDED:** For the purpose of this Title, "signs" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance or governmental regulation. (Ord. 468, 4-15-1980)

13-11-3: **GENERAL REQUIREMENTS:** The regulations contained in this Section shall apply to all signs and all use districts, and all signs shall conform with the provisions of the current Uniform Building Code:

A. Illumination; Lighting Device: In no event shall an illuminated sign or lighting device be placed or directed to permit the beams and illumination therefrom to be directed or beamed upon a public thoroughfare, highway, or sidewalk so as to constitute a traffic hazard or nuisance.

B. Electrical Code[1]: All wiring, fittings, and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the local electric code in effect, if any.

C. Obstruction Of Fire Escape: No sign of any classification shall be installed, erected, or attached in any form, shape or manner to a fire escape or any door or window giving access to any fire escape.

D. Responsibility For Maintenance: All signs hung and erected shall be plainly marked with the name of the person responsible for maintaining the sign.

E. Unsafe, Dangerous: Should any sign be or become unsafe or in danger of falling, the owner thereof or the person maintaining the sign, shall upon receipt of written notice from the Administrator proceed at once to put such sign in a safe and secure condition or remove the sign.

F. Public Right Of Way: No sign shall be placed in any public right of way except publicly-owned signs, such as traffic-control signs and directional signs. Signs directing and guiding traffic and parking on private property but bearing no advertising matter shall be permitted on any property.

G. Interstate; Primary Highway: Signs along the interstate and primary highways shall conform to the Idaho State Transportation Department regulations.

H. Historical, Cultural Significance: Signs shall not unreasonably distract from the historic and cultural significance of the structure upon which they are placed or surrounding structures. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-11-4: **PERMITTED SIGNS:** The following signs may be permitted:

Political signs, provided such signs shall not be posted in any place or in any manner that is destructive to public property upon posting or removal. No political sign shall be posted in a public right of way nor shall any such sign be posted on a utility pole. All candidates for public office, their campaign committees or other persons

1. See Section 9-1-3 of this Code.

responsible for the posting on public property of campaign material shall remove such material within two (2) weeks following the general election day. (Ord. 468, 4-15-1980)

13-11-5: **VIOLATIONS:** In case any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this Title, the Administrator shall notify in writing the owner or lessee thereof to alter such sign to comply with this Title. Political signs posted in violation of this Title are subject to removal by the Administrator five (5) days after written notice of violation. The cost of removal shall be borne by the violator. (Ord. 468, 4-15-1980)

CHAPTER 12

APPEAL, VARIANCE AND ACTION BY AFFECTED PERSONS

SECTION:

13-12-1: General
13-12-2: Administrative Appeals
13-12-3: Stay Of Proceedings
13-12-4: Variance
13-12-5: Application And Standards For Variances
13-12-6: Supplementary Conditions And Safeguards
13-12-7: Public Hearing
13-12-8: Action By Commission
13-12-9: Actions By Affected Persons

13-12-1: **GENERAL:** The Commission shall consider administrative appeals where it is alleged that an error has been made by the Administrator, request for variances from the terms of this Title, and requests for hearing from affected persons. (Ord. 468, 4-15-1980)

13-12-2: **ADMINISTRATIVE APPEALS:**

A. Right To Appeal: Appeals to the Commission concerning interpretation or administration of this Title may be taken by any person aggrieved or by any officer or bureau of the legislative authority affected by any decision of the Administrator.

B. Notice Of Appeal: Such appeal shall be taken within thirty (30) days after the decision of the Administrator by filing with the Administrator and with the Commission a notice of appeal specifying the ground upon which the appeal is being taken.

C. Transmittal Of Record: The Administrator shall transmit to the Commission all the papers constituting the record upon which the action appealed from was taken. (Ord. 468, 4-15-1980)

13-12-3: **STAY OF PROCEEDING:** Proceedings in favor of the action appeal shall not be stayed other than by a restraining order which may be granted by the Commission or by a court of record on application on notice to the Administrator from whom the appeal is taken on due cause shown. (Ord. 468, 4-15-1980)

13-12-4: **VARIANCE:**

A. Power To Authorize: The Commission may authorize in specific cases such variance from the terms of this Title as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this Title would result in unnecessary hardship. No nonconforming of neighboring lands, structure, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance.

B. Hardship: Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Title would result in unnecessary hardship. (Ord. 468, 4-15-1980)

13-12-5: **APPLICATION AND STANDARDS FOR VARIANCES:**

A. Required Information: A variance from the terms of this Title shall not be granted by the Commission unless and until a written application for a variance is submitted to the Administrator and the Commission containing:

1. Name, address and phone number of applicants.

2. Legal description of property.

3. Description of nature of variance requested.

4. A narrative statement demonstrating that the requested variance conforms to the following standards:

a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved which are not applicable to other lands, structures or buildings in the same district.

b. That a literal interpretation of the provisions of this Title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Title.

c. That special conditions and circumstances do not result from the actions of the applicant.

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Title to other lands, structures or buildings in the same district.

B. Findings Of Fact: A variance shall not be granted unless the Commission makes specific findings of fact based directly on the particular evidence presented to it which support conclusions that the above mentioned standards and conditions have been met by the applicant. (Ord. 468, 4-15-1980)

13-12-6: **SUPPLEMENTARY CONDITIONS AND SAFEGUARDS:** In granting any appeal or variance, the Commission may prescribe the appropriate conditions and safeguards in conformity with this Title. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted shall be deemed a violation of this Title. (Ord. 468, 4-15-1980)

13-12-7: **PUBLIC HEARING:** Upon receipt of the application for an appeal or a variance, the Commission shall hold a public hearing, public notice in a newspaper and give written notice to all parties as required for conditional use permits[1]. (Ord. 468, 4-15-1980)

13-12-8: **ACTION BY COMMISSION:** Within thirty (30) days after the public hearing the Commission shall either approve, conditionally approve, or disapprove the request for appeal or variance. Upon granting or denying an application, the Commission shall specify:

A. The ordinance and standards used in evaluating the application;

B. The reasons for approval or denial; and

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1. See Section 13-9-6 of this Title.

C. The action, if any, that the applicant could take to obtain a permit. (Ord. 468, 4-15-1980)

13-12-9: ACTIONS BY AFFECTED PERSONS:

A. Hearing:

1. Definition: As used herein, an "affected person" shall mean one having an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing the development.

2. Right To Petition: Any affected person may at any time prior to final action on a permit required or authorized under this Chapter, if no hearing has been held on the application, petition the Commission or City Council, in writing, to hold a hearing pursuant to section 67-6512, Idaho Code; provided, however, that if twenty (20) affected persons petition for a hearing, the hearing shall be held.

3. Action Taken: After a hearing, the Commission or City Council may:

a. Grant or deny a permit; or

b. Delay such a decision for a definite period of time for further study or hearing.

Each Commission or City Council shall establish by rule and regulation a time period within which a recommendation or decision must be made.

4. Judicial Review: An affected person aggrieved by a decision may within twenty eight (28) days after all remedies have been exhausted under local ordinances seek judicial review as provided by chapter 52, title 67, Idaho Code.

B. Eminent Domain:

1. Authority: Authority to exercise the regulatory power of zoning in land use planning shall not simultaneously displace coexisting eminent domain authority granted under section 14, article I, of the constitution of the State of Idaho and chapter 7, title 7, Idaho Code.

2. Just Compensation: An affected person claiming just compensation for a perceived taking, the basis of the claim being

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that a specific zoning action or permitting action restricting private property development is actually a regulatory action by local government deemed "necessary to complete the development of the material resources of the state," or necessary for other public uses, may seek a judicial determination of whether the claim comes within defined provisions of section 14, article I, of the constitution of the State of Idaho relating to eminent domain. Under these circumstances, the affected person is exempt from the provisions of subsection A of this Section and may seek judicial review through an inverse condemnation action specifying neglect by local government to provide just compensation under the provisions of section 14, article I, of the constitution of the State of Idaho and chapter 7, title 7, Idaho Code. (2000 Code)

CHAPTER 13

ENFORCEMENT

SECTION:

13-13- 1: Zoning Approval Required; Building Permits
13-13- 2: Application
13-13- 3: Zoning Approval
13-13- 4: Expiration Of Zoning Approval
13-13- 5: Record Of Zoning Approval
13-13- 6: Failure To Obtain Zoning Approval
13-13- 7: Construction And Use
13-13- 8: Complaints Regarding Violations
13-13- 9: Penalties
13-13-10: Schedule Of Fees, Charges And Expenses

13-13-1: **ZONING APPROVAL REQUIRED; BUILDING PERMITS:** No person shall erect, construct, enlarge, alter, approve or convert a building or structure used for human habitation, including a garage attached thereto, or any building used for commercial or industrial purposes, or any agricultural building, or any public building in the City without first obtaining a separate building permit from the appropriate Building Official for each such building or structure involved. Zoning approval shall be issued only in conformity with the provisions of this Title. (Ord. 468, 4-15-1980)

13-13-2: **APPLICATION:** The application for zoning approval shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if substantial work has not begun within one year. At a minimum, the application shall contain the following information:

A. Name, address and phone number of applicant.

B. Legal description of property.

C. Existing use.

D. Proposed use.

E. Zoning district.

F. Plan, showing the actual dimensions and the shape of the lot to be built upon; the exact size and approximate location of existing buildings on the lot, if any; and the location and dimensions of the proposed buildings or alteration.

G. Building heights.

H. Number of off-street parking spaces or loading berths.

I. Number of dwelling units.

J. Proposed sewer and water facilities.

K. Such other matters as may be necessary to determine conformance with, and provide for, the enforcement of this Title. (Ord. 468, 4-15-1980)

13-13-3: **ZONING APPROVAL:** Within thirty (30) days after the receipt of an application, the Administrator shall either approve or disapprove the application in conformance with the provisions of this Title. All zoning approvals shall, however, be conditional upon the commencement of work within one year. One copy of the plan when required shall be returned to the applicant by the Administrator after the Administrator shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked, shall be retained by the Administrator. The Administrator shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this Title. (Ord. 468, 4-15-1980)

13-13-4: **EXPIRATION OF ZONING APPROVAL:** If the work described in any zoning approval has not begun within one year from the date of issuance thereto, said approval shall expire; it shall be revoked by the Administrator; and written notice thereof shall be given to the persons affected. (Ord. 468, 4-15-1980)

13-13-5: **RECORD OF ZONING APPROVAL:** The Administrator shall maintain a record of all zoning approvals and copies shall be furnished upon request to any person. (Ord. 468, 4-15-1980)

13-13-6: **FAILURE TO OBTAIN ZONING APPROVAL:** Failure to obtain a zoning approval shall be a violation of this Title. (Ord. 468, 4-15-1980)

13-13-7: **CONSTRUCTION AND USE:** Zoning approvals issued on the basis of plans and applications approved by the Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this Title. (Ord. 468, 4-15-1980)

13-13-8: **COMPLAINTS REGARDING VIOLATIONS:** Whenever a violation of this Title occurs or is discovered, 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 Administrator. The Administrator shall record properly such complaint, immediately investigate and take action thereon as provided by this Title. (Ord. 468, 4-15-1980)

13-13-9: **PENALTIES:** The Prosecuting Attorney, in addition to taking whatever criminal action deemed necessary, shall take steps to civilly enjoin any violation of this Title. Penalties for failure to comply with or which violate the provisions of this Title shall be as follows:

A. Violation: Violation of any of the provisions of this Title or failure to comply with any of its requirements shall constitute a misdemeanor.

B. Separate Offense: Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense.

C. Prevent Violation: Nothing herein contained shall prevent the Council or any other public official or private citizen from taking such lawful

action as is necessary to restrain or prevent any violation of this Title or the Idaho Code. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-13-10: SCHEDULE OF FEES, CHARGES AND EXPENSES:

A. Established: The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning approval, amendments, appeal variances, special use permits, plan approvals and other matters pertaining to the administration and enforcement of this Title requiring investigations, inspections, legal advertising, postage and other expenses.

B. Posting; Amendment: The schedule of fees shall be posted in the office of the Administrator, and may be altered or amended only by the Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

C. Fees: The fees are as follows:

FEE SCHEDULE

Variance	$ 20.00
Conditional Use (Except: Planned Unit Developments)	20.00
Zone Change	50.00
Planned Unit Developments	100.00

(Ord. 468, 4-15-1980)

CHAPTER 14

AMENDMENTS

SECTION:

13-14-1: General
13-14-2: Initiation Of Zoning Amendments
13-14-3: Application
13-14-4: Transmittal To Commission
13-14-5: Commission Hold Public Hearing
13-14-6: Recommendation By Commission
13-14-7: Action By Council
13-14-8: Resubmission Of Application

13-14-1: **GENERAL:** Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Council may by ordinance after receipt of recommendation thereon from the Commission, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property. (Ord. 468, 4-15-1980)

13-14-2: **INITIATION OF ZONING AMENDMENTS:** Amendments to this Title may be initiated in one of the following ways:

A. By adoption of a motion by the Commission.

B. By adoption of a motion by the Council.

C. By filing of an application by a property owner or a person who has existing interest in property within the area proposed to be changed or affected by said amendment. (Ord. 468, 4-15-1980)

13-14-3: **APPLICATION:** Applications for amendments to the Official Zoning Map adopted as part of this Title shall contain at least the following information:

A. Name, address and phone number of applicant.

B. Proposed amending ordinance, approved as to form by the Board.

C. Present land use.

D. Present zoning district.

E. Proposed use.

F. Proposed zoning district.

G. A vicinity map at a scale approved by the Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Administrator may require.

H. A list of all property owners and their mailing addresses who are within three hundred feet (300') of the external boundaries of the land being considered.

I. A statement on how the proposed amendment relates to the City Comprehensive Plan, availability of public facilities and compatibility with the surrounding area.

J. A fee as established by Board. (Ord. 468, 4-15-1980)

13-14-4: **TRANSMITTAL TO COMMISSION:** Zoning districts shall be amended in the following manner:

A. Requests for an amendment to this Title shall be submitted to the Commission which shall evaluate the request to determine the extent and nature of the amendment requested,

B. If the request is in accordance with the adopted City Comprehensive Plan, the Commission may recommend and the Board may adopt or reject the ordinance amendment under the notice and hearing procedures provided in Section 13-9-6 of this Title and the procedure in Section 13-9-7 of this Title.

C. If the request is not in accordance with the adopted City Comprehensive Plan, the request shall be submitted to the Planning and Zoning Historic Preservation Commission or, in its absence, the Board, which shall recommend and the Board may adopt or reject an amendment to the City Comprehensive Plan under the notice and

hearing procedures provided in section 67-6509, Idaho Code. After the City Comprehensive Plan has been amended, this Title may then be amended as hereinafter provided for. (Ord. 468, 4-15-1980; amd. 2000 Code)

13-14-5: **COMMISSION HOLD PUBLIC HEARING:** The Commission shall hold a public hearing on the proposed amendment, after legal notice is published and written notice to all parties as required for conditional use permits (Section 13-9-6 and the procedure in Section 13-9-7). (Ord. 468, 4-15-1980; amd. 2000 Code)

13-14-6: **RECOMMENDATION BY COMMISSION:** Within sixty (60) days from the receipt of the proposed amendment, the Commission shall transmit its recommendation to the Board. The Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied. The Commission shall ensure that any favorable recommendations for amendments are in accordance with the City Comprehensive Plan and established goals and objectives. (Ord. 468, 4-15-1980)

13-14-7: **ACTION BY COUNCIL:**

A. Recommendation Considered: The Council at the next official meeting following the receipt of the Commission's report shall consider the recommendation of the Commission. The Council shall accept the recommendation of the Commission's report unless rejected by a majority of the full Council.

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

1. The ordinance and standards used in evaluating the application;

2. The reasons for approval or denial; and

3. The actions, if any, that the applicant could take to obtain a permit.

C. Approval: In the event the Board shall approve an amendment, such amendment shall hereafter be made a part of this Title upon the preparation and passage of an ordinance. (Ord. 468, 4-15-1980)

13-14-8: **RESUBMISSION OF APPLICATION:** No application for a reclassification of any property which has been denied by the Council shall be resubmitted in either substantially the same purposes within a period of one year from the date of such final action, unless there is an amendment in the City Comprehensive Plan which resulted from a change in conditions as applying to the specific property under consideration. (Ord. 468, 4-15-1980)