

# **CITY OF IDAHO FALLS MUNICIPAL CODE**

## **TITLE 11 COMPREHENSIVE ZONING**

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# CHAPTER 1 GENERAL REGULATIONS

**SECTION:**

- 11-1-1: Title and Authority
- 11-1-2: Purpose
- 11-1-3: Applicability
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- 11-1-8: Non-Conforming Structures
- 11-1-9: Non-Conforming Site and Landscaping

**11-1-1: TITLE AND AUTHORITY.**

This Title 11 shall constitute the official Zoning Code of the City of Idaho Falls, Idaho. This Zoning Code is adopted pursuant to the Idaho Local Land Use Planning Act, Title 67, Chapter 65, of the Idaho Code.

**11-1-2: PURPOSE.**

The purpose of this Zoning Code is to promote the health, safety, peace, convenience and general welfare of the inhabitants of the City by implementing the goals and policies of the City’s Comprehensive Plan.

**11-1-3: ESTABLISHMENT OF ZONES.**

**Table 11-1-1: Established Zones**

Zone Type	Zone Abbreviation	Zone Name
<b>Residential</b>	RE	Residential Estate
	RP	Residential Park
	R1	Single Dwelling Residential
	R2	Mixed Residential
	TN	Traditional Neighborhood
	R3	Multiple Dwelling Residential
	R3A	Residential Mixed Use
	RMH	Residential Mobile and Manufactured Home
	<b>Commercial</b>	PB
CC		Central Commercial
LC		Limited Commercial
HC		Highway Commercial
<b>Industrial</b>	LM	Light Manufacturing and Heavy Commercial
	I&M	Industrial and Manufacturing
<b>Special Purpose</b>	R&D	Research and Development
	P	Public

(Ord. 3496, 12-8-22)

#### **11-1-4: APPLICABILITY.**

The regulations in this Zoning Code shall apply and govern development and the use of all properties within the corporate limits of the City, in areas outside of City limits for which annexation has been requested; or as otherwise permitted through written agreement(s) with Bonneville County, or by Idaho Code.

- (A) No person or public agency shall construct, alter, move, or change the use of a structure or undertake any development unless:
  - (1) The proposed use, structure, or division of property complies with this Zoning Code; and
  - (2) Any required approval is first obtained, as provided by this Zoning Code, and any applicable conditions of such approval are met.
- (B) Nothing in this Zoning Code shall eliminate the need for obtaining any other permit(s) required by this Code, other political subdivisions or agencies of the State of Idaho including, but not limited to, building permits, plumbing, electrical, or mechanical permits.
- (C) This Zoning Code is not intended to impair or interfere with other more restrictive regulations or private restrictions on the use of land improvements and structures.
- (D) The provisions of this Zoning Code shall be in addition to, and shall not be deemed to repeal, abrogate, or impair any other ordinance, regulation, easement, covenant, or deed restriction.
- (E) Where this Zoning Code imposes greater restrictions than that imposed by other law, this Zoning Ordinance shall prevail.
- (F) All properties in the City corporate limits shall comply with the regulations of this Zoning Code, unless otherwise preempted by federal statute or local law.
- (G) The prosecution of violations that occurred under previous land use regulations and that remain a violation under this Zoning Code shall continue until resolved.
- (H) Applications pending as of the effective date of this Zoning Code, April 12, 2018.
  - (1) Project with pending application: All applications shall be processed according to the regulations and requirements in effect as of the date staff accepted the application.
  - (2) Approved project with pending request for a time extension: Time extension requests shall be consistent with the requirements that are in effect when the original application was approved.
  - (3) Approved projects not yet completed. Any approved application may still be completed as, set out by the approval.

#### **11-1-5: INTERPRETATION.**

- (A) Language.
  - (1) Terminology. When used in this Zoning Code, all words used in the present tense shall include the future; words used in the singular number shall include the plural number and vice versa, unless the natural construction of the sentence indicates otherwise. The word "shall" is mandatory, and the word "may" is permissive. The masculine shall include the feminine.
  - (2) Number Of Days. Whenever a number of days is specified in this Zoning Code, or in any permit, condition of approval, or notice issued or given as provided in this Zoning Code, the number

of days shall be construed as calendar days, except that such time limits shall extend to the following working day when the last of the specified number of days falls on a weekend or City holiday.

- (3) Minimum Requirements.
    - (a) When interpreting and applying the regulations of this Zoning Code, all regulations shall be considered to be minimum requirements, unless stated otherwise.
    - (b) Proposed uses shall comply with all applicable regulations and standards unless specifically exempt elsewhere in this Zoning Code.
  - (4) Defined Terms.
    - (a) Terms defined in the Appendix of this Zoning Code shall have their defined meaning when used elsewhere in this Zoning Code.
    - (b) Where terms are used that are not defined, the term shall have the ordinary accepted meaning within the context with which the term is used.
  - (5) Section Headings. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this Zoning Code.
  - (6) References. All references to state or federal laws and/or regulations shall include such laws and/or regulations as they may be amended over time.
- (B) Measurements.
- (1) Building height shall be measured from the grade to the top of the building walls as defined by this Code.
  - (2) Linear distance shall be measured in a horizontal line; it shall not be measured along an inclined surface or line.

#### **11-1-6: SEVERABILITY.**

Each section, clause, and provision of this Zoning Code is declared severable. If a Court of competent jurisdiction declares that any section, clause, or provision of this Zoning Code is invalid, the same shall not affect the validity of the remainder of this Zoning Code as a whole, or any other part of this Zoning Code, or the application of the provisions to other persons or circumstances, and the remainder shall continue in full force and effect.

#### **11-1-7: NONCONFORMING LOTS OF RECORD.**

- (A) For a lot of record created prior to April 12, 2018 and that does not meet the minimum lot size or width required by this Zoning Code, structures for single unit dwellings may be built, expanded, reconstructed, occupied or used. Such structures and uses shall meet all other applicable requirements of this Zoning Code.
- (B) For two (2) or more lots, combinations, or portions of lots with continuous frontage in single ownership created prior to August 20, 1964, and do not meet the requirements for minimum lot size or width required by this Zoning Code, the lands involved shall be treated as an undivided parcel.
  - (1) No portion of such a parcel shall be used which does not meet lot size or width requirements established by this title.

- (2) No division of such a parcel shall be made which leaves remaining any lot size or width below the requirements established by this title.

**11-1-8: NONCONFORMING USES AND STRUCTURES THAT CONTAIN NON-CONFORMING USES.**

- (A) It is the intent of this Zoning Code to prohibit the addition or enlargement of non-conforming uses.
- (B) A nonconforming use and a structure containing a nonconforming use only may be maintained and continued to the same extent as it legally existed prior to the adoption of this Zoning Code (April 12, 2018), subject to the following provisions:
  - (1) Repairs may be made to a structure occupied by a nonconforming use provided that such repairs shall not have the effect of increasing the floor space devoted to the non-conforming use, capacity or volume of business.
  - (2) Land area of any nonconforming use shall not be increased.
  - (3) The floor area of a structure occupied by a nonconforming use shall not be increased, except to overcome unsafe or unsanitary conditions when required by the Building Official.
  - (4) Where a structure occupied by a nonconforming use is damaged or destroyed by fire, flood, wind, earthquake, or other calamity or act of God or public enemy, it may be restored and the previous occupancy resumed provided that:
    - (a) The structure was occupied at the time of such damage or destruction.
    - (b) Restoration is started within a period of one (1) year from the date of destruction and restoration is diligently pursued to completion.
    - (c) The restoration does not increase the floor space devoted to the non-conforming use beyond that which existed at the time the use became nonconforming.
  - (5) If a nonconforming use has ceased for a continuous period of five (5) years or has been replaced with a conforming use, the nonconforming use shall be deemed abandoned and shall not be reestablished.
  - (6) A nonconforming use shall not be changed to another nonconforming use. Any change of nonconforming use shall be to a conforming use.

**11-1-9: NONCONFORMING STRUCTURES.**

- (A) It is the intent of this Zoning Code to prohibit the addition or enlargement of non-conforming structures.
- (B) Nonconforming structures may continue to be occupied, enlarged, repaired or modified only as follows:
  - (1) Any additions or modifications to the structure shall conform to the requirements of this Zoning Code.
  - (2) Ordinary repair work may be done including repair or replacement of non-load bearing walls, fixtures, wiring or plumbing so long as such repair work does not change or increase the intensity of nonconformity.

- (3) Any structural alteration that will reduce the degree of nonconformity is permitted, subject to all other applicable requirements of this Zoning Code.
  - (4) Any nonconforming structure or portion of a nonconforming structure declared unsafe by the Building Official may be made safe or restored to safe conditions.
  - (5) No building or other structure shall hereafter be erected or altered to have narrower or smaller rear yards, front yards, side yards, or other open spaces, that herein required; or in any other manner be contrary to the provisions of this Zoning Code, except that encroachment into yards shall be permitted on lots occupied by buildings which were in existence prior to the effective date of this Zoning Code, but not to an extent greater than the existing encroachment. (Ord. 3218, 9-13-18)
- (C) A nonconforming structure that is damaged or destroyed by fire, flood, wind, earthquake, or other calamity or act of God or public enemy, may be restored and the previous occupancy resumed provided that:
- (1) Restoration is started within a period of one (1) year from the date of destruction and the restoration is diligently pursued to completion.
  - (2) The restoration does not increase the extent of the nonconformity beyond that which existed at the time the structure became nonconforming.

#### **11-1-10: NONCONFORMING SITE AND LANDSCAPING.**

- (A) Any use which is nonconforming because of the regulations contained in this Code may be continued in the same manner as if the landscaping were conforming.
- (1) This allowance applies only to those uses as they existed on the effective date of this Code and that were nonconforming only as to the regulations relating to landscaping.
- (B) An increase in the intensity of a land use with nonconforming landscaping shall comply with the landscaping requirements of this section to the extent possible as determined by the Zoning Administrator, but in no case, shall the landscaping be reduced unless suitable substituted landscaping is provided which complies with the provisions of this section.

## **CHAPTER 2 LAND USE REGULATIONS**

### **SECTIONS:**

- 11-2-1: Purpose
- 11-2-2: General Provisions
- 11-2-3: Allowed Uses in Residential Zones
- 11-2-4: Allowed Uses in Mixed Use and Commercial Zones
- 11-2-5: Allowed Uses in Industrial and Special Purpose Zones
- 11-2-6: Standards for Allowed Land Uses

### **11-2-1: PURPOSE.**

The provisions of this Chapter identify the allowed land uses in each zone and the specific standards for development of certain allowed land uses, including permitted and conditional uses.

### **11-2-2: GENERAL PROVISIONS.**

- (A) Tables of Allowed Land Uses. In the tables of allowed land uses that are set forth in this Chapter, allowed land uses are listed as permitted (P), conditional (C), or prohibited (blank) uses for each zone.
- (1) If a proposed use of property is not listed in the tables, the use shall be prohibited, unless the Zoning Administrator specifically determines that the proposed use is equivalent to a permitted or conditional use. Should the use be determined equivalent to a use that requires a conditional use permit, the application shall follow the procedures set forth for conditional use permits. In making the determination, the Zoning Administrator shall consider each of the following:
    - (a) The impacts on public services and activities associated with the proposed use are substantially similar to those of one or more of the allowed uses listed in the applicable base zone;
    - (b) The proposed use shall not involve a more intense level of activity or greater density than one or more of the allowed uses listed in the applicable base zones;
    - (c) The proposed use is consistent with the purpose of the base zone in which the use is proposed to be located; and
    - (d) The proposed use is in substantial conformance with goals and objectives of the Comprehensive Plan.
  - (2) Uses that are listed followed by an asterisk (\*) are subject to the specific use provisions set forth in the Standards for Allowed Land Uses Section, of this Chapter.
  - (3) The Zoning Administrator shall determine the most appropriate category for mixed uses or uses that fall into more than one (1) category of land use classifications. Allowed use shall be permitted based on the more restrictive applicable standards.



### 11-2-3: ALLOWED USES IN RESIDENTIAL ZONES.

**Table 11-2-1: Allowed Uses in Residential Zones**

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.								
*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.								
Proposed Land Use Classification	Residential							
	RE	RP	R1	R2	TN	RMH	R3	R3A
Accessory Use	P	P	P	P	P	P	P	P
Agriculture*	P							
Animal Care Clinic*					P*			P
Artist Studio					P*			
Bed and Breakfast*								P
Boarding /Rooming House							P	P
Day Care, Center*			C <sub>2</sub>	P	P		P	P
Day Care, Group*	C <sub>1</sub>		C <sub>1</sub>	P	P	C <sub>1</sub>	P	P
Day Care, Home	C <sub>1</sub>		C <sub>1</sub>	P	P	C <sub>1</sub>	P	P
Dwelling, Accessory Unit*	P	P	P	P	P	P	P	P
Dwelling, Multi-Unit*				P*	P		P	P
Dwelling, Multi-Unit Attached*				P	P		P	P
Dwelling, Single Unit Attached*			P	P	P	P	P	P
Dwelling, Single Unit Detached	P	P	P	P	P	P	P	P
Dwelling, Two Unit				P	P		P	P
Eating Establishment, Limited					P*			P
Financial Institutions					P*			P
Food Processing, Small Scale					P*			P
Food Store					P*			P
Fuel Station					P*			
Health Care and Social Services					P*			P
Home Occupation*	C <sub>1</sub>		C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>	C <sub>1</sub>
Information Technology								P
Laundry and Dry Cleaning					P*			P
Live-Work*					C <sub>1</sub>			P
Manufactured Home*	P	P	P	P	P	P	P	P
Mobile Home Park*						P		C <sub>2</sub>
Mortuary								P
Park and Recreation Facility*	P	P	P	P	P	P	P	P
Parking Facility								P
Personal Service					P*			P
Planned Unit Development*	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>	C <sub>3</sub>
Professional Service					P			P
Public Service Facility*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Public Service Facility, Limited	P	P	P	P	P	P	P	P
Public Service Use								P

<b>Proposed Land Use Classification</b>	<b>RE</b>	<b>RP</b>	<b>R1</b>	<b>R2</b>	<b>TN</b>	<b>RMH</b>	<b>R3</b>	<b>R3A</b>
Recreational Vehicle Park*						P		
Religious Institution*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Residential Care Facility							P	P
Retail					P*			C <sub>2</sub>
School	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Short Term Rental*	P	P	P	P	P	P	P	P
Transit Station								P

(Ord. 3218, 9-13-18) (Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22) (Ord. 3458, 4-14-22)

(Ord. 3496, 12-8-22)

## 11-2-4: ALLOWED USES IN COMMERCIAL ZONES.

**Table 11-2-2: Allowed Uses in Commercial Zones**

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.

\*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.

Proposed Land Use Classification	Commercial				
	PB	CC	LC	HC	PT
Accessory Use	P	P	P	P	P
Accessory Use, Fuel Station*		P	P	P	
Accessory Use, Storage Yard*		P	P	P	
Amusement Center, Indoor		P	P	P	
Amusement Center, Indoor Shooting Range*		P	P	P	
Amusement Center, Outdoor*				P	
Animal Care Clinic*	P	P	P	P	
Animal Care Facility*				P	
Bed and Breakfast*		P	P		P
Boarding /Rooming House		P	P		P
Building Material, Garden and Farm Supplies			P	P	
Cemetery*		C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	
Club*		P	P	P	
Communication Facility		P	P	P	
Day Care, all Types*	P	P	P	P	P
Drinking Establishment		P		P	
Drive-through Establishment *	P*	P	P	P	P
Dwelling, Accessory Unit *		P	P	P	P
Dwelling, Multi-Unit*		P	P		P
Dwelling, Multi-Unit Attached*		P	P		P
Dwelling, Single Unit Attached*			P		
Dwelling, Single Unit Detached			P		
Dwelling, Two Unit			P		P
Eating Establishment		P	P	P	P
Eating Establishment, Limited	P	P	P	P	P
Financial Institutions	P	P	P	P	P
Entertainment and Cultural Facilities	P	P	P	P	P
Equipment Sales, Rental and Services			P	P	
Food Processing, Small Scale				P	
Food Store		P	P	P	P
Health Care and Social Services	P	P	P	P	P
Higher Education Center		P	P	P	P
Home Occupation*	P	P	P	P	P
Hospital*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Industry, Craftsman	P	P	P	P	

<b>Proposed Land Use Classification</b>	<b>PB</b>	<b>CC</b>	<b>LC</b>	<b>HC</b>	<b>PT</b>
Industry, Light		P		P	
Information Technology	P	P	P	P	P
Laundry and Dry Cleaning		P			P
Live-Work*	C <sub>2</sub>	P	P	P	P
Lodging Facility		P	P	P	P
Mortuary				P	P
Parking Facility		P	P	P	P
Pawn Shop		P			
Personal Service	P	P	P	P	P
Professional Service	P	P	P	P	P
Planned Unit Development*		C <sub>3</sub>	C <sub>3</sub>		C <sub>3</sub>
Public Service Facility*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>
Public Service Facility, Limited	P	P	P	P	P
Public Service Use	P	P	P	P	P
Recreation Vehicle Park*				P	
Religious Institution*		P	P	P	P
Residential Care Facility	P	P	P	P	P
Retail		P	P	P	P
School		P	P	P	P
Short Term Rental*		P	P		P
Fuel Station		P	P	P	
Fuel Station, Super		C <sub>2</sub>	P	P	
Storage Facility, Indoor		P	P	P	P
Storage Facility, Outdoor				P	
Storage Yard*				P	
Transit Station		P	P	P	P
Vehicle Body Shop				P	
Vehicle Repair and Service		P	P	P	
Vehicle Sales, Rental and Service		P		P	
Vehicle Washing Facility		C <sub>2</sub>	C <sub>2</sub>	P	

(Ord. 3210, 8-23-18) (Ord. 3218, 9-13-18) (Ord. 3233, 12-20-18) (Ord 3277, 10-10-19)  
(Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22)

## 11-2-5: ALLOWED USES IN INDUSTRIAL AND SPECIAL PURPOSE ZONES.

**Table 11-2-3: Allowed Uses in Industrial Zones**

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.				
*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.				
Proposed Land Use Classification	Industrial		Special Purpose	
	LM	I&M	R&D	P
Accessory Use	P	P	P	
Accessory Use, Fuel Station*	P	P	P	
Accessory Use, Storage Yard*	P	P	P	
Airport	P			
Agriculture*	C <sub>2</sub>	P		C <sub>2</sub>
Agriculture Tourism	C <sub>2</sub>	P		C <sub>2</sub>
Amusement Center	P	P		
Amusement Center, Indoor Shooting Range*	P	P		
Amusement Center, Outdoor*	P	P		C <sub>2</sub>
Adult Business*		P		
Animal Care Clinic*	P	P		
Animal Care Facility*	P	P		
Artist Studio	P	P		
Auction, Livestock		C <sub>2</sub>		
Building Contractor Shop	P	P		
Building Material, Garden and Equipment	P	P		
Cemetery*				C <sub>2</sub>
Club*	P	P		
Communication Facility	P	P	P	
Correctional Facility or Jail	C <sub>2</sub>	P		
Day Care Center*	P	P	P	
Drinking Establishment	P	P		
Drive-through Establishment*	P	P		
Dwelling, Accessory Unit*	P	P		
Eating Establishment	P	P		
Dwelling, Multi-Unit*			P	
Eating Establishment, Limited	P	P	P	
Equipment Sales, Rental and Service	P	P		
Financial Institution	P	P	P	
Food Processing, Small Scale Processing With or Without Sales	P	P		
Food Products, Processing, With or Without Retail Sales		P		
Food Store	P	P		

<b>Proposed Land Use Classification</b>	<b>LM</b>	<b>I&amp;M</b>	<b>R&amp;D</b>	<b>P</b>
Fuel Station, Super	P	P		
Health Care and Social Services			P	
Higher Education Facilities	P		P	
Hospital*	C <sub>2</sub>	C <sub>2</sub>	C <sub>2</sub>	
Industry, Craftsman	P	P		
Industry, Heavy		P		
Industry, Light	P	P		
Information Technology	P	P	P	
Laundry and Dry Cleaning	P	P		
Lodging Facility	P		C <sub>2</sub>	
Medical Support Facilities	P		P	
Parking Facility	P	P	P	
Park and Recreation Facility*				P
Pawn Shop	P	P		
Personnel Service	P	P		
Professional Service	P	P	P	
Public Service Facility*	P	P	C <sub>2</sub>	C <sub>2</sub>
Public Service Facility, Limited	P	P	P	P
Public Service Use	P	P	P	P
Railroad Freight Terminal and Station		P		
Recreational Vehicle Park*				C <sub>2</sub>
Research and Development Business	P	P	P	
Retail	P	P		
Storage Facility, Indoor	P	P		
Storage Facility, Outdoor	P	P		
Storage Yard*	P	P		
Terminal Yard, Trucking and Bus		P		
Transit Station	P	P	P	
Vehicle Body Shop	P	P		
Vehicle Sales, Rentals and Service	P	P		
Vehicle Washing Facility	P	P		
Warehouse	P	P		
Warehouse, Wholesale With Flammable Materials	P	P		

(Ord. 3218, 9-13-18) (Ord. 3233, 12-20-18) (Ord. 3451, 3-31-22) (Ord. 3496, 12-8-22)

## **11-2-6: STANDARDS FOR ALLOWED LAND USES.**

- (A) Accessory Use, Fuel Station**
- (B) Accessory Use, Storage Yard**
- (C) Adult Business**
- (D) Agriculture**
- (E) Amusement Center, Indoor Shooting Range**
- (F) Amusement Center, Outdoor**
- (G) Animal Care Clinic**
- (H) Animal Care Facility**
- (I) Bed and Breakfast**
- (J) Cemetery**
- (K) Club, and Religious Institution**
- (L) Day Care, Center and Day Care, Group**
- (M) Drive-through Establishment**
- (N) Dwelling, Accessory Unit**
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- (Q) Hazards and Nuisances**
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- (U) Manufactured Home outside a Manufactured Home Community**
- (V) Mobile Home Park**
- (W) Planned Unit Development**
- (X) Public Service Facility**
- (Y) Recreation Vehicle Park**
- (Z) Short Term Rental**
- (AA) Storage Yards**
- (BB) Temporary Construction**
- (CC) Temporary Land Use**

- (A) Accessory Use, Fuel Station. Accessory Use, Fuel Stations shall not occupy more than twenty-five percent (25%) of the property.
- (B) Accessory Use, Storage Yard . Accessory Use, Storage Yards shall meet the requirements for screening as set forth in Section 11-4-4.
- (C) Adult Business. Adult Businesses shall meet the requirements of the Adult Business Chapter of the City Code.
- (D) Agriculture Uses. Agriculture uses, including animal husbandry, shall be limited for the purpose of providing family food and for the use of those residing on the premises, but not for commercial purposes. No more than one (1) llama, or horse and their dependent young shall be kept for each twenty thousand square feet (20,000 ft<sup>2</sup>) of lot area. For poultry, refer to Animal Control.(Ord. 3496, 12-8-22)
- (E) Amusement Center, Indoor Shooting Range.
  - (1) The plans for the indoor shooting range shall meet the design criteria outlined in Indoor Shooting Range Design Criteria, August, 2013 filed in the Building Division.

- (2) The site of the proposed indoor shooting range shall be at least six hundred feet (600') from the nearest dwelling, unless such dwelling is a custodial or caretaker dwelling, and from any school or religious institution.
  - (3) Activities on the site of the proposed indoor shooting range shall not exceed sixty-five decibels (65 dBAs), when measured at the property line.
  - (4) The range shall be located so as to have frontage on an arterial or collector street, as designated in the Access Management Plan.
- (F) Amusement Center, Outdoor.
- (1) All outdoor activity areas shall maintain a minimum setback of fifty feet (50') from all contiguous residential zones and uses.
  - (2) Any outdoor speaker system associated with the amusement center shall not exceed a noise measurement of sixty-five decibels (65 dBAs), when measured at the property line.
  - (3) All outdoor activities and events shall be scheduled to conclude by 10:00 p.m. Any outdoor illumination shall be terminated no later than one (1) hour after the conclusion of an event.
- (G) Animal Care Clinic.
- (1) Clinics are limited to the care of animals that weigh less than two hundred pounds (200lbs) each.
  - (2) Clinics shall be designed and constructed so that sound emitted through exterior walls or roofs shall not exceed sixty-five decibels (65 dBAs), when measured at the property line.
  - (3) Clinics shall be designed and constructed so objectionable odors are not emitted from the clinic.
  - (4) All activities associated with the use shall be within a completely enclosed building.
  - (5) There shall be no boarding or grooming of animals except as a use incidental to medical or surgical treatment.
- (H) Animal Care Facility.
- (1) The facility shall be maintained with adequate housekeeping practices designed to prevent the creation of a nuisance and to reduce to a minimum the factors of noise and odor.
  - (2) When an Animal Care Facility is contiguous to a residential zone or use it shall be designed and constructed so that sound emitted through exterior walls or roofs shall not exceed sixty-five decibels (65 dBAs), when measured at the property line.
  - (3) Temporary boarding of animals shall be allowed for a maximum of thirty (30) days.
  - (4) The operator shall have a continuing obligation to comply with all City, county and state regulations relative to such an operation.
- (I) Bed and Breakfast.
- (1) The use shall be owner- occupied by a person with a fifty percent (50%) or greater ownership interest in the bed and breakfast.
  - (2) Not more than twenty (20) occupants (including, the owner, the owner's household, and any resident or nonresident employees) shall be permitted to occupy the facility at any one time (daytime, evening, or night) or limited to five (5) guest rooms.
  - (3) The maximum stay shall be two (2) weeks for any guest.
  - (4) Breakfast served on the premises shall only be for guests and employees of the facility. No other meals shall be provided on the premises. Guest rooms shall not be equipped with cooking



facilities.

(J) Cemetery.

- (1) Proof of compliance with Idaho Code on the development and maintenance of cemeteries shall be required prior to issuance of a conditional use permit.
- (2) In review of the conditional use permit, the Planning and Zoning Commission shall consider the following:
  - (a) The site shall be of sufficient size and designed to allow for assembly of funeral processions and provide for adequate parking, loading and landscaping; and

(K) Club and Religious Institution.

- (1) Where such uses are located in or contiguous to a residential zone, all buildings (except accessory buildings) shall be located not less than twenty feet (20') from any side or rear lot line adjoining such residential zone.
- (2) If such uses are located in a zone which does not permit commercial uses, there shall be no external evidence of any commercial activity including, but not limited to, outdoor display of goods, signage or other forms of advertising.
- (3) Any retail sales on the premises shall be for members or guests only and shall be carried on as an activity which is minor and incidental to the major function of the club or religious institution.

(L) Day Care, Center and Day Care, Group.

- (1) On-site vehicle pickup, parking and turnaround areas shall be provided to ensure safe discharge and pickup of clients.
- (2) For day care centers and group day care facilities located in a residential zone or contiguous to a residential use, the hours of operation shall be limited to 6:00 a.m. to 8:00 p.m.
- (3) Additional standards for day care facilities.
  - (a) All outdoor play areas shall be completely enclosed by minimum six foot (6') fence to secure against exit/entry by children and to screen abutting properties.
  - (b) Outdoor play equipment over six feet (6') high, shall not be in a front yard or within any required side yard that faces a street.
  - (c) Outdoor play areas in residential zones adjacent to an existing residence shall not be used after dusk.
- (4) Day-care centers shall have a lot area of at least eight thousand square feet (8,000 ft<sup>2</sup>).

(M) Drive-through Establishment.

- (1) When a drive-through lane is located within one hundred and fifty feet (150') of a residential use a buffer shall be required which reduces noise on contiguous property to be no greater than sixty-five decibels (65 dBAs), when measured at the property line.
- (2) To the extent practical, speakers for menu ordering boards shall not be oriented towards contiguous residential uses.
- (3) An eight foot (8') fence or equivalent landscaping shall be provided where a vehicle stacking lane, menu ordering boards or drive-through window location is contiguous to a residential zone or use.

- (4) Night lighting on the site shall be directed away from other properties.
  - (5) Safe pedestrian and vehicle access and circulation on the site and between contiguous properties shall be demonstrated as follows:
    - (a) Access by the pedestrian customer shall be provided contiguous to the public right-of-way; and
    - (b) Vehicle stacking lanes shall have sufficient capacity to prevent obstruction of the public right-of-way by patrons. The stacking lane shall be a separate lane from the circulation lanes needed for access and parking.
  - (6) In the PB Zone drive-throughs will not be allowed for eating establishments.
- (N) Dwelling, Accessory Unit.
- (1) The accessory dwelling unit may be configured as follows:
    - (a) As an integral portion of a principal dwelling unit on any floor or basement; or
    - (b) As an attached structure to the principal dwelling unit; or
    - (c) As a separate structure; or
    - (d) As a caretaker's residence. when accessory and incidental to a permitted use and constructed as an integral portion of any floor of a structure in an Industrial or Commercial Zone. (Ord. 3458, 4-14-22)
  - (2) The accessory dwelling unit shall comply with the following dimensional and design requirements, except for those units that fall under 11-2-6(N)(1)(d): (Ord. 3218, 9-13-18) (Ord. 3458, 4-14-22)
    - (a) The maximum size of the accessory dwelling is seven hundred and fifty (750) sq. ft.
    - (b) The structure that contains an accessory dwelling shall meet all required dimensional standards for the zone, with the following exceptions:
      - (i) A detached accessory dwelling shall have the same side yard requirement as a primary structure, as required by the zone in which the accessory dwelling is located.
      - (ii) A detached accessory dwelling shall have a minimum setback from the rear property line of twelve feet (12'), except when adjacent to a public or private alley that is at least sixteen feet (16') wide. If adjacent to a public or private alley, the detached accessory dwelling shall comply with Table 11-3-3 (3).
    - (c) A detached accessory dwelling that is more than twelve feet (12') in height shall comply with Table 11-3-3 (1).
    - (d) The accessory dwelling structure shall be well-matched in height, bulk, and site location with the adjoining neighborhood.
    - (e) As an attached structure the accessory dwelling unit shall be designed together with the principal dwelling in such a way as to resemble that of a single-unit dwelling.
    - (f) As an attached or separate structure the accessory dwelling unit shall be designed with the same architectural design, style and appearance of the principal dwelling unit.
    - (g) If included as part of the primary structure, only one (1) entrance to the primary structure may be located on the front building elevation except for structures where multiple entrances already exist. If multiple entrances exist then the accessory dwelling may utilize an existing entrance on the front building elevation.

- (h) The accessory dwelling unit shall have a separate entrance from the primary dwelling, meet the building code requirements for a separate unit, and be functionally separate from the primary dwelling.
- (i) Recreational vehicles shall be prohibited for use as an accessory dwelling unit.
- (3) One (1) parking space shall be required on the lot where the accessory dwelling is located in addition to the existing minimum parking requirement for the principal dwelling unit. A driveway may be used for this requirement. Conversion of a garage into an accessory unit is not permitted unless required parking can be provided elsewhere on the lot. (Ord. 3458, 4-14-22)
- (4) The property owner shall occupy either the principal dwelling unit or the accessory dwelling unit as their primary residence, except for units accessory to nonresidential uses. This requirement shall be enforced through recordation of a deed restriction with the Bonneville County Recorder. (Ord. 3218, 9-13-18)
- (5) Only one (1) accessory dwelling unit shall be permitted on a lot of a principal dwelling unit. Accessory dwelling units shall not be counted in density calculations.
- (6) The accessory dwelling unit shall not be sold separately or converted to any form of legal ownership different from the principal dwelling unit.
- (O) Dwelling, Multi-Unit.
  - (1) In the R2 Zone, no more than four (4) dwelling units shall be constructed within a single structure.
  - (2) In the LC Zone, multi-unit developments shall comply with the development standards of the R3A Zone. (Ord. 3277, 10-10-19)
  - (3) In the R&D Zone, multi-unit dwellings are permitted on second (2nd) story and above. (Ord. 3496, 12-8-22)
- (P) Dwelling, Single Unit Attached, and Multi-Unit Attached.
  - (1) Every lot upon which an attached dwelling is located shall have frontage upon a dedicated public street.
  - (2) No attached dwelling shall be located above another dwelling unit, either in whole or part.
  - (3) Each attached dwelling shall have at least one (1) direct pedestrian access from the interior of the dwelling to the exterior boundaries of the lot. No pedestrian access to an attached dwelling unit may be held in common with any other attached dwelling unit.
  - (4) Except as noted below, an attached dwelling shall have no facilities or property in common with any other attached dwelling and all such dwelling units shall be structurally and functionally independent from another. All attached dwellings shall have separate electrical service, water service lines and sanitary sewer service lines from all other of such dwellings. Common facilities or property are allowed for the following:
    - (a) Common party walls constructed in accordance with the International Building Code.
    - (b) Foundations supporting attached or party walls.
    - (c) Flashing at the termination of the roof covering any attached walls.

- (d) Roofs.
  - (e) Vehicular access to a dedicated street from off-street parking facilities or garages.
- (5) No building permit shall be issued for the construction of an attached dwelling unless a common facilities agreement or party wall agreement for Declaration of Condominium has been filed with the Bonneville County Recorder's Office for each such dwelling which shares common facilities with another unit. Such agreement shall include a legal description of the lots sharing common facilities and shall allocate responsibility between the owners of such lots the use, maintenance, and ownership of all common facilities.
  - (6) All attached dwellings shall meet the dwelling unit separation requirements of the officially adopted and applicable building codes of Idaho Falls.
  - (7) A lot upon which an attached dwelling is located need not comply with the zone's minimum area and width requirements, provided such lot complies with the zone's location of buildings.
  - (8) The gross density of attached dwellings shall not exceed the density allowed in the zone where it is located. Public rights-of-way shall be excluded when calculating gross density. (Ord. 12-8-22).
  - (9) An interior attached dwelling shall be allowed to increase the maximum lot coverage by ten percent (10%). (Ord. 3233, 12-20-18)
- (Q) Hazards and Nuisances. No use shall create a hazard or nuisance for neighboring properties or on or along public streets. Such hazards and/or nuisances may include but are not limited to:
- (1) Excessive noise as measured at the property line on the contiguous residential property shall not exceed a noise measurement of sixty-five decibels (65 dBAs), when measured at the property line.
  - (2) Electrical interference that adversely affects other uses.
  - (3) Odors, dust, or other air pollutants which are injurious to human health, or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property;
  - (4) Improperly stored or handled solid waste.
  - (5) The storage or handling of radioactive toxic, or hazardous materials or waste, explosives or flammable materials.
  - (6) Unfavorable soils, geological hazards, or other site conditions that pose a threat to the health or safety of neighborhood or the environment.
- (R) Home Occupations.
- (1) The following activities do not require a home occupation:
    - (a) Artists, sculptors, craft work, such as jewelry-making and pottery, and composers who do not sell product to the public on the premises; and
    - (b) Home offices with no client visits to the home permitted; and
    - (c) Telephone answering and message services; and
    - (d) Private instruction (including tutoring or artistic instruction such as music, dance, art, etc.) where not more than one (1) student is on the premises for lessons at any given time.
  - (2) A home occupation shall be conducted entirely within a residential dwelling or accessory structure.

- (3) No employment of on-premise help other than the residents of the dwelling shall be allowed as except as otherwise provided in this Code.
  - (a) Day Cares, as home occupations, may have one (1) non-resident only, on-premise employee provided that nothing herein shall permit a home occupation Day Care to provide for more than twelve (12) children
- (4) No more than twenty percent (20%) floor space of the area of the dwelling shall be used in the home occupation.
- (5) No outdoor storage of any materials or supplies and no overnight on-site parking of any commercial or business vehicle of greater than eight thousand pounds (8,000 lbs.) gross vehicle weight shall be allowed.
- (6) Advertising shall be limited to one (1) eighteen inch by twenty-four inch (18" x 24") non-illuminated sign posted on the exterior of the home or in a front window. Yard signs are not permitted.
- (7) The appearance of the building shall not be altered and the occupation shall not be conducted in any manner that causes the premises to deviate from its residential character, either by color, materials or construction, lighting, signs, sound or noise vibrations, traffic generation and parking requirements.
- (8) The use of utilities or community facilities shall not exceed that generally used for residential purposes.
- (9) No home occupation shall generate the need for off-street parking or loading areas that are more extensive than those normally provided for a residence. Nor shall any home occupation create a consistently negative impact upon on-street parking in its neighborhood.
- (10) Prior to issuance of a home occupation, the applicant shall sign a statement verifying:
  - (a) All requirements and conditions for approval of the home occupation is met; and
  - (b) If any of the requirements or conditions are violated by the applicant, approval shall become null and void, immediately and without further process due.
- (11) The following uses are not permitted as home occupations in residential zones:
  - (a) Medical/dental office;
  - (b) Motor vehicle and engine repair and body shops;
  - (c) Medical facilities for animals, including animal care or boarding facilities;
  - (d) Dispatch centers, where employees come to the site and are dispatched to other locations;
  - (e) Machine shop/metal working;
  - (f) On-site retail sales;
  - (g) Commercial food preparation, not including catering;
  - (h) Contractors shops;
  - (i) Mortuaries;
  - (j) Body piercing and/or painting, tattoo; and
  - (k) Any business that requires storage or manufacturing of toxic or hazardous materials, as a

significant part of its business, including ammunition or gunpowder.

(Ord. 3496. 12-8-22)

(S) Hospital.

- (1) A hospital shall not be located within one thousand feet (1,000') of the following existing, allowed, or permitted uses: explosive manufacturing or storage, flammable substance storage, foundry, freight and truck terminal, manufacture or processing of hazardous chemicals, power plant, food product storage and processing plant.
- (2) If the hospital provides emergency care, the location shall have access within six hundred feet (600') to an arterial street.
- (3) Accessory retail uses (including, but not limited to, retail shops, food or beverage service, and personal service shops), may be allowed if designed only to serve patrons of the hospital and their visitors.

(T) Live-Work.

- (1) Work Space Requirements. The minimum interior floor area of a working space shall be two hundred and fifty square feet (250 ft<sup>2</sup>).
- (2) Living Space Requirements.
  - (a) The living space may be within the same edifice and share some of the same space as the work space; or attached to the building where the workspace is located; or detached but on the same property as the workspace; and
  - (b) The living space shall be a minimum of two hundred and twenty square feet (220 ft<sup>2</sup>).
  - (c) The living space shall include a bedroom, closet, bathroom, and kitchen. The bedroom shall be for the exclusive use of the living space. All other spaces may be shared with the work space.
- (3) Combined Work-Live Space Requirements.
  - (a) The minimum interior floor area or the combined work-live space shall be five hundred square feet (500 ft<sup>2</sup>).
  - (b) The combined work-live space shall provide fire protection as required for a combined occupancy per the International Fire Code.
  - (c) Combined work-live spaces of over two thousand square feet (2,000 ft<sup>2</sup>) shall have two (2) exits, as required by the International Fire Code.
- (4) Work space activities involving the use of hazardous materials or operations shall not be allowed in a combined work-live space without separation required under the International Fire Code.
- (5) Multiple Work-Live Space Requirements.
  - (a) Multiple work-live spaces, either attached or detached, may be located on any lot subject to the other provisions of City Code.
  - (b) Each work-live space shall have a clearly defined separate access from other work-live units.

(U) Manufactured Home that is not Within an Established a Manufactured Home Park.

- (1) The manufactured home shall conform to all requirements of a single-unit dwelling, including but not limited to required setbacks, minimum lot size, maximum lot coverage, parking.

(V) Mobile Home Park.

- (1) The minimum site size for a Mobile Home Park shall be two (2) acres.
- (2) There shall be fifteen feet (15') of separation between the Mobile or Manufactured homes. An uncovered porch, with a depth up to five feet (5'), may encroach five feet (5') into the setback between structures.
- (3) An aggregate area of at least one hundred square feet (100 ft<sup>2</sup>) for each mobile home space contained within the mobile home park shall be provided for the storage of renter's items that cannot be stored within the park's mobile homes. Storage space shall be enclosed within a sight obstructing fence or screening of not less than six feet (6') and not more than eight feet (8') in height.
- (4) Access shall be provided to each individual mobile home space by means of an access way reserved for maneuvering mobile homes into position. This access shall be kept free from trees, shrubs and other immovable obstructions. Paving of the access way shall be required. Use of planks, steel mats, etc., during placement of a mobile home shall be allowed so long as the same are removed immediately after such placement.
- (5) Off-Street parking shall be provided at the rate of two (2) parking spaces per individual mobile home space contained within the mobile home park. Two (2) nine foot by twenty foot (9'x20') hard surfaced areas, either side by side or tandem shall be required for parking. minimum of one hundred and eight (180) square feet. In no situation shall the parking space be located greater than one-hundred feet (100') away from the mobile home space it is designed to serve.
- (6) The Mobile Home Park shall be under unified ownership and shall be planned as a whole so all landscaping and common areas can be properly maintained.
- (7) An amenity shall be provided for Mobile Home Parks that contain ten (10) or more homes or spaces. (Ord. 3452, 3-31-22)

(W) Planned Unit Development (PUD).

- (1) Purpose. The purpose of the Planned Unit Development (PUD) regulations is to allow for residential and limited commercial uses, or a mix of residential and limited commercial uses, in an overall site development that may vary from the requirements of this Code. The intent of the PUD regulations is also to:
  - (a) Allow for flexibility from traditional zoning standards that results in development providing an improved living environment, including usable common space, amenities or services, increased landscaping, additional architectural features or standards, and compatibility with the contiguous neighborhood.
  - (b) Promote flexibility and innovation of design while permitting diversification of development types in order to encourage the most suitable use of a site.
  - (c) Achieve a compatible land use relationship with the surrounding area.
  - (d) Promote redevelopment and reuse of previously developed property.
  - (e) Encourage development of vacant properties within developed areas.
  - (f) Provide usable and suitably located common space, recreation facilities or other public/common facilities.

- (g) Facilitate functional and efficient systems of streets, pathways, utilities, and municipal services on and off site.
  - (h) Promote efficient use of land with a more flexible arrangement of buildings and land uses.
  - (i) Provide for master planned development that includes interconnected design elements between structures or phases, increased amounts of landscaping or natural features, connections to the surrounding neighborhood or public lands and unique architectural features.
  - (j) Ensure appropriate phasing of development and amenities.
  - (k) Provide for attractive streetscapes that are not dominated by parked vehicles or garage entrances.
- (2) Allowed Uses.
- (a) All uses allowed in the underlying zone.
  - (b) Limited commercial uses in mixed use developments not otherwise allowed in the base zone as set forth in Chapter 2 Land Use Regulations of when:
    - (i) The uses are consistent with the character of the neighborhood, mitigate impacts to the surrounding area and are sited and designed such that the activities present will not detrimentally affect residential uses.
    - (ii) The uses do not create a traffic or pedestrian safety hazard or generate traffic more than the capacity of the public streets serving the development or its own proposed access points to those streets.
    - (iii) The limited commercial uses within a residential zone do not constitute more than twenty percent (20%) of the gross land area of the PUD.
- (3) General Requirements.
- (a) Unified Control. The development site of a PUD shall be under unified ownership or control and shall be planned as a whole so all landscaping, off-street parking and other common areas can be properly maintained.
  - (b) Establishing Additional Standards. In addition to general building and development standards, additional design standards may be imposed in the approval of a conditional use to satisfy the criteria for PUD development as set forth in this Section. The requirement of additional conditions to implement these standards shall be consistent with the process for approval of a conditional use permit for a PUD as set forth in Chapter 6 Administration.
  - (c) Applicability of Other Regulations. Unless otherwise approved through the Conditional Use Permit, a PUD shall conform to all requirements set forth elsewhere in this Code, Subdivision Regulations, Standard Specifications and Drawings, and all other applicable regulations and standards of the City of Idaho Falls.
  - (d) Approval Process. The application requirements, review steps and approval process for a PUD as set forth in Chapter 6 Administration.
- (4) Dimensional Requirements. Dimensional standards, including minimum lot size, setbacks,



maximum density and height, and required parking and parking dimensional standards, if different from the regular requirements of this code shall be established for each individual PUD based upon the following criteria:

- (a) PUD Size. The minimum site size for a PUD shall be two (2) acres. Smaller acreage may be considered for a PUD on land that the Council finds is redeveloping, or provides a public benefit or amenity.
- (b) Lot Size. There shall be no minimum lot size.
- (c) Density.
  - (i) The maximum density allowed in residential zones is set forth in Table 11-2-4 Maximum Residential Density:

**Table 11-2-4: Maximum Residential Density**

Base Residential Zone	Dwelling units/gross acres
RE	2
RP	5
RMH	35
R1	8
R2	17
TN	17
R3	35
R3A	35

(Ord. 3452, 3-31-22)

- (ii) For other base zones where residential uses are allowed, the maximum density allowed shall be thirty-five (35) dwelling units per gross acre.
    - (iii) The maximum number of units permissible in each individual zone shall be calculated separately, and no allowed dwelling unit density can be transferred between zones.
  - (d) Setbacks shall reflect the general standards of the area and character of the neighborhood in which the PUD is located.
    - (i) In residential PUDs, the established setbacks of residential properties contiguous to or across the street from the PUD, shall constitute the minimum setback for the perimeter area of the PUD which it is contiguous to.
    - (ii) Internal setbacks between buildings or internal lot lines within residential PUDs may be established as part of the PUD process.
  - (e) Height. The maximum structure height for a residential PUD shall be determined by the underlying base zone, except where a structure is set back from required setback lines by at least two foot (2') for each additional one foot (1') of building height.
- (5) Arrangement and Design.
  - (a) A PUD shall be compatible with the surrounding neighborhood bulk, scale, structural mass, and character demonstrated by similar building types, construction, separations, and

heights.

- (b) Structures and uses of lowest height and intensity shall be arranged around the boundaries of the development.
  - (c) Taller structures should be located toward the interior of the site or in a location to lessen the adverse impacts of height on the surrounding neighborhood.
  - (d) Structures should be oriented towards common areas. Residential uses should be separated and arranged to provide for private space, in addition to providing for common areas.
  - (e) Structures should include a high quality of design and architecture as demonstrated by cohesive building styles, a range of building positions, custom architectural features, and varied building materials.
- (6) Landscaping and Buffering.
- (a) All areas within the PUD not covered by buildings, parking spaces, sidewalks or driveways shall be landscaped and maintained.
  - (b) Landscape plans shall be submitted as part of the PUD application.
  - (c) Internal landscaping area, excluding required buffers, shall provide the following, a minimum one (1) tree per five thousand square feet (5,000 ft<sup>2</sup>). A minimum of two (2) shrubs for each required tree. The use of native vegetation which reduces water consumption is encouraged.
  - (d) Alternate tree spacing can be requested as part of the PUD, but shall not reduce the total minimum number of trees required.
  - (e) All PUDs that include limited commercial uses or residential uses contiguous to existing commercial uses shall provide a buffer from contiguous residential uses that are not part of the PUD development.
    - (i) The buffer shall be no less than ten feet (10') in width and shall include trees with no less than twenty foot (20') centers separating them; and
    - (ii) A six foot (6') opaque fence (opaque fence shall not include chain link fencing with or without slats) or a dense hedge of shrubbery which shall attain a height of at least six feet (6').
- (7) Parking Lot Design and Landscaping.
- (a) Parking areas more than twenty-four (24) parking spaces shall include landscaping of a minimum of ten percent (10%) of the parking area with trees and appropriate ground cover. Landscape rock alone shall not constitute appropriate ground cover.
  - (b) Parking lots containing twenty-four (24) or more parking spaces contiguous to public or private streets shall include within the contiguous landscape strip a berm of no less than four feet (4') in height.
  - (c) Interior parking lot landscaping shall be designed to incorporate pedestrian ways through the parking area and to break large parking areas into smaller bays.
- (8) Streetscapes.
- (a) All PUDs shall have frontage on a public or an approved private street.
  - (b) The development shall provide safe, inviting, and attractive streetscapes.

- (c) Except for the area occupied by a permitted driveway, a landscape strip shall be provided and maintained along the side of the property bordering any public or private street that is closest to the portion of the lot containing a structure or other development.
    - (i) The landscape strip contiguous to perimeter public streets shall be no less than twenty feet (20') in width and shall include trees (with no less than thirty feet (30') centers separating them) and lawn or other ground cover.
    - (ii) The landscape strip contiguous to internal public and private streets shall be no less than ten feet (10') in width and shall include trees (with no less than forty feet (40') centers separating them) and lawn or other ground cover.
  - (d) Trash enclosures and dumpsters shall not be located within setbacks or contiguous to any street.
- (9) Common Space. All PUDs shall provide common space and landscape areas as follows:
- (a) Not less than twenty-five percent (25%) of the gross area of a PUD shall be designated and maintained as common space for the recreational and/or common use of the occupants of the development.
  - (b) Common space may include an open space parcel or parcels of land, an area of water, or a combination of land and water, recreational facilities, either public or private, ball courts, swimming pools, playgrounds, drainage facility developed with physical amenities, exercise rooms or similar facilities.
  - (c) Common spaces shall not include areas within any road, driveway, parking area, sidewalk contiguous to a public or private street, required landscape strip or buffer, and a drainage facility that does not include additional physical amenities, as identified in this Section, beyond open space.
- (10) Amenities. All PUDs shall provide amenities in addition to the common space required by this Section as follows:
- (a) The number and size of amenities should increase as overall acreage and scale of the development increases. At least one (1) amenity shall be provided for the first fifty (50) residential units proposed, and one (1) additional amenity shall be provided for each fifty (50) residential units proposed thereafter.
  - (b) Amenities should be placed in logical areas that allow convenient access to most of the occupants of the development.
  - (c) PUDs shall provide at least one (1) of the following amenities:
    - (i) Private or public recreational facility, such as a swimming pool, ball courts, or playground, in scale with the development.
    - (ii) Private or public plaza, pedestrian mall, garden, arboretum, square or other similar open space.
    - (iii) Public access to or additions to the greenbelt, neighborhood park systems or other public open space or enhanced pedestrian connections to adjacent employment and shopping centers.
    - (iv) Trail system or pedestrian paths in addition to necessary circulation paths that would be required if the development was not a PUD.

- (v) A drainage facility developed with additional physical amenities beyond open space.
  - (vi) Similar amenities which reflect the purposes of this Section as approved.
- (11) Pedestrian system.
- (a) PUDs shall provide pedestrian connections to existing or proposed schools, parks, public lands or pathways on adjacent properties.
  - (b) The pedestrian connections shall form a logical, safe, and convenient system for pedestrian access to all structures, project facilities and amenities, and principal off-site pedestrian destinations.
- (12) Phasing. Phasing of development and associated public and private improvements is permitted, subject to an approved phasing schedule. Phased development shall be considered with the initial PUD approval process and a phasing schedule shall be approved as part of the development plan. Proposed amenities shall be constructed with the first phase or approved according to the phasing schedule, provided that a majority of the improvements occur within the first phase. Upon approval of the development plan and schedule for all phases of the PUD, each phase of the development may occur in accordance with the review and approval procedures, as specified by this Code. (Ord. 3277, 10-10-19) (Ord. 3496, 12-8-22)
- (X) Public Service Facility.
- (1) The activity to be carried on must not generate an amount of vehicular traffic significantly higher than uses in the surrounding area.
  - (2) Lights must be directed away from surrounding residential areas and shielded downward.
- (Y) Recreation Vehicle (RV) Park.
- (1) Each RV park shall be held in one (1) ownership and shall contain at least two (2) acres of land.
  - (2) All RV parks shall be contiguous to a collector or arterial street, as set forth in The Access Management Plan.
  - (3) All RVs shall be set back at least thirty feet (30') from any public street, and fifteen feet (15') from an interior private roadway.
  - (4) The RV park roadway system shall provide convenient circulation through the park and shall provide access to each RV space. No space will be permitted direct access to a public street, road, or highway other than by means of the RV park roadway system. All entrances and exits from the RV park shall be by forward motions only. No exit or entrance from a RV park shall be through a residential zone.
  - (5) All roadways shall have a width of at least twenty feet (20') and all roadways shall be hard-surfaced.
  - (6) All areas within the RV park which are not hard-surfaced shall be landscaped and maintained with lawns, trees, and shrubs designed to provide privacy and noise containment. A landscape screen at least eight feet (8') in width shall be provided contiguous to the exterior boundaries of the RV park.

- (7) Each RV space shall be at least twenty feet (20') in width and at least forty feet (40') in length.
- (8) No RV space shall be rented for a period of more than thirty (30) days.
- (9) A minimum of fifty percent (50%) of all RV spaces shall be served by an approved water and sewage disposal system. In addition, each RV park shall have a sewage dump for self-contained RV units.
- (10) All RV parks shall conform to the requirements of the State and City Health regulations relating to RV parks.
- (11) Any exterior storage space provided by the RV Park shall be enclosed within a sight obstructing fence not less than six feet (6') and not more than eight feet (8') in height.
- (12) RV Parks may include a launderette for the use by the occupants of the park but not by the general public.

(Z) Short Term Rental.

- (1) Allowed in all zones where residential uses are also allowed. No short-term rental shall be located within an accessory structure where the accessory structure has not been specifically designed for human habitation or located within a recreational vehicle or travel trailer, except when located in an approved travel trailer court.
- (2) A short term rental property shall not be occupied by more than one (1) guest party at a time.

(AA) Storage Yard.

- (1) All outside storage areas shall be screened within an enclosed yard and comply with the following standards:
  - (a) No storage shall be allowed within the front building setback line along a street.
  - (b) Outside storage areas shall meet the screening requirements of this Code. (Ord. 3233, 12-20-18)
  - (c) Contents within the storage yard shall not be parked or stacked so as to be visible above the screened enclosure.
  - (d) Outside storage shall be located at least seven hundred fifty feet (750') from the Snake River and not located within any A Zone or B Zone as defined by the Flood Insurance Rate Maps (FIRM).

(BB) Temporary Construction Use.

- (1) A temporary construction use permit may be issued by the Board of Adjustment to allow for temporary construction uses associated with an ongoing and permitted construction project. A temporary use permit shall be for a period of not to exceed one (1) year, subject to one (1) renewal at the discretion of the Board of Adjustment for not more than a total of two (2) years.
- (2) Temporary construction uses shall include only:
  - (a) Non-commercial concrete batching plants, both incidental and necessary to construction within the immediate area; and
  - (b) Temporary buildings or yards for construction materials and/or equipment both incidental and necessary to an ongoing and permitted construction project within the immediate area.

(CC) Temporary Land Use.

- (1) A temporary land use permit may be issued by the Zoning Administrator for any allowed use

within a Zone where the use will not last longer than thirty (30) consecutive days or where the use will not occur more than twice in a single calendar year and will have at least fifteen (15) days between consecutive occurrences.

- (2) In determining approval of the temporary land use permit the Zoning Administrator shall use the following criteria. The Zoning Administrator may place additional site specific conditions necessary to minimize adverse impacts on contiguous properties.
  - (a) Granting of the temporary land use permit results in no new permanent structures or facilities; and
  - (b) If placed within a parking lot the use shall not reduce the number of parking spaces below the minimum number required by this Code for the uses located on the property and will not impair emergency access or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.

(Ord. 3377, 10-10-19) (Ord. 3301, 2-13-20)

## CHAPTER 3 ZONING REGULATIONS

### SECTIONS:

11-3-1:	General Provisions
11-3-2:	Provisions that Apply in All Zones
11-3-3:	Purpose of Residential Zones
11-3-4:	Standards for Residential Zones
11-3-5:	Purpose of Mixed Use Zones
11-3-6:	Standards for Mixed Use Zones
11-3-7:	Purpose of Commercial Zones
11-3-8:	Standards for Commercial Zones
11-3-9:	Purpose of Industrial Zones
11-3-10:	Standards for Industrial Zones
11-3-11:	Purpose of Special Purpose Zones
11-3-12:	Standards for Special Purpose Zones

### **11-3-1: GENERAL PROVISIONS.**

- (A) Zones Established. For the purposes of this Code, the City is divided into Zones, which have been established in Section 11-1-3.
- (B) Zoning Map.
- (1) The location and boundaries of each Zone are shown on the Zoning Map.
  - (2) The Zoning Map with all notations, references and other information shown on the map is part of this Zoning Code, and shall have the same force and effect as this Zoning Code.
  - (3) The Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk of its effective date, and shall bear the seal of the City.
  - (4) The Zoning Map shall be located in the office of the Zoning Administrator and shall accurately designate the current boundary lines of the Zones within the City.
  - (5) In the event of a conflict between the Zoning Code and Zoning Map, the Zoning Code shall govern.
- (C) Determination of Zone Boundaries. Where uncertainty exists with respect to the boundaries of various Zones shown on the Zoning Map, the following rules shall apply:
- (1) Where a boundary line is indicated as approximately a street, alley, waterway, or railroad right of way, the center line shall be construed to be the Zone boundaries.
  - (2) Where a boundary line is indicated as approximately following a lot line, such lot line shall be construed to be the boundary line.
  - (3) Where land has not been subdivided into lots, the Zone boundary shall be determined by the use of a scale of measurement shown on the Zoning Map.
  - (4) Where other uncertainty exists, the Board of Adjustment shall interpret the Zoning Map, subject to review by the Council.

### **11-3-2: PROVISIONS THAT APPLY IN ALL ZONES.**

#### **(A) Setback Requirements.**

- (1) No required setback or other required open space on a contiguous lot shall be considered as providing the setback or open space whereon a building is to be created or established except as otherwise permitted by this code. (Ord. 3496, 12-8-22)
- (2) All of a setback shall be open to the sky and unobstructed (except for permitted accessory structures, and allowed encroachments as set forth in paragraph three (3) of this subsection).
- (3) The following may encroach into required setbacks:
  - (a) Belt courses, sills and lintels or other ornamental features may project up to eighteen inches (18") into the required front, rear and side setback.
  - (b) Cornices, eaves and gutters may project into any front, side, or rear yard setback up to one-third (1/3) of the width of the minimum required setback.
  - (c) Unwalled and unroofed porches, terraces, balconies and steps may encroach into any front, side or rear setback up to one-third (1/3) of the width of the minimum required setback. Uncovered access ramps for mobility-impaired persons may encroach into the required setbacks more than one-third (1/3) of the width of the front or rear yards when necessary to comply with building code standards.
- (4) Where lots developed with structures comprise more than forty percent (40%) or more of the frontage of any block on any street, no future development or remodel shall have a setback less than the average front yard setback established on that block. The following are exceptions to this requirement:
  - (a) No setback requirement shall be greater than the setback established for the Zone where it is located.
  - (b) A structure which is to be located between two (2) existing structures, not exceeding one hundred and fifty feet (150') apart, shall not be required to have a larger front setback than the average setback line established by the two (2) existing structures.

(B) **Parcels Below the Minimum Area Requirements.** No parcel of land which has less than the minimum width and area requirements for the Zone in which it is located shall be separated from a larger part of land for the purpose of creating a building lot.

(C) **Exceptions to the Building Height Requirements.** Roofs above the square of the building, chimneys, flagpoles, television antennas, church towers, and similar structures not used for human occupancy, are excluded when calculating building height.

(D) **Streets and Access.** The design of vehicular access to and from a parcel of land shall conform to the Access Management Plan, as amended.

(E) **Recreational Vehicles and Tents.** Unless otherwise allowed by this Code or State or Federal law or regulation, no recreational vehicle or tent shall be occupied in Idaho Falls, except when located in an approved recreational vehicle park. (Ord. 3496, 12-8-22)

#### **(F) Lighting.**

- (1) All exterior illumination shall be shielded and directed downward so as not to produce direct glare on adjacent properties.
- (2) No commercial use shall cause a level of illumination exceeding one-half foot (1/2') candles on any part of a contiguous residential area. (Ord. 3496, 12-8-22)



### **11-3-3: PURPOSES OF RESIDENTIAL ZONES.**

- (A) RE Residential Estate Zone. This zone provides a residential zone that permits the continuance of areas which are characterized by lots of sufficient size to accommodate single dwelling units and limited agricultural uses, including animal husbandry. The Zone is generally intended for rural residential areas which were previously developed in the County. This zone is generally not intended for new subdivisions within the City.
- (B) RP Residential Park Zone. This zone provides a residential zone which is representative of an automobile-oriented, suburban development pattern and characterized by large lots. The principal use permitted in this Zone shall be single unit dwellings.
- (C) R1 Single Dwelling Residential Zone. This zone provides a residential zone which is representative of a less automobile-oriented, more walkable development pattern, characterized by somewhat smaller lot widths; and a somewhat denser residential environment than is characteristic of the RP Residential Park Zone. The principal uses in the R1 Residential Zone shall be single detached and attached dwelling units. This zone is also generally located near limited commercial services that provide daily household needs.
- (D) R2 Mixed Residential Zone. This zone provides a residential zone characterized by smaller lots and dwellings, more compact and denser residential development; and higher volumes of vehicular and pedestrian traffic than are characteristic of the RE, RP and R1 Zones. The principal uses permitted in the R2 Zone shall be one (1), two (2), three (3), and four (4) dwelling units. This zone is also generally located near limited commercial services that provide daily household needs.
- (E) TN Traditional Neighborhood Zone. This zone provides a residential zone which is characterized by a walkable, traditional residential neighborhood pattern with small lots and residences, a mix of housing types, and a grid street pattern with rear alleys. This Zone is situated in the historic neighborhoods within the central part of the City and in other locations where a traditional neighborhood character with a gridded street pattern is desired. The standards in this zone contain elements of a form-based code allowing a variety of uses that will be required to integrate with the established characteristics of the existing neighborhood.
- (F) R3 Multiple Dwelling Residential Zone. This zone provides a residential zone which is characterized by a variety of dwelling types with a denser residential environment. This Zone is situated along or near major streets such as collectors and arterials. It is also generally located near pedestrian connections and commercial services.
- (G) R3A Residential Mixed Use Zone. To provide for a mix of uses in which the primary use of the land is for residential purposes, but in which office buildings and certain other uses of a semi-commercial nature may be located. Characteristic of this Zone is a greater amount of automobile traffic, greater density, and a wider variety of dwelling types and uses than is characteristic of the R3 Residential Zone. While office buildings and certain other uses of a semi-commercial nature may be located in the Zone, the R3A Zone is essentially residential in character. Therefore, all uses must be developed and maintained in harmony with residential uses. This zone should be located along major streets such as arterials and collectors.
- (H) RMH Residential Mobile and Manufactured Home Zone. This zone provides a residential zone which is characterized by a high density residential environment. A manufactured or mobile home subdivision, mobile home park, or travel trailer park are special facilities specifically designed to accommodate mobile or recreational vehicles which may not conform to the requirements for permanent location within other residential Zones within the City are allowed within this zone.

(Ord. 3452, 3-31-22)

**11-3-4: DIMENSIONAL STANDARDS FOR RESIDENTIAL ZONES.**

**Table 11-3-1: Dimensional Standards for Residential Zones**

	RE	RP	R1	R2	TN	R3	R3A	RMH
<b>Lot Area</b>								
Lot Area Minimum in ft <sup>2</sup>	1 acre*	12,000	7,000	6,000*	3,000*	5,000*	5,000	3,000
Lot Area Maximum in ft <sup>2</sup>			13,500*					
<b>Site Width</b>								
Site Width at Front Setback, Minimum in ft.	150	60	50	50	25	50	50	25
<b>Setbacks, Minimum in ft.</b>								
Front	40	30*	25*	20*	15*	15	15	15
Front Maximum in ft.					20*			
Side	20	7.5/10*	6	6	5	6	6	5
Rear	40	25	25	25	10	25*	25*	10
<b>Lot Coverage, Building Height, and Density</b>								
Maximum Lot Coverage in %	30	40	40	80	50	80	80	50
Maximum Building Height in ft*	24	24	24	36	*			24
Maximum Density in gross units/acre	1	4	6	17	15	35	35	35
*See explanations, exceptions and qualifications in Section 11-3-4A,B,C of this Zoning Code.								

(Ord. 3218, 9-13-18) (Ord. 3310, 6-18-20) (Ord. 3452, 3-31-22) (Ord. 3496, 12-8-22)

(A) Minimum and Maximum Lot Area.

- (1) In the R1 Zone, the maximum lot size shall be thirteen thousand five hundred square feet (13,500 ft<sup>2</sup>), except for corner lots, wedge-shaped lots in cul-de-sacs, or other unusual shaped lots. This shall also not apply to conditional uses such as schools and religious institutions.
- (2) In the TN Zone, the maximum average lot area for subdivisions approved after the adoption of this Code, April 12, 2018, shall be six thousand two hundred and fifty square feet (6,250 ft<sup>2</sup>) in order to encourage a mix of lot sizes and dwelling types. (Ord. 3210, 8-23-18) (Ord. 3496, 12-8-22)

(B) Minimum and Maximum Setbacks.

- (1) In the RP and R1 Zones, a minimum front setback of twenty feet (20') is permitted for lots which have their principal frontage on a turning circle of a cul-de-sac or the bulb of a ninety degree (90°) turn.

- (2) In the RP Zone, the side setback shall be a minimum of seven and a half feet (7.5') for single-story structures and a minimum of ten feet (10') for two-story structure.
- (3) In the TN Zone, the maximum front yard setback may be exceeded for residences that face a common open space area that fronts on the contiguous street and as otherwise permitted by Supplemental Standards for the TN Zone.
- (4) In the RMH Zone, a minimum rear yard of fifteen feet (15') may be permitted, if one of the required side yards is a minimum twenty five feet (25').
- (5) In the R3A Zone, non-residential buildings shall have a rear setback of at least ten feet (10'). (Ord. 3210, 8-23-18)
- (6) When a multi-unit dwelling or commercial use is developed on a property that adjoins a property zoned RE, RP, R1, TN and the height of the building is over twenty-four feet (24'), every one foot (1') of additional building height requires an additional two feet (2') in setback with a minimum setback of thirty feet (30'). (Ord. 3233, 12-20-18)(Ord. 3310, 6-18-20) (Ord. 3496, 12-8-22)

(C) Maximum Lot Coverage, Building Height, and Density.

- (1) Public use, public service facility, school and religious institutions may be erected to any height, provided the building is set back from the required building setback lines at least one foot (1') for each additional foot of building height above the maximum height permitted in the Zone.
- (2) In Residential Zones lot coverage for single unit residential uses shall only include those areas under roofs. (Ord. 3458, 4-14-22)
- (3) For multi-unit or commercial uses lot coverage shall include all areas under roofs and paved surfaces, including driveways, walks, and parking areas. The remaining lot area shall be landscaped as required by this Code. (Ord. 3496, 12-8-22)

(D) Dimensional Standards for Accessory Structures in Residential Zones.

**Table 11-3-3: Dimensional Standards for Accessory Structures in Residential Zones**

	RE	RP	R1	R2	TN	R3	R3A	RMH
<b>Setbacks – Minimum in ft.</b>								
Front	40	30	25	20	15	15	15	15
Side	20	0/7.5*	0/6*	0/6*	0/5*	0/6*	0/6*	0/5
Rear	40*	0*	0*	0*	0*	0*	0*	0*
Building height- Maximum in ft.		12/24*	12/24*	12/24*	12/24*			12/24*
*See explanations, exceptions and qualifications that follow in Section 11-3-4D (1-5) of this Zoning Code.								

(Ord. 3452, 3-31-22)

- (1) In residential zones, accessory structures which are more than twelve feet (12') in height must meet the same setbacks as primary buildings.
- (2) In all residential zones, except the RE Zone, side yard requirements for accessory buildings shall be the same as for main buildings, except that no side yard shall be required for accessory buildings which are located more than twelve feet (12') in the rear of the main building.
- (3) The rear yard setback shall be three feet (3') on lots in any residential zone in which the rear yard

is contiguous to an alley.

- (4) In the RMH Zone, a minimum rear yard of fifteen feet (15') is permitted if one (1) of the required side-yards is a minimum of twenty-five feet (25').

(Ord. 3210, 8-23-18) (Ord. 3301, 2-13-20) (Ord. 3496, 12-8-22)

(E) Supplemental standards for the TN Zone.

(1) Streetscape.

- (a) In subdivisions recorded after the adoption of this Code, April 12, 2018, sidewalks shall be detached from the curb with planting strips provided to accommodate street tree planting in accordance with the standards in Section 11-4-4G (3).
- (b) In subdivisions recorded before the adoption of this Code, April 12, 2018, detached sidewalks, planting strips and existing street trees shall be maintained. If trees must be removed because of disease or age, replacements shall be provided by the property owner subject to approval of the City Forester.

(2) Entryways and Pathway Connections.

- (a) All structures shall have one (1) primary entry that faces the street and a pathway that connects the entry with the sidewalk.
- (b) Exceptions to the entryway requirements are allowed for dwelling units that face a common open space area which is open to the street.
- (c) A covered porch, with a minimum depth of five feet (5'), may encroach five feet (5') into the yard setback facing a street.

(Ord. 3301, 2-13-20)

(3) Building Massing, Scale and Form.

- (a) For in-fill development or additions to existing structures, the building shall not exceed the tallest height or greatest width of other residences on both sides of the street within the same block.
  - (b) For new development (including additions to existing structures), the primary building face that fronts the street shall not exceed twenty five feet (25') in width or the front facade shall be divided into subordinate wall planes or modular sections that do not exceed a total of an aggregate of twenty five feet (25').
  - (c) Building forms shall consist of simple rectangular shapes and height from finished floor to finished floor shall not exceed twelve feet (12').
  - (d) Roof forms shall be gabled, hipped or shed. Flat roofs are not prohibited but discouraged (unless flat roofs are the predominant roof form in the neighborhood).
- (4) Additions to Existing Structures. Additions to existing structures shall be the same or compatible with the existing structure (e.g. building materials, windows, doors, and form of the building and roof).
  - (5) Residential Parking Features. In order to prevent parking, garages, driveways and curb-cuts from becoming the primary feature of residential buildings or property, the following shall apply:

- (a) Whenever feasible, driveways, garages, and parking areas shall be accessed from an alley.

- (b) Garages, with garage doors that face the street, shall not extend forward of the front face of the primary structure.
  - (c) A garage door that is visible from the public street should blend with the façade and architectural elements of the structure.
  - (d) Required parking should be provided from the alley for in-fill development located with alley access.
  - (e) In new development, private alleys are encouraged and can be allowed with a reduced setback from the alley, reduction in parking requirements, or an allowance for tandem parking.
  - (f) Shared garage parking shall not exceed four (4) garage doors per building and shall be similar in exterior design to the dwelling units in the development.
  - (g) Surface parking areas shall not be located in clusters of more than four (4) spaces.
  - (h) Surface parking areas shall be screened from public streets and adjacent residential uses by landscaping or architectural screening.
  - (i) Driveway curb-cuts shall be sized for a single-car width, ten feet (10') maximum. The driveway width shall not increase beyond ten feet (10') until the driveway extends beyond the front setback.
- (6) Commercial Uses in the TN Zone.
- (a) Applicability.
    - (i) These standards apply to all non-residential uses in the TN Zone. (Ord. 3210, 8-23-18)
    - (ii) These standards are in addition to any other applicable requirements in all zones. (Ord. 3210, 8-23-18)
  - (b) Purpose. The purposes of these standards are to create commercial developments that are:
    - (i) Compatible with the surrounding residential neighborhood;
    - (ii) Pedestrian in scale with buildings massing at the street and intersections; and
    - (iii) Connected to the neighborhood with pedestrian access and with a seamless interface with the surrounding neighborhood.
  - (c) Location of Commercial Uses.
    - (i) Commercial uses in the TN zone shall be a permitted use within existing commercial structures without substantial exterior remodeling or expansion of the existing building; or
    - (ii) Commercial uses in the TN zone shall be a permitted use on parcels that have frontage on Elm, Elva, and G Streets, Holmes Avenue, S. Boulevard, and Lomax Street; or
    - (iii) Commercial uses shall be permitted by conditional use permit for parcels that do not have frontage on Elm, Elva, and G Streets, Holmes Avenue, S. Boulevard, and Lomax Street provided that the use is conducted only within an existing building. Any commercial use requiring the construction of a new building for a use not otherwise permitted shall not be permitted.

- (d) Dimensional Standards.
  - (i) The maximum building footprint should be five-thousand square feet (5,000 ft<sup>2</sup>).
  - (ii) Generally, the maximum height of a building shall be two-stories.
  - (iii) Buildings three (3) stories in height are encouraged at the corners of street intersections.
  - (iv) Buildings shall provide a transition in height to contiguous residential use. When a building is located between five feet (5') and twenty feet (20') from a property line contiguous to a residential use, the building height may be a maximum of twelve feet (12'). At twenty feet (20') from the property line, the building may be a maximum of twenty five feet (25') in height. After thirty feet (30') from the property line, a building may increase an addition one foot (1') in height for every two feet (2') in additional horizontal distance from the property line.
  - (v) Except for a minimum setback to residential properties which shall be five feet (5'), there are no minimum setback requirement for side yards or rear yards.
  - (vi) The maximum building front setback shall be five feet (5').
- (e) Street Frontage Requirements.
  - (i) Seventy-five percent (75%) of the street frontage shall be occupied by a building, patio or public space.
  - (ii) Exterior windows or transparent doors shall make up the equivalent of sixty percent (60%) of the building ground floor façade, which faces the street. Exterior windows shall make up at least twenty percent (20%) of additional floors above the ground floor.
  - (iii) Any primary entrance to a building shall face the street and have direct access to a sidewalk or a pedestrian walkway.
- (f) Parking.
  - (i) On-site parking shall be located in a rear or side yard, not fronting the street.
  - (ii) One (1) parking space shall be required per five hundred square feet (500 ft<sup>2</sup>) of gross floor area of commercial use.
  - (iii) The parking requirements may be fulfilled through any combination of the following: parking spaces on the property; on street parallel parking spaces in front of the building; and/or parking in a shared parking facility within seven-hundred and fifty feet (750') of the property.
- (g) The hours of operation shall be limited to the hours of 6 am –11 pm.
- (h) Prohibitions.
  - (i) Drive-up windows
  - (ii) Amplified music
- (F) Building Orientation. Every dwelling site shall face or front upon a public street, except in a Planned Unit Developments (PUD), or where dwelling units face a common space fronting on a street.

(G) Prohibitions. The following are not allowed in any Residential Zone:

- (1) Dwelling units entirely built below grade.
- (2) The storage of commercial vehicles, including commercial automobiles, trucks and construction equipment (e.g., bulldozers, graders, cement mixers, and compressors). An exception is provided for construction equipment that may be stored on a site during the construction of a building, not exceeding one (1), calendar year.
- (3) The storage of trailers, recreational vehicles or boats in any required front yard or side yard setback that faces a street, except for permitted driveways. No portion of a trailers, recreational vehicles or boats may be parked in such a way as to be over or onto a public sidewalk or to obstruct visibility as required by Section 11-4-7A, Clear View Triangle of this Code.
- (4) The storage of mobile homes and manufactured homes.
- (5) The storage of junk and debris.

### **11-3-5: PURPOSE OF COMMERCIAL ZONES**

- (A) PB Professional Business Office Zone. This zone provides a commercial zone for business and professional offices, medical facilities, governmental and cultural facilities, and other uses of a semi-commercial nature. The Zone encourages the provision of a limited number and type of supportive retail services for employees and visitors, as well as support services to health and medical providers. This Zone is characterized by relatively high traffic volumes, and a variety of office types. This Zone should be located in close proximity to an arterial or collector street.
- (B) CC Central Commercial Zone. This zone provides a mixed use zone which includes a variety of housing types and a variety of commercial uses. For this reason, the Zone is primarily located in the central part of the City where development has already occurred and the street and land use patterns are more densely developed. The CC Central Commercial Zone is characterized by lighted streets, ample pedestrian ways and vehicular parking lots for the convenience and safety of the public. Shops, stores, offices and other buildings are also characteristic of this Zone. Uses which tend to create business "dead spots," cause undue scattering of business, and generally tend to thwart the use of the land for its primary purpose, are excluded from this Zone.
- (C) LC Limited Commercial Zone. This zone provides a commercial zone for retail and service uses which supply the daily household needs of the City's residents. This Zone is usually located on major streets contiguous to residential uses. This zone is characterized by smaller scale commercial uses which are easily accessible by pedestrians and non-motorized vehicles from the surrounding residential neighborhoods, although larger scale developments such as big-box stores may still serve as anchors. Connectivity is provided with walkways that provide access to and through the development site. Parking for vehicles is understated by the use of landscaping, location, and provision of pedestrian walkways to the businesses.
- (D) HC Highway and General Commercial Zone. This zone provides a commercial zone for retail and service uses serving the traveling public. Characteristics of the Zone are buildings set back from the right-of-way line to promote safety on the highway and maintain maximum use of highway right-of-way for travel purposes, and a wide variety of architectural forms and shapes. This Zone should be located at specific locations along highways leading into the City.

### 11-3-6: STANDARDS FOR COMMERCIAL ZONES

(A) Dimensional Standards. Table 11-3-6 Dimensional Standards for Commercial Zones shall be used for determining the minimum site area, minimum site width measured at the setback line, minimum setbacks, maximum building height, maximum lot coverage and maximum gross density in each Commercial Zone.

**Table 11-3-5: Dimensional Standards for Commercial Zones**

	CC	PB	LC	HC
Site width at front setback - Minimum in ft.		50	*	50
<b>Setbacks – Minimum in ft.</b>				
Front		20	20*	20
Side			*	
Rear			*	
Landscape buffer contiguous to street* in ft.	7*	15	20*	20*
Landscape buffer contiguous to a residential Zones* in ft.	10	10	20/10	30/10
Building height – Maximum in ft.		*	*	
Lot Coverage- Maximum in %		80	80	
*See explanations, exceptions and qualifications that follow in Section 11-3-6A (1-3) of this Zoning Code.				

(Ord. 3233, 12-20-18) (Ord. 3277, 10-10-19)

- (1) In the LC Zone, structures may encroach into the twenty foot (20') setback up to ten feet (10') when designed with a pedestrian walkway a minimum of five feet (5') in width connecting the public sidewalk to the structure's entrance. Parking is not permitted to encroach into the twenty foot (20') setback.
- (2) In the HC Zone, display space may encroach into the landscape buffer contiguous to the street. Such encroachments may not exceed twenty five percent (25%) of the linear frontage contiguous to the street.
- (3) In the CC Zone, the landscape buffer contiguous to a street may be reduced or removed where a building is located within the required landscape buffer, as determined by the Zoning Administrator.
- (4) When a multi-unit dwelling or commercial use is developed on a property that adjoins a property zoned RE, RP, R1, R2, or TN, and the height of the building is over twenty-four feet (24'), every one foot (1') of additional building height requires an additional two feet (2') in setback with the minimum setback being thirty feet (30'). (Ord. 3233, 12-20-18) (Ord. 3496, 12-8-22)
- (5) For commercial uses, lot coverage shall include all areas under roofs and paved surfaces including driveways, walks, and parking areas. The remaining lot area shall be landscaped as required by this Code.
- (6) In the LC Zone, residential uses shall comply with the R3A Zone dimensional standards.

(Ord. 3277, 10-10-19)



- (B) Development Plans. All development in commercial zones is subject to approval of a Development Plan, as required by this Code.
- (C) Landscape Buffers. All landscape buffers shall meet the standards set forth in Section 11-4-4 of this Zoning Code.
- (D) Blank Walls. In all commercial zones, no blank wall greater than twenty-four feet (24') in length shall front a public street, unless treated in one (1) or more of the following ways, when that wall is within one hundred and thirty feet (130') of any public street or any public or common open space:
  - (1) Windows, clear doors, or window shaped openings over at least twenty percent (20%) of the blank wall surface; or
  - (2) A landscaped planting bed immediately adjacent to the wall at least five feet (5') wide or raised planter bed at least two feet (2') high and three feet (3') wide in front of the wall, with plant materials shown that will grow into and obscure or screen at least fifty percent (50%) of the wall's surface planted at an initial size of five foot (5') tall evergreens, two inch (2") caliper tree, five (5) gallon shrubs, and one (1) gallon perennial and or ornamentals grasses (plant species and growth characteristics must be provided on the plans, taking into consideration the USDA plant hardiness zones). If no hard surface is between the public street and the structure other than a designated sidewalk and pedestrian access from sidewalk park strip, street trees can be utilized to account for twenty-five percent (25%) of required blank wall coverage; or
  - (3) A vertical trellis in front of the wall covering twenty-five percent (25%) of the wall surface with hanging of climbing vines or other climbing plant materials planted to grow into and fill-up required trellis; (plant species and growth characteristics must be provided on the plans, taking into consideration the USDA plant hardiness zones); or
  - (4) Artwork (mosaic, mural, sculpture, relief etc.) over at least fifty percent (50%) of the blank wall surface, excluding any area devoted to signs.

(Ord.3301, 2-13-20)

### **11-3-7: PURPOSE OF INDUSTRIAL ZONES**

- (A) LM Light Manufacturing and Heavy Commercial Zone. This zone provides a light industrial zone in which the primary use of land is for non-nuisance industries, and heavy commercial establishments. This Zone is characterized by a wide variety of businesses, warehouses, equipment yards, and light manufacturing and industrial uses, and located convenient to transportation systems.
- (B) I&M Industrial and Manufacturing Zone. This zone provides an industrial zone in which the primary use of the land is a manufacturing, fabricating, processing, and warehousing. Land zoned I&M should be relatively flat, open land, conveniently located close to transportation, public utilities and other facilities necessary for large employment centers and successful manufacturing operations

### **11-3-8: STANDARDS FOR INDUSTRIAL ZONES**

- (A) Dimensional Standards. Table 11-3-7 Dimensional Standards for the LM and I&M Zones shall be used for determining the minimum site area, minimum setbacks, maximum building height and maximum lot and building coverage in that Zone.

**Table 11-3-6: Dimensional Standards for Industrial Zones**

	<b>LM</b>	<b>I&amp;M</b>
Site Area- Minimum in acres		
<b>Setbacks – Minimum in ft.</b>		
Front	30	30
Side	0/30*	0/30*
Rear	0/30*	0/30*
Building Height- Maximum	see sub-sections (2) below	
Lot Coverage- Maximum in %	80	
Building Coverage- Maximum in %	50	
*See explanations, exceptions and qualifications that follow in 11-3-8A (1-2) of this Zoning Code.		

(Ord. 3233, 12-20-18)

- (1) In the LM and I&M Zones, a setback of thirty feet (30') shall be provided from all residential uses, residential zones, the R3A Zone if occupied by residential uses, or from land designated for low or higher density residential in the City's Comprehensive Plan.
- (2) Any structure with a height greater than thirty feet (30') shall be set back seventy-five feet (75') from all residential use, unless approved as a conditional use by the Planning Commission, as set forth in Section 11-6-5B. (Ord. 3496. 12-8-22)
- (3) For commercial uses, lot coverage shall include all areas under roofs and paved surfaces including driveways, walks, and parking areas. The remaining lot area shall be landscaped as required by this Code.

**11-3-9: PURPOSE OF SPECIAL PURPOSE ZONES**

- (A) R&D Research and Development Zone. This zone provides a special purpose zone in which the primary use of the land is a center for research, development, and higher education. This Zone should be located close to transportation, public utilities and other facilities necessary to support research and development and higher education facilities. This Zone is also characterized by attractively designed buildings and off-street parking lots situated among, trees, shrubs and other landscape features.
- (B) Public Zone This zone is primarily intended for public sites, buildings, and uses where activities conducted provide service to the public. This zone can also be used as a holding zone for properties that do not yet have an identified use. Another purpose of this zone is to identify the appropriate location and efficient layout of public recreation and open space. This zone will harmonize the various features and facilities of public sites, buildings, parks, and playgrounds with the surrounding area. This zone can also interconnect park and open space systems linked by trails, greenways, or other public corridors. (Ord. 3496, 12-8-22)

**11-3-10: STANDARDS FOR SPECIAL PURPOSE ZONES**

- (A) Dimensional Standards. Table 11-3-8 Dimensional Standards for Special Zones shall be used for determining the minimum site area, minimum setbacks, maximum building height, and maximum lot

and building coverage in each special purpose Zone.

**Table 11-3-7: Dimensional Standards for Special Zones**

	<b>R&amp;D</b>	<b>P</b>
Site Area- Minimum in acres	30*	1*
<b>Setbacks – Minimum in ft.</b>		
Front	30	30
Side	0/ 20 *	20
Rear	0/ 20 *	30
Building Height- Maximum in ft.	see sub-section (3) below*	35
Lot Coverage- Maximum in %	80	
*See explanations, exceptions and qualifications that follow in Section 11-3-10A (1-4) of this Zoning Code.		

- (1) No single R&D Zone should contain less than thirty (30) acres; however, there shall be no requirements for individual buildings or lots, except the area shall be sufficient to provide for setbacks, landscaping and off-street parking.
  - (2) In the R&D Zone, a setback of twenty feet (20') shall be provided from all residential uses, residential zones, the R3A Zone if occupied by residential uses, or from land designated for low or higher density residential in the City's Comprehensive Plan.
  - (3) In the R&D Zone, there is no height limit Structures with a height greater than thirty feet (30') and exterior storage areas shall be set back seventy-five feet (75') from all residential uses, residential zones, the R3A Zone if occupied by residential uses, or from land designated for low or higher density residential in the City's Comprehensive Plan.
  - (4) For commercial uses, lot coverage shall include all areas under roofs and paved surfaces including driveways, walks, and parking areas. The remaining lot area shall be landscaped as required by this Code.
  - (5) In the Park and Open Space Zone the minimum lot area is one (1) acre; except for public parks, playgrounds, or historical sites and monuments there is no minimum.
- (B) Development Plans. All development within the R&D and P Zones are subject to a Development Plan as set forth in this Code.
- (C) Accommodation of Spectators. Off-street parking areas and other facilities which attract or are intended to accommodate spectators, shall be screened or sited so that noise and traffic are buffered from contiguous residential uses or zones.
- (1) Any outdoor speaker system shall not exceed a noise measurement of sixty five decibels at the lot line of any contiguous lot or parcel.
  - (2) Facilities involving lights shall be sited, and the lights shall be designed and located so that glare will not be toward surrounding properties, if possible.

## **CHAPTER 4 DESIGN AND DEVELOPMENT REGULATIONS**

11-4-1:	Purpose
11-4-2:	Applicability
11-4-3:	Flood Channels and Water Courses
11-4-4:	Landscaping and Buffers
11-4-5:	Off Street Parking and Loading
11-4-6:	Sewage Disposal
11-4-7:	Streets and Access
11-4-8:	Structures and Buildings

### **11-4-1: PURPOSE.**

The provisions of this Chapter are intended to ensure the location and development of properties protects the public health, safety and general welfare of the City; property values and rights of all citizens, and community assets and natural resources.

### **11-4-2: APPLICABILITY.**

- (A) The provisions of this Chapter shall apply to all development in all Zones occurring after the passage of this Zoning Code. For development within an Overlay Zone, the provisions of Chapter 5 Overlay Zones may supplant the provisions of this Chapter.
- (B) Regulations in this Chapter are the minimum standards for development. Specific uses may require additional standards as described in Chapter 3 Zoning Regulations.

### **11-4-3: FLOOD CHANNELS AND WATER COURSES.**

No encroachments, including fill, new construction, fencing, or other development shall be constructed in any natural waterway or area which has been designated as a floodway on a Flood Insurance Rate Map (FIRM) or by the City Council. No encroachments, including new construction, fencing, or other development shall be constructed within seventy-five feet (75') of such natural waterways or floodways without first obtaining approval of a conditional use permit by the Board of Adjustment. The Board of Adjustment may grant such a permit subject to the following conditions:

- (A) Certification by a registered professional engineer, landscape architect, or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (B) A flood elevation certificate is provided which demonstrates the lowest floor elevation is not lower than the elevation of the known base flood elevation

### **11-4-4: LANDSCAPING, BUFFERS, AND SCREENING.**

Landscaping requirements shall promote hardscape and softscape layouts with cohesive planting plans and

irrigation that support the continued growth and viability of the design. Landscapes should be designed to reduce heat, noise and glare through proper placement of plants, trees and water features. Plantings should use native species that favor the local soil PH and encourage low water use. Landscapes that require high water use due to type or volume should be discouraged unless necessary to meet screening or buffering requirements.

(D) General Standards.

(1) Landscaping Materials.

- (a) Landscaping materials shall include some combination of planted trees, shrubs, vines, ornamental grasses, perennial flowers, annual flowers, herbs, and lawn.
- (b) In combination with plant material, landscaping may include hardscape elements such as boulders, rock, screens, walls, fences, and benches, including focal point features such as fountains, pools, and art works that enhance or contribute to the designed surroundings. Such features alone shall not comprise all of the requirements of landscaping.
- (c) The selected combination of hardscape features with softscape plant materials shall be arranged in a unified and complementary design.
- (d) When landscaping is planted in an easement, all plant materials must comply with the Community Forestry Chapter of City Code.

(2) Maintenance.

- (a) Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition. This includes proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants when necessary, and the regular watering of all plants.
- (b) Required landscaped areas shall be provided with a permanent, automated method for watering or sprinkling of plants. Point of connections need to be adequately sized and designed to function as a protection of the municipal water system. Proper winterization connections shall be installed to minimize damage to irrigation systems during the below freezing temperature times of the year.
- (c) Maintenance of required landscaping is a continuing obligation of the applicant, landowner or successors in interest jointly and severally. Failure to maintain landscaping as required by the provisions of this Code or as a condition of a permit shall be deemed to be a violation of this Code and shall be subject to the penalties prescribed for violation.
- (d) Plant materials which exhibit evidence of insects, pests, disease and/or damage as determined by the City Forrester, shall be appropriately treated and all dead plant materials shall be removed and replaced with living plant material of similar type or kind unless otherwise approved by the Zoning Administrator. Trees, shrubs and other plant materials (including grasses) which expire during their growing season, shall be replaced.

(3) Landscape Plan Required. When landscape is required as set forth in this Code, a hardscape and softscape layout plan, vegetation planting plan, and an irrigation plan showing the proposed

design of development in compliance with the requirements of this Code shall be submitted to and approved by the Zoning Administrator prior to the issuance of a building permit. The same site plan used to show parking layout or other requirements for the issuance of a building permit may be used if all proposed landscaping is adequately detailed on said site plan.

(a) Landscape plans in the R&D Zone shall be designed or approved and stamped by a licensed landscape architect or horticulturist.

(E) Required Landscape and Buffers. Table 11-4-1 Minimum Landscaping and Buffer Requirements shall be used to determine the required landscape and buffer requirements for each base Zone.

**Table 11-4-1: Minimum Landscaping and Buffer Requirements**

<b>Zone</b>	<b>Minimum Landscaping Requirements (% of total lot area)</b>	<b>Minimum Landscaped setback contiguous to a Street (In width)</b>	<b>Commercial and Multi-Unit Residential, and Mobile Home Parks Minimum Landscaped Buffer from Contiguous Single Unit Residential Zones and Uses (in width)</b>
<b>RE</b>			
		Required front and side yard setbacks facing a public street	
<b>RP</b>			
		Required front and side yard setbacks facing a public street	
<b>R1</b>			
		Required front and side yard setbacks facing a public street	
<b>R2</b>			
	20%	Required front and side yard setbacks facing a public street	10' or 7' with a 6' masonry wall or opaque fence
<b>TN</b>			
	50%	Required front and side yard setbacks facing a public street	10' or 7' with a 6' masonry wall or opaque fence
<b>R3</b>			
	20%	Required front and side yard setbacks facing a public street	10' or 7' with a 6' masonry wall or opaque fence
<b>R3A</b>			
	20%	15'	10' or 7' with a 6' masonry wall or opaque fence
<b>RMH</b>			
		15'	7' with 6' masonry wall or opaque fence

<b>Zone</b>	<b>Minimum Landscaping Requirements (% of total lot area)</b>	<b>Minimum Landscaped setback contiguous to a Street (In width)</b>	<b>Commercial and Multi-Unit Residential Minimum Landscaped Buffer from Contiguous Single Unit Residential Zones and Uses (in width)</b>
<b>PB</b>			
	20%	Required front and side yard setbacks facing a public street	10' or 7' with a 6' masonry wall or opaque fence
<b>CC</b>			
		7' or exceptions as allowed by this Code	20' or (10' with an 8' masonry wall or opaque fence)
<b>LC</b>			
	20%	20' or exceptions as allowed by this Code	20' or (10' with an 8' masonry wall or opaque fence)
<b>HC</b>			
		20'	30' or (10' with an 8' masonry wall or opaque fence)
<b>LM</b>			
	20%	15'	30' or (20' with an 8' masonry wall or opaque fence)
<b>I&amp;M</b>			
		15'	30' or (20' with an 8' masonry wall or opaque fence)
<b>R&amp;D</b>			
	20%	30'	20' or (15' with an 8' masonry wall or opaque fence)*
<b>P</b>			
		20'	50'*
*See explanations, exceptions and qualifications that follow in Section 11-4-4H of this Zoning Code.			

(Ord. 3233, 12-20-18) (Ord. 3452, 3-31-22) (Ord. 3496, 12-8-22)

(F) Minimum Landscaping Requirements.

- (1) The minimum landscaping requirements as set forth in Table 11-4-1 Minimum Landscaping and Buffer Requirements is expressed as a percentage of the area of the total lot area.
- (2) Landscape areas shall be planted with a ground cover such as lawn or other plant material, trees and shrubs and otherwise landscaped and maintained in accordance with standard landscaping practices.
- (3) Landscape areas, within residential developments, may include hard-surface outdoor recreation facilities such as tennis courts, basketball courts, shuffleboard courts, and swimming pools, provided that:
  - (a) The hard-surface outdoor recreation facilities make up no more than forty percent (40%) of the required landscaped area; and

- (b) those recreation facilities are available for the use of all residents of the development.
- (4) Minimum internal landscape area, as required by this Code, shall provide the following:
  - (a) A minimum of one (1) tree per five thousand square feet (5,000 sq ft) of required area; and
  - (b) a minimum of two (2) shrubs for each required tree within the internal landscape area. (Ord. 3496, 12-8-22)
- (G) Minimum Landscaped Setback Contiguous to a Street.
  - (1) The minimum buffer requirements as set forth in Table 11-4-1 Minimum Landscaping and Buffer Requirements are expressed as the area within the required setbacks or the number of feet from a street.
  - (2) Parking shall not be allowed where landscaping is required in perimeter landscaped setbacks, except for permitted driveways.
  - (3) Required landscaping in perimeter landscaped setbacks shall include lawn, ground cover, shrubbery and trees.
    - (a) Trees shall be spaced at no more than forty foot (40') centers except in one to three (1-3) unit dwellings and as otherwise permitted by this Code. Trees shall be a minimum of two inch (2") caliper as measured six inches (6") from the grade.
    - (b) The Zoning Administrator may approve a variation to the tree spacing requirements within the landscaping area contiguous to a street. However, in no case shall the variation cause a reduction in the number of trees that would have been required if spaced at forty foot (40') centers. The variation may be granted where:
      - (i) The required trees would obstruct the visibility of a pole sign or display space. In such cases the trees may be clustered with other planting areas away from the sign or display space. No more than twenty five percent (25%) of the required number of trees shall be clustered together and each cluster must be at least forty feet (40') from another tree or cluster.
  - (4) Special Provisions for Perimeter Landscaped Setbacks.
    - (a) Any required perimeter buffer shall be required for the entire length of any public street within the Zone, and on the development side of any public street bordering the development.
    - (b) For a Recreational Vehicle Park, the perimeter buffer shall be landscaped, at least ten feet (10') in width contiguous to the exterior boundaries of the park.
    - (c) For Mobile Home Parks, the perimeter buffer shall be landscaped, at least fifteen feet (15') in width contiguous to a public street with trees forty foot (40') on center. Street trees at the entrance to the park may be clustered within the landscape buffer to maintain room to transport mobile or manufactured homes in and out of the mobile home park and avoid visibility issues. (Ord. 3452, 3-31-22)
- (H) Minimum Buffer from Residential Zones.
  - (1) Required buffers to residential zones as set forth in Table 11-4-1 Minimum Landscaping and Buffer Requirements are expressed as the number of feet from a lot boundary, contiguous to



residential land uses, and to land designated for residential uses in the City's Comprehensive Plan. The required landscape buffer shall include evergreen trees, at least five feet (5') tall and spaced at twenty foot (20') intervals. When required evergreen trees are to be placed within a utility easement, the evergreen tree may be replaced with an alternative deciduous tree, subject to prior approval of the City Forester. (Ord. 3496, 12-8-22)

- (2) Buffer areas to residential zones and uses may be included to fulfill the minimum landscaped area requirements set forth in Table 11-4-1 Minimum Landscaping and Buffer Requirements.
  - (3) Special provisions for buffer areas in the R&D Zone contiguous to residential uses and zones shall include evergreens or deciduous shrubs spaced to form a solid screen within ten (10) years and a berm at least two and one-half feet (2.5') in height shall be provided. Natural buffers such as canals may be included within the required buffer and shall eliminate the need for fencing where the canal is elevated or at least twenty feet (20') in width; however, landscaping with evergreens at least ten feet (10') in width shall still be provided.
  - (4) Buffer areas in the P Zone contiguous to residential uses and zones shall adhere to the requirements of Section 11-4-4H (1) and must meet one of the following requirements:
    - (a) A fifty foot (50') landscaped buffer; or
    - (b) A thirty-five foot (35') landscaped buffer including a 3:1 three foot (3') high berm; or
    - (c) A thirty foot (30') landscaped buffer with a six foot (6') masonry wall or opaque fence; or
    - (d) A twenty-five foot (25') landscaped buffer with including a 3:1 six foot (6') high berm; or
    - (e) A ten foot (10') landscaped buffer with an eight foot (8') masonry wall or opaque fence.
  - (5) Opaque fence as set forth in the Table 11-4-1 Minimum Landscaping and Buffer Requirements shall not include chain link fencing with or without slats.
  - (6) Special provisions for Mobile Home Parks in the RMH Zone contiguous to residential single dwelling units shall include a six feet (6') opaque fence and evergreens spaced twenty feet (20') on center. (Ord. 3452, 3-31-22)
- (I) Screening Requirements.
- (1) Service Areas, Loading Docks, and Service Equipment. Within commercial zones any service areas, loading docks, service equipment, or other site utility area that is within thirty feet (30') of any public street or any public or common open space shall be screened with a landscape buffer or by opaque fences or wall constructed to a minimum height of six feet (6'). Where feasible, service areas, loading docks, and service equipment shall be sited to the rear or side of a building, or in a location where visibility from the public street is minimized.
  - (2) Open Storage. Open storage areas within thirty feet (30') of any public street or any public or common open space shall be screened by buildings or a ten foot (10') wide planting strip with trees and ground cover plus a masonry wall or opaque fence at least six feet (6') in height or a dense hedge that will attain a height of at least six feet (6').
  - (3) Refuse and Recycling. Refuse and recycling containers shall be screened by solid fences or walls constructed to a minimum height of six feet (6') and designed to match the building materials of the primary building on the site and the Engineering Standards. Where feasible, enclosures for refuse and recycling containers shall be sited to the rear or side of a building, or in a location where visibility from public rights-of-way is minimized.
  - (4) The Zoning Administrator may require additional landscaping when necessary to screen exterior

storage, loading areas or security lights from public streets or adjacent residential properties.

- (5) When not otherwise specified, screening shall consist of mature shrubs and shall be maintained at a minimum height of four feet (4’).

(Ord. 3233, 12-20-18) (Ord. 3301, 2-13-20)

#### **11-4-5: OFF-STREET PARKING AND LOADING.**

##### **(A) General Standards.**

- (1) Off-street parking and loading spaces shall be provided with and on the same lot as the use that the parking serves, except as otherwise allowed in this Code.
- (2) A change of use or occupancy, or the intensification of use of any building shall require additional off-street parking as set forth in Section 11-4-5(B).
- (3) The Zoning Administrator may approve off-street parking provided on a separate lot or parcel if:
  - (a) The distance between the off-street parking on a separate lot or parcel is within six hundred feet (600’) of the main entrance to a non-residential use, or one hundred feet (100’) to a residential use for which the parking is intended to serve.
  - (b) The off-street parking is guaranteed on the separate lot or parcel in writing, by its owner or lessee, for a minimum of five (5) years, and the written guarantee is submitted with the application for a building permit.
  - (c) All shared off-street parking spaces shall provide pedestrian access to the building entrance by way of pedestrian alleys and passages, or by way of public sidewalks in the streetscape.
- (4) Off-street parking and loading facilities as existed as of the date of this ordinance shall not be further reduced unless substitute off-street parking and loading space is provided which complies with the provisions of this Section.
- (5) Off-street parking or loading facilities are allowed in excess of those required by this Code, provided that the facilities comply with the all other regulations of this Section.
- (6) Required off-street parking areas shall be used exclusively for vehicle parking in conjunction with a permitted use and shall not be reduced or encroached upon in any manner, except during special events.
- (7) Maintenance of the required off-street parking and loading facilities shall be a continuing obligation of the property owner so long as the use requiring such vehicle parking or vehicle loading facilities continues.
- (8) It shall be unlawful for an owner of any building or use to discontinue or dispense with the required off-street parking or loading facilities without providing other off-street parking or loading area which meets the requirements of this Code.

##### **(B) Parking Requirements.**

- (1) Table 11-4-2 Off-Street Parking Requirements shall be used to determine the number of required off-street parking spaces by the type of use. Most land uses fall within one (1) of four (4) categories: residential, commercial, industrial or special use as defined by this Zoning Code. There is one (1) general parking standard for all uses in each of those four (4) categories. If a specific land use classification is called out in the table, a special parking standard for that classification shall apply as indicated in the table.

- (2) The required off-street parking for any use not listed in Table 11-4-2 Off-street Parking Requirements shall be determined by the Zoning Administrator, utilizing comparison of uses that are listed.
- (3) The Zoning Administrator may waive off-street parking requirements for any proposed use in the CC and TN Zones that replaces a similar use (if that use relied upon on and off-site parking) and where the proposed use would not generate additional parking demands in the area.
- (4) The Zoning Administrator may reduce or waive a portion or all of the off-street parking requirements for a development, if the applicant can demonstrate that the use requested will not generate the parking demand as required in Table 11-4-2 Off-street Parking Requirements. The Zoning Administrator may request additional information from the applicant to determine if there is sufficient parking for the development. The Zoning Administrator's determination of the required off-street parking shall be based on the following criteria:
  - (a) The characteristics of the specific use, including hours of operation, employees, customer or clients, or other factors that affect parking demand.
  - (b) Uses near the property and the potential for parking demand to infringe on adjoining properties.
  - (c) Information generated from a traffic study, if prepared, forecasting the expected traffic and parking needs expected from the use;
  - (d) The availability of on-street, shared, and/or public parking within the vicinity of the use; and/or
  - (e) The availability of public transit, van-pooling or other alternative transportation to serve the use.
- (5) When determination of the number of off-street parking spaces results in a requirement of a fractional space, any fraction of one-half (1/2) or more shall be counted as one (1) required parking space.
- (6) For uses in which benches or pews are used in place of seats, each eighteen inches (18") of length of such benches or pews shall be counted as the equivalent of one (1) seat.
- (7) For all residential uses, the off-street parking area required shall be enclosed in a garage or carport, or open parking and yard areas of at least ten feet (10') by twenty feet (20') at a minimum in space.
- (8) For all commercial uses, one (1) off-street parking space for each service or delivery vehicles housed at the site shall be required, in addition to the parking requirements set forth in Table 11-4-2 Off-street Parking Requirements.

(C) Parking Credits for Nonresidential Uses.

- (1) On-street Parking Credit. On-street parking, for streets with a local classification, may be used as a credit to the parking requirement at a rate of one (1) credit for every on-street parking space that abuts the lot associated with the parking requirement.
- (2) Bicycle Parking Credit. Bicycle parking facilities within two hundred (200') of the primary building entrance may be used as a credit at a rate of one (1) credit for every four (4) bicycle parking spaces, up to a maximum of ten percent (10%) of the required vehicle parking.
  - (a) Shower Facilities. Non-residential buildings which provide shower and changing room facilities for employees may reduce their parking requirement by one (1) parking space for each two hundred and fifty square feet (250 ft<sup>2</sup>) of shower and changing room facility.

- (3) Transit Access Credit. Off-street parking requirements for uses within six hundred feet (600') of a public transit stop may be reduced by up to ten percent (10%) of the required vehicle parking. The Zoning Administrator may approve the transit access credit based on an assessment of the mix of use, the accessibility and frequency of the transit routes, and the likelihood of the proposed use in generating transit ridership.

(D) Shared Parking.

- (1) Two (2) or more buildings or uses may share the same off-street parking area(s). Where parking areas are shared, the total number of off-street parking spaces provided shall not be less than the sum of the parking space requirements imposed by this Code for all buildings or uses served by shared parking, except where a reduction in parking space requirements is permitted as set forth below.
- (2) The Zoning Administrator may authorize a reduction from the off-street parking requirements when it has been demonstrated that the total of parking spaces for multiple uses is not needed, using the criteria set forth Section 11-4-5B of this Code.

**Table 11-4-2: Off-street Parking Requirements**

USE	SPACES
<b>RESIDENTIAL</b>	
Boarding and Rooming houses	1 per bedroom
Dwelling Unit, Accessory	1
Dwelling Single unit	2
Dwelling Multi-unit	1 per bedroom but no more than 2 per unit
Dwelling Unit in the CC Zone	1 per unit
Housing for persons over 62 (senior housing)	1 per unit
Residential Care Facility	1 per 3 sleeping rooms
<b>COMMERCIAL/SERVICES</b>	
Amusement Center	5 per 1000 ft <sup>2</sup>
Assembly including clubs, entertainment and cultural facilities, religious institutions	1 per 3 fixed seats or 35 ft <sup>2</sup>
Daycare	1 per employee at full occupancy
Drinking Establishment	10 per 1000 ft <sup>2</sup>
Eating Establishments over 3,000 square feet	10 per 1000 ft <sup>2</sup>
Health Care and Social Services	5 per 1000 ft <sup>2</sup>
Lodging Facility	0.8 per sleeping room (assembly space calculated separately)
Vehicle and Equipment Sales	1 per 1,000 ft <sup>2</sup>
Uses within the TN Zone	1 per 500 ft <sup>2</sup>
<b>INDUSTRIAL</b>	
<b>SPECIAL PURPOSE</b>	
Hospital	2 per bed
Elementary and Junior High Schools	1 per classroom plus 5 in addition
High Schools	1 per 5 students
Public Service Facilities. No space is required for facilities requiring only occasional maintenance with no on-site employees.	1 per 2 employees on the largest shift or 1 per 600 ft <sup>2</sup> of office space whichever is greater.

(E) Parking Location.

- (1) In residential zones, off-street parking shall not be permitted in the required front or side setback that faces on a public street, except for permitted driveways. Parking is permitted in other required side and rear setbacks. Permitted driveways which directly connect required and other approved parking areas to public and private streets may be used for parking, but shall not be considered as providing the required parking spaces for the use. (Ord. 3351, 11-12-20)
- (2) In non-residential zones, off-street parking is permitted in the required setback areas, except when landscaping is required contiguous to public streets, provided that a protective curb shall be installed not less than two feet (2') from the property line in order to prevent the use of the sidewalk for parking, bumper overhang and travel purposes, and to protect landscaping.
- (3) No portion of the areas required for visibility by Section 11-4-7A, Clear View Triangle shall be occupied by a parking space.
- (4) In the R&D Zone, no off-street parking shall be located in front and side setbacks facing on a public street except for permitted driveways.

(F) Parking and Parking Lot Design. Parking area shall be designed and maintained as not to constitute a nuisance at any time and shall be used in such a manner that no hazard to persons or property or unreasonable impediment to traffic will result. Further, parking lots shall be designed to have shared functional connections with adjoining uses, including shared access from the street, shared parking and service access, and shared pedestrian circulation between uses. A site plan showing the proposed layout and development of parking and loading areas in compliance with the requirements of this Section shall be submitted and approved by the Zoning Administrator prior to the issuance of a building permit.

- (1) Parking Spaces. A parking space shall be designed to be a minimum of nine feet (9') in width and twenty feet (20') in length, exclusive of driveways, drive aisles and other required improvements. Exceptions to this standard are allowed as follows:
  - (a) A parking space contiguous to landscaping at least eight feet (8') in width, may be reduced to nineteen feet (19') in length.
  - (b) Employee parking, when so signed and designated, and stalls within a parking structure may be reduced to eight and one-half feet (8 ½') in width and nineteen feet (19') in length.
  - (c) Spaces within parking structures shall be eight and one-half feet (8 ½') in width and eighteen feet (18') in length. Drive aisle dimensions shall be consistent with Table 11-4-3 Standards for Drive Aisle Widths. Structural columns may encroach up to six inches (6") into parking spaces.
- (2) Compact Parking Spaces.
  - (a) A maximum of ten percent (10%) of the total spaces provided may be designed, designated, and used for compact size vehicles.
  - (b) A compact parking space shall be designed to be a minimum of eight feet (8') in width and sixteen feet (16') in length, exclusive of driveways, drive aisles and other required improvements.
  - (c) Compact spaces shall be clearly marked.
- (3) Circulation Within Parking Areas. The pattern of circulation within all parking areas shall

be designed and built to provide safe and efficient access to individual parking spaces and to facilitate safe access to public streets.

- (a) Table 11-4-3 Standards for Drive Aisle Widths shall be used to determine the drive aisle width based on the parking configuration and circulation pattern:

**Table 11-4-3: Standards for Drive Aisle Widths**

Circulation Pattern	Parking Angle	Drive Aisle Width for Standard space
Two-way	All	24'
One-way and Two-way	90°	24'
One-way	30°	13'
One-way	45°	15'
One-way	60°	18'

- (b) Where one-way circulation is provided, directional signs shall be installed at all access points to the parking area.
  - (c) No parking area shall be designed so that circulation from one portion of the area to another relies on a public street.
  - (d) No parking area, except those serving single-unit dwellings, shall be designed or constructed to create a situation that requires vehicles to back onto a public street.
- (4) Access to Parking Areas. Access shall be provided for safe ingress to and egress from all parking and loading areas. Each parking and loading space shall be easily accessible to the intended users.
- (a) The most current edition of The Access Management Plan shall be used to determine the minimum distance required between parking access and other intersections.
  - (b) Parking areas shall be located and designed to minimize access points to arterial streets by using non-arterial streets or alleys.
  - (c) The distance from an access point to an intersection shall be measured from the junction of the extended curb lines of the intersecting streets to the nearest side of the access drive.
  - (d) The design and construction of accesses to public streets shall be in accordance with the Standard Engineering Drawings and Specifications adopted by the City.
  - (e) Visibility at all points of access shall be in accordance with Section 11-4-7A, Clear View Triangle, of this Chapter.
- (5) Protecting Pedestrians. Walkways shall form a logical, safe and convenient system for pedestrian access to all structures, project facilities and principle off-site pedestrian destinations.
- (a) There shall be safe pedestrian access around or through all parking areas.
  - (b) Where a parking area driveway or drive aisle crosses a pedestrian way, the pedestrian crossing shall be clearly indicated with a change in pavement texture or painted stripes or other method approved by the Zoning Administrator.
- (6) Lighting. All sources of parking and loading area illumination shall be shielded and directed downward so as not to produce direct glare on adjacent properties.
- (7) Hard Surface. All parking areas in any zone and including access points and driveways, shall be developed and maintained with asphalt, concrete, or other hard surfaces approved by the Zoning

Administrator and City Engineer.

(G) Landscaping.

- (1) All parking areas of more than five (5) vehicles shall provide a peripheral landscape buffer between the parking area and existing residential uses; land designated for residential use in the City's Comprehensive Plan; existing schools; nursing homes, hospitals, and other institutions for long term human care. The minimum effective buffer shall include at least a seven foot (7') wide planting strip with trees and ground cover; and a masonry wall or opaque fence at least six feet (6') in height, or a dense evergreen hedge that will attain a height of at least six feet (6') within five (5) years.
- (2) All commercial and industrial loading areas shall provide a peripheral landscape buffer between the loading area and existing residential uses or land designated for residential use in the City's Comprehensive Plan. The minimum effective buffer shall include at least a seven foot (7') wide planting strip with trees and ground cover plus a masonry wall at least six feet (6') in height.
- (3) The requirements of one (1) through two (2) in this Section may be superseded by the installation of the more extensive buffering requirements of the PT Overlay Zone.
- (4) All parking areas including more than twenty-four (24) parking spaces, shall have interior landscaping that includes trees and appropriate ground cover.
  - (a) The minimum interior landscaping area shall be ten percent (10%) of the total area of parking spaces and aisles that do not immediately abut a peripheral buffer required by another provision of this Zoning Code or a voluntarily provided peripheral buffer that meets the minimum standard of Section 11-4-5G (1), above for peripheral buffers.
  - (b) The interior landscaping shall be designed to highlight pedestrian ways through the parking area and to break large parking areas into smaller bays.

(H) Loading Requirements.

- (1) Required Off-Street Loading Space.
  - (a) One (1) off-street loading space shall be provided and maintained for every building or separate occupancy having a gross floor area of ten thousand square feet (10,000 ft<sup>2</sup>) or more that requires the receipt or distribution of goods, material, merchandise or supplies by vehicle.
  - (b) One (1) additional loading space shall be provided for each additional twenty thousand square feet (20,000 ft<sup>2</sup>) of gross floor area of such building or for each vehicle which must be loaded or unloaded at the same time, whichever is greater.
  - (c) The Zoning Administrator may permit off-street loading facilities for two (2) or more buildings in commercial, industrial, or special purpose zones to be combined.
  - (d) Required off-street loading space shall be provided on the same lot as the building or principal use.
  - (e) The Zoning Administrator may authorize the use of substitute loading facilities where:
    - (i) The substitute off-street loading facilities are located on a contiguous property; and
    - (ii) Use of public streets or alleys will not be required in loading and unloading activities, and all such activities can be conducted from public rights-of-way.
  - (f) In the LC and LM Zones, all loading and unloading areas shall be screened from view of

public streets.

- (g) For Day Care uses, all uses shall provide at least one (1) safe and properly marked passenger loading area. Passenger loading areas may be at the curb on local streets but shall be off-street if located on an arterial or collector street as designated in The Access Management Plan.
- (2) Passenger Loading Areas Requirements.
- (a) Pedestrian street crossings shall not occur within passenger loading areas and all such areas shall be located in areas where there is adequate visibility for safe use of the area.
  - (b) Curbside passenger loading areas on local streets shall be at least sixty feet (60') long, include a depressed curb section for accessibility of individuals with a disability, and marked by signs facing both traffic lanes.
  - (c) Off-street passenger loading areas on collector or arterial streets shall accommodate one-way traffic only; shall be at least sixteen feet (16') wide; separated from the street by a curbed barrier at four feet (4') in width (landscaping of this barrier is recommended but not required), and at least sixty feet (60') long; include at a minimum one (1) ADA compliant curb section for access to structures; and be appropriately signed.
  - (d) Installation of signs shall be under the supervision of the City of Idaho Falls and in accord with the Manual of Uniform Traffic Control Devices.

#### **11-4-6: SEWAGE DISPOSAL.**

Where domestic sewage disposal facilities are to be used and are not connected to a public sewer, approval of such facilities shall be obtained from the City Public Works Department and the State of Idaho Department of Environmental Quality prior to the approval of a building permit. This provision shall in no way abrogate other ordinances or laws requiring connections to public sewers.

#### **11-4-7: STREETS AND ACCESS.**

##### **(A) Clear View Triangle.**

- (1) To ensure reasonable visibility and safety in all zones that require buildings to be set back from the right-of-way line, a clear view triangle shall be established by drawing a line between the points on the two (2) lot lines, which points are each thirty feet (30') from the intersection of said lot lines. This clear view triangle shall be free from structure or other obstructions, except as otherwise permitted in this Section.
- (2) Any triangle of land formed along any street by drawing a line between a point on the lot line parallel to the street (which point is fifteen feet (15') from an alley or driveway which abuts the street) and a point on the near side of the alley or driveway (which point is fifteen feet (15') from the lot line) shall be free from structures or other obstructions, except as otherwise permitted in this Section.
- (3) Trees in such clear view triangles shall have no branches or leaves from the ground level to at least eight feet (8') above the curb.
- (4) Shrubs, fences and walls in such triangles shall not exceed three feet (3') in height.

##### **(B) Effect of the Street Plan.**

- (1) The establishment of planned street widths and building setback lines is necessary to ensure that there is light and air; to provide adequate visibility when entering or exiting the streets; to provide a minimum setback for buildings away from the noise and fumes of traffic; to promote



safety; to reduce congestion; and to provide space for landscaping, both now and in the future, when all streets and highways have been widened to their ultimate width.

- (2) For buildings contiguous to a street, the front yard and side yard facing a street shall be measured from the right-of-way line including where a street has not yet been constructed to its planned width.
- (3) Access points to public streets shall be designed and constructed to meet the City Access Management Plan.

#### **11-4-8: STRUCTURES AND BUILDINGS.**

- (A) Accessory Buildings. Where an accessory building is attached to a main building, it shall be considered as part of the main building, and its use and location shall be governed by Zoning Code requirements applicable to main buildings. (Ord. 3496, 12-8-22)
- (B) Boat Docks and Boat Landing Structures. Boat docks and landing structures shall be permitted along the shores of the Snake River when approved by the Council, subject to criteria set forth in Chapter 6 Administration and where the applicant demonstrates a public necessity for the facility and how the safety of the public and users will be protected.
- (C) Fences. No fence, wall, hedge, or other sight obscuring object or structure which is more than three feet (3') in height is allowed within fifteen feet (15') of the front yard lot line contiguous to a street. (Ord. 3233, 12-20-18)
  - (1) This subsection shall not be construed to permit any site obscuring structure to exist in violation of the clear view triangle requirements of this Zoning Code.
  - (2) For the purposes of this subsection, a chain-link fence without slats shall not be considered sight obscuring.
- (D) Swimming Pools.
  - (1) Swimming pools not completely enclosed within a solid walled building shall be set back at least five feet (5') from all property lines.
  - (2) Swimming pools shall be completely surrounded by a fence of at least five feet (5') in height with no openings wider than thirty-six (36) square inches. Gates with self-closing and self-latching devices are exempted from this provision.
- (E) Moving of Buildings. Moving of any residential, commercial, or industrial building, from one site to another site within City limits, or from a site outside of the City to a site within the City, shall be permitted when approved by the Zoning Administrator, subject to the criteria set forth in Chapter 6 Administration.
- (F) Radio Towers and Antennas. When a radio tower or antenna is an accessory use to a radio studio:
  - (1) The maximum height of the tower and antenna shall be seventy feet (70').
  - (2) No more than two (2) microwave dishes less than five feet (5') in diameter shall be located on the tower.
  - (3) The base of the tower shall be setback at least one-hundred percent (100%) of the height of the tower from the closest property line of the nearest residence.

## CHAPTER 5 OVERLAY ZONES REGULATIONS

- 11-5-1: PT Planned Transition Zone
- 11-5-2: Wireless Communications Towers and Antennas
- 11-5-3: Airport Overlay Zone

### **11-5-1: PT PLANNED TRANSITION ZONE.**

- (A) Purpose. The purpose of the PT Planned Transition Zones is designed to maintain land use compatibility and enhance the functioning of arterial streets by requiring conformity to performance standards as set forth in this Section.
- (B) Allowed Uses and Structures.
  - (1) Refer to the underlying zone for allowed residential uses.
  - (2) See Table 11-2-2 for uses allowed in addition to the uses allowed by the underlying zone. (Ord. 3496, 12-8-22)
- (C) General Requirements.
  - (1) No use shall be made of any property within the PT Zone without prior application and approval as set forth in Chapter 6 Administration of this Code.
  - (2) All development in the PT Zone shall comply with the requirements of this Code and the City of Idaho Falls Subdivision Ordinance, except where the performance standards established in this Section impose more stringent requirements, then the performance standards shall control.
- (D) Dimensional Standards.
  - (1) Minimum Size. When developing a site for a use not permitted by the underlying zone, the sites shall have a minimum size of at least thirty-thousand square feet (30,000 ft<sup>2</sup>). A waiver from the minimum lot size may granted subject to the provisions for review set forth in Section 11-6-5H. (Ord. 3496, 12-8-22)
  - (2) Maximum Lot Coverage. Maximum lot coverage shall be fifty percent (50%) for multi-unit residential uses and seventy percent (70%) for commercial uses.
  - (3) Maximum Building Height. Maximum building height shall not be any higher than four feet (4') above the highest point of any building located on any property contiguous to the proposed use.
  - (4) Exceptions to the dimensional standards may be approved as set forth in Chapter 6 Administration of this Code.
- (E) Performance Standards. (Ord. 3210, 8-23-18)
  - (1) Buffering. All uses shall be effectively buffered to screen adjoining streets or uses from sight, sound, micro climatic or other adverse impacts. Such buffers shall be installed in accordance with the standards set forth below:
    - (a) Whenever practical, existing trees shall be saved and used in buffers or other landscaping on the site.

- (b) All commercial uses shall provide an effective buffer along arterial streets that includes street trees in a ten foot (10') wide planting strip, and an effective landscaping or shrubbery buffer between the sidewalk and parking lots and buildings.
  - (c) Where high density residential uses border an arterial street, parking shall be used as part of a buffer that includes street trees in a ten foot (10') wide planting strip, the sidewalk, and an effective buffer between sidewalk and the parking area.
  - (d) All uses shall provide a buffer along non-arterial streets, including street trees at forty foot (40') centers in an eight foot (8') wide planting strip between the sidewalk and parking lots or buildings. The buffer shall cause the non-arterial streets to appear residential in character, even when used for access to commercial uses.
  - (e) Outdoor storage, loading, and service areas shall be screened from public streets or adjoining properties. Separate screening is not required where required buffers fulfill this standard.
- (2) Hours of Operation. A commercial use within the PT Zone shall not be open to the public between the hours of 11:00 p.m. and 6:00 a.m.

**11-5-2: WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS.**

(A) Purpose. The purposes of this Section include:

- (1) Protection of residential areas, land uses, and people from potential adverse impacts of towers and antennas;
- (2) Encouraging the location of towers in non-residential areas;
- (3) Minimizing the total number of towers throughout the community;
- (4) Encouraging the joint use of new and existing tower sites as a primary location rather than construction of additional single-use towers;
- (5) Encouraging users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (6) Encouraging users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques and sensitivity to the character and aesthetics of neighborhoods and areas (including the Central Business District);
- (7) Enhancing the ability of the providers of telecommunications services to provide such services to the community effectively and efficiently;
- (8) Consider the public health and safety of communication towers;
- (9) Avoiding, where possible, potential damage to contiguous properties from tower failure through engineering and careful siting of tower structures.

(B) Applicability. The provisions of this Section shall apply to the siting, design, and maintenance of all communication towers and antennas in City limits except for the following:

- (1) Amateur radio station operators and receive-only antennas under seventy feet (70') in height; and owned and operated by a federally-licensed amateur radio station operator or used exclusively for receive-only antennas.

- (2) Towers and antennas existing prior to September 14, 2000, that meet the requirements of State or federal laws and regulations and comply with City Code.
  - (3) Radio and TV towers and antennas that are accessory uses for radio and television stations where permitted in the Zone, unless modified for collocation as specified in this Section.
  - (4) Small Wireless Facilities located in the Right-Of-Way, as that term is defined in the Zoning Code. Small Wireless Facilities located in the Right-Of-Way shall be regulated through a Master Lease Agreement, and through Idaho Falls Power Policy, including Design Standards, adopted from time to time by Resolution of the Council.
- (C) Local, State or Federal Requirements.
- (1) All towers shall comply with current minimum standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
    - (a) If the state, federal, or local tuner or antenna standards and regulations are changed, then the owners of the towers and antennas governed by this Section and this Code shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal regulator.
    - (b) Failure to bring towers and antennas into compliance with such revised state, federal, or local standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - (2) All towers shall comply with standards contained in this Code, including the International Building Code, and the National Electric Code.
- (D) Permitted Antennas and Towers.
- (1) Antennas attached to any commercial, industrial, professional, institutional, or multi-family structure of eight (8) or more dwelling units as set forth in Section 11-6-5(D), provided the antenna does not extend more than thirty feet (30') above the highest point of the structure.
  - (2) Antennas attached to an existing towers.
  - (3) Cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
  - (4) Antennas placed and concealed within structures.
  - (5) Antennas attached to a light standard, flag pole, or similar structure on a commercial or institutional use, provided the antenna does not extend more than ten feet (10') above the highest point of the standard.
  - (6) Additional tower units added within the perimeter of an AM array.
  - (7) Antennas or towers located in the T-1 and T-2 Overlay Zones that comply with the provisions of those zones.
  - (8) Antennas attached to Small Wireless Facilities, as allowed by this Code.
- (E) Colocation. In order to minimize adverse visual impacts associated with the proliferation and clustering of towers and Small Wireless Facilities, collocation of antennas by more than one (1) carrier on existing towers and Small Wireless Facilities shall take precedence over the construction of new

towers or Small Wireless Facilities, provided such collocation is accomplished in a manner consistent with the following:

- (1) A tower or Small Wireless Facility which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower or Small Wireless Facility type as the existing tower, unless the Zoning Administrator allows reconstruction as a Monopole.
- (2) An existing tower in a T-2 Zone may be modified or rebuilt to a taller height to accommodate the collocation of an additional antenna.
  - (a) The modified height shall not exceed thirty feet (30') over the tower's existing height. This height change may only occur one (1) time per tower.
  - (b) The additional height shall not require an additional distance separation as set forth in Table 11-5-4 Separation from Off-Site Uses/Designated Areas. The tower's pre-modification height shall be used to calculate such distance separations.
- (3) Onsite Relocation.
  - (a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty feet (50') of its existing location.
  - (b) After the tower is rebuilt to accommodate collocation, the old tower must be removed.
  - (c) A relocated onsite tower shall be measured from the original tower location for purposes of calculating separation distances between towers pursuant Table 11-5-5 Distance Between Towers.
  - (d) The onsite relocation of a tower shall not come within the separation distances to residential units or residentially zoned lands as established in Table 11-5-4 Separation from Off-Site Uses/Designated Areas.

(F) General Requirements for Small Wireless Facilities

- (1) Principal or Current Accessory Use Allowed. Small Wireless Facilities may be considered either principal or accessory uses. A use of an existing structure on the same lot shall not automatically preclude the installation of a Small Wireless Facility on such lot, but shall be subject to the judgment of the Zoning Administrator.
- (2) Zoning For Small Wireless Facilities
  - (a) Small Wireless Facilities shall be a permitted use within a City-owned or -controlled utility easement on City-owned property in a residential zone or a City-owned or -controlled utility easement in a non-Residential Zone subject to Design Standards for Small Wireless Facilities, adopted from time to time by Resolution of the Council.
  - (b) Small Wireless Facilities shall be approved by the Zoning Administrator as a principal or accessory use in any Zone where the Small Wireless Facility complies with all requirements set forth in this Subsection and this Code, especially state and federal regulations, including all applicable FCC and FAA regulations; and the Uniform Building Code and National Electric Code, as amended.
- (3) Pole Construction, Setback, And Fall Zone Standards for Small Wireless Facilities
  - (a) A Monopole or Replacement Pole located outside of a T-1 or T-2 Zone shall not exceed a height of ten feet (10') above the tallest existing utility structure, unless the taller structure

in the Zone is a utility tower or a Support Structure upon which Small Wireless Facilities are to be attached. A Monopole or Replacement Pole located within the T-1 or T-2 Zone shall comply with the height standard for such Zone.

- (b) A Monopole or Replacement Pole that supports a Small Wireless Facility shall be permitted within a City-owned or –controlled utility easement on City-owned property in a residential zone or City-owned or -controlled utility easement in a non-Residential Zone, in accordance with requirements of this Code and pursuant to the following:
  - i. Before Small Wireless Facility construction commences in a utility easement for a Monopole or Replacement Pole, the Applicant shall provide written evidence of a license agreement, permit, or legal right between the City and the owner of the location and structure.
  - ii. Small Wireless Facilities located within an utility easement are exempted from setback requirements, unless the location is not in compliance with traffic or transportation requirements of this Code, as determined by the Director of Public Works.
  - iii. Single carrier Monopoles may be used within an utility easement only in compliance with the height restriction imposed by this Subsection.
  - iv. Small Wireless Facilities that use the structure of a utility tower or utility Support Structure for support are permitted under this Section and may extend up to a maximum of ten feet (10') above the height of such utility tower or Utility Support Structure.
  - v. Facilities within a utility easement shall relocate within ninety (90) days of request by the City.
  - vi. No Small Wireless Facility shall be less than three hundred feet (300') from another Small Wireless Facility, unless by Conditional Use Permit.
- (4) Application for Small Wireless Facilities. The application for a Small Wireless Facility shall be made pursuant to the process contained in Title 11, Chapter 6 of this Code.
- (5) Decisions Regarding Small Wireless Facilities. Within sixty (60) days of the date upon which an Applicant submits an application deemed complete by the Zoning Administrator, the City shall render a decision on the application for a Small Wireless Facility. Any decision to approve with conditions, or deny an application for a Small Wireless Facility, shall be in writing and supported by competent evidence in a written record. The Applicant shall receive a copy of the decision. The foregoing shall apply only to applications for Small Wireless Facility and shall not apply to a permit for any building, right-of-way, or any other permit required by this Code.
- (G) T-1 Overlay Zone Requirements. The purposes of the T-1 Overlay Zone are to permit towers of limited height on publicly owned property or commercial areas near major highways and existing towers. The height of the towers is limited due to the proximity of residences. Antennas or towers, and accessory structures and equipment associated with towers and antennas shall meet the following requirements:
  - (1) The height shall not exceed ninety feet (90').
  - (2) The tower shall be constructed to permit another carrier to collocate.
  - (3) The base of the tower shall be at least one hundred percent (100%) of the height of the tower

from the closest property line of the nearest residence.

- (4) Towers shall meet the separation distances in Table 11-5-4 Separation from Off-Site Uses/ Designated Areas and Table 11-5-5 Distance Between Towers.
  - (5) Towers and accessory structures shall meet the setback requirements of the underlying Zoning Zone.
  - (6) No equipment shelter shall produce noise levels separate or accumulative above 45dB as measured from the nearest property line on which the tower is located.
- (H) T-2 Overlay Zone Requirements. The purpose of the T-2 Overlay Zone is to permit towers on commercially or industrially zoned properties near major highways. These Zones are buffered from residential areas by natural or man-made features such as rivers and railroads or physical distance. Antennas or towers, and accessory structures and equipment associated with towers and antennas shall meet the following requirements:
- (1) Height.
    - (a) For a single user, up to ninety feet (90') in height.
    - (c) For two (2) users, up to one hundred-twenty feet (120') in height; and
    - (d) For three (3) or more users, up to one hundred-fifty feet (150') in height.
  - (2) Setbacks.
    - (a) Towers must be setback a distance equal to at least seventy-five percent (75%) of the height of the tower from any public street.
    - (b) Guys and accessory buildings shall meet the setback requirements of the underlying Zone.
    - (c) No equipment shall produce noise levels separate or accumulative above 45dB as measured from the nearest property line of the closest residence.
    - (d) Towers shall meet the minimum separation requirements of Table 11-5-4 Separation from Off-Site Uses/Designated Areas and Table 11-5-5 Distance Between Towers.

**Table 11-5-4: Separation from Off-Site Uses**

Separation From Off-Site Uses	
Residential Zones or residential designations on the comprehensive plan	200' or 300% of tower height whichever is greater
Non-residentially zoned lands or land shown as commercial/industrial on the Comprehensive Plan	Setback as required for main structures in the applicable Zone

**Table 11-5-5: Distances Between Towers**

Separation Distances Between Towers (In Feet)				
	Lattice	Guyed	Monopole 70' in height or greater	Monopole less than 70' in height
Lattice	2000	2000	1000	500
Guyed	2000	2000	1000	500

Monopole 70' in height or higher	1000	1000	1000	500
Monopole less than 70' in height	500	500	500	500

(I) Measurement Interpretations.

- (1) In determining the dimensional requirements for the zoning regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- (2) In determining tower separation from offsite uses/designated areas as set forth in able 11-5-4 Separation from Off-Site Uses/Designated Areas, distance shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas.
- (3) In determining tower separation from offsite uses/designated areas as set forth in able 11-5-4 Separation from Off-Site Uses/Designated Areas, tower setbacks and separation distances shall be calculated and applied to facilities located in Idaho Falls irrespective of municipal and country jurisdictional boundaries.
- (4) In determining separation distances between towers as set forth in Table 11-5-5 Distance Between Towers, the distance shall be measured between the proposed tower and preexisting tower(s). The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower.
- (5) An AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array.

(J) Design of Towers and Antennas.

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted and maintained a neutral color subject to approval by the City, to reduce visual obtrusiveness unless the tower is a laminated monopole.
- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.
- (4) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (5) Signs. No advertising signs shall be allowed on an antenna or tower.

(K) Accessory Structures to Antennas or Towers.



- (1) Accessory structures shall not contain more than one hundred-twenty square feet (120 ft<sup>2</sup>) of gross floor area or be more than twelve feet (12') in height.
- (2) Accessory structures shall comply with all applicable building codes and the zoning Zone setback requirements.
- (3) Accessory structures located in a residential zone, shall be screened by an evergreen hedge with a minimum height of forty eight inches (48").
- (4) Light standards, utility poles or similar existing structure on which the antenna is placed shall not be required to meet the setback requirements of the zoning Zone or the separation distances in this Section.

(L) Removal of Abandoned Antennas and Towers.

- (1) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment.
- (2) Failure to remove an abandoned antenna or tower within ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense.
- (3) If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(M) Nonconforming Towers and Antennas.

- (1) No Expansion of Nonconforming Use. Towers constructed and antennas installed in accordance with the provisions of this Code shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (2) Pre-existing towers. Preexisting towers shall be allowed to continue their usage as they presently exist.
  - (a) Routine maintenance (including replacement with a tower of like construction and height) shall be permitted on such preexisting towers.
    - (i) When a tower using guy wires is replaced with a tower without guy wires, the height may be increased by ten feet (10').
  - (b) Construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Code.
- (3) Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding requirements on the removal of abandoned antennas and towers, nonconforming towers or antennas damaged or destroyed may be rebuilt without having to meet the separation requirements specified in this Section.
  - (a) The type, height, and location of the tower onsite shall be of the same type and intensity as the originally approved facility.
  - (b) Building permits to rebuild the facility shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if a permit expires, the tower or antenna shall be deemed abandoned as specified by this

Section.

(Ord. 3263, 7-25-19)

### **11-5-3: AIRPORT OVERLAY ZONE**

(A) Purpose. The City has accepted federal and state grants for projects at its Idaho Falls Regional Airport (“Airport”). As a condition of these grants, the City is required to comply with grant assurances regarding compatible land use and protection of airspace. For compatible land uses these grant assurances require the City to restrict the use of land adjacent to or in the immediate vicinity of the Airport to activities and purposes compatible with normal Airport operations, including landing and takeoff of aircraft. For the protection of airspace these grant assurances require the City to take appropriate action to assure the airspace required to protect instrument and visual operations for the Airport will be adequately cleared and protected by removing, lowering, relocating, marking, lighting, or otherwise mitigating existing Airport hazards and by preventing the establishment or creation of future Airport hazards.

(B) Compatible Land Use Regulations.

(1) Establishment of Zones. For the purpose of regulating the development of noise-sensitive land uses, to promote compatibility between the Airport and the surrounding land uses, to protect the Airport from the effects of incompatible development, and to promote the health, safety, and general welfare of property users. The controlled area of the Airport is divided into five (5) Airport-Compatible Land Use Overlay Zones known as:

(a) No Development Zone. The No Development Zone generally protects the area lateral and adjacent to the Airport runway. In most cases, only aeronautical -related uses are authorized in this Zone.

(b) Limited Development Approach Surface Zone. The Limited Development Approach Surface Zone provides a sixty (60)-degree sector in which aircraft are conducting their turn and decent to fi final approach or initial turn after take off.

(c) Controlled Development Approach Surface Zone. The Controlled Development Approach Surface Zone protects the area on an extended approach or departure path from the runway end.

(d) Limited Development Zone. The Limited Development Zone is the area in which routine traffic c and touch-and-go maneuvers are conducted. This Zone provides a general environment of safety for aircraft, persons and property.

(e) Controlled Development Zone. The Controlled Development Zone is the area where aircraft are transitioning to or from en route altitude or Airport over-flight altitude to or from the standard traffic pattern altitude of eight hundred (800) to one thousand (1,000) feet above airport elevation. In this Zone, the underlying Zone land use restrictions apply, and a 7460.1 Form from the FAA is required for structures that do not meet the exceptions of Section 11-5-3(D) FAA Form 7460.1, Notice of Proposed Construction or Alteration.

(2) The Airport Compatible Land Use Overlay zoning boundary lines shall be shown on the official Idaho Falls Regional Airport Off Airport Land Use Map, located in the City’s Planning Division. Where uncertainty exists regarding the boundaries of the Airport Compatible Land Use Overlay Zones, as shown on the official map, the rules of Chapter 3 shall apply in order to determine Zone boundaries.

- (3) Multiple Zones on a Single Parcel. Where a parcel of land lies within more than one (1) Airport Compatible Land Use Overlay Zones, the area of the property within the boundaries of each Zone shall apply individually and respectively to each portion of the property.
- (4) If a proposed land use of property is not listed in Table 11-5-6: Compatible Uses in the Airport Overlay, the land use shall be prohibited, unless the Zoning Administrator specifically determines that the proposed use is equivalent to a compatible use or compatible use with conditions required by the Zoning Administrator which make the use compatible. In making the use determination, the Zoning Administrator shall consider each of the following:
  - (a) Whether the likely impacts on public services and activities associated with the proposed use are substantially similar to those of one or more of the allowed uses listed in the applicable Zone;
  - (b) Whether the proposed use involves a more intense level of activity or greater density than one or more of the allowed uses listed in the applicable Zone;
  - (c) Whether the proposed use is consistent with the purpose of the Zone in which the use is proposed to be located; and
  - (d) Whether the proposed use is in substantial conformance with goals and objectives of the Comprehensive Plan and Airport Master Plan.
- (5) Conflicts in Uses. Where there is a conflict in compatible uses set forth in Table 11-5-6: Compatible Uses in the Airport Overlay and any use set forth in Chapter 2 of this Code, the more restrictive shall apply.
- (6) The Zoning Administrator shall determine the most appropriate category for mixed uses or for uses that fall into more than one (1) category of land use classifications. The determination shall be permitted based on the more restrictive use.
- (7) Existing Uses. No building permit shall be granted that would allow any obstruction of a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this Chapter or on the date of any amendments to this Chapter.
- (8) Where specified on Table 11-5-6: Compatible Uses in the Airport Overlay and in order to mitigate the effects of development on the ability of the City to continue to deliver public airport services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision development and to the extent the City does not have a prescriptive easement, the property owner shall dedicate to the City, in advance of receiving a building permit, an aviation easement, as defined by this Zoning Code. Aviation easement dedication is not necessary where or to the extent the City has established a prescriptive right to the airspace.
- (9) For property that is within the Idaho Falls Regional Airport Off Airport Land Use Map but outside of the jurisdictional limits of the City, regulations of this Section of Code shall apply

to formulate land use recommendations or responses to land use comment requests from other jurisdictions.

- (10) No use shall be made of land, water or structures within any Zone established by this Chapter in such a manner that creates electrical interference with navigational signals or radio communication between the Airport and aircraft; makes it difficult for pilots to distinguish between Airport lights and others or result in glare in the eyes of pilots using the airport; impairs visibility in the vicinity of the Airport; creates bird-strike hazards; or otherwise endangers or interferes with the landing, taking off or flight operations of aircraft utilizing the Airport.
- (11) Uses listed as not compatible in Table 11-5-6: Compatible Uses in the Airport Overlay, may be considered compatible when:
  - (a) The use was approved prior to the approval of this Section.
  - (b) The FAA Form 7460.1, Notice of Proposed Construction or Alteration determines that there is “no objection” or “no objection with provisions” for the use.
  - (c) The requirements of the most restrictive Zone are applied.

**Table 11-5-6: Compatible Uses in the Airport Overlay**

“N” denotes a use that is not compatible and is prohibited.

“Y” denotes a use that is compatible.

“C” denotes a use that is compatible that meets one or more of the following indicated conditions where applicable:

- a. Residential densities must be less than nine (9) units per acre for areas of parcels located within the sixty five (65) decibel limit on the IFRA Noise Contours Map (located in the City’s Planning Division)
- b. Structures shall be shifted away from runway centerline when possible
- c. A recorded avigation easement is required
- d. A recorded avigation easement is required if within one thousand feet (1000’) of the runway.
- e. Permitted uses will not create bodies of water, or generate smoke, steam, or other visual obstruction
- f. An Airport Disclosure Note is required on plats recorded after the adoption of this Section.

Compatible Land Uses				
Land Use	No Development	Limited Development Approach Surface	Controlled Development Approach	Limited Development
Accessory use	N	C <sup>c,f</sup>	Y	Y
Adult Business	N	C <sup>c,f</sup>	Y	Y
Agriculture	N	Y	Y	Y
Agriculture Tourism	N	C <sup>c,f</sup>	Y	Y
Airport	Y	Y	Y	Y
Amusement Center, Indoor	N	N	Y	Y
Amusement Center, Indoor Shooting Range	N	N	Y	Y
Amusement Center, Outdoor	N	C <sup>c,e,f</sup>	C <sup>e</sup>	Y
Animal Care Clinic	N	C <sup>c,F</sup>	Y	Y
Animal Care Facility	N	C <sup>c,f</sup>	Y	Y
Artist Studio	N	C <sup>b,c,e,f</sup>	C <sup>e</sup>	C <sup>e</sup>
Auction, livestock	N	C <sup>c,e,f</sup>	Y	Y
Bed and Breakfast	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Boarding /Rooming House	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Building Contractor Shop	N	C <sup>b,c,f</sup>	Y	Y
Building Material, Garden and Farm Supplies	N	C <sup>b,c,f</sup>	Y	Y
Cemetery	N	C <sup>c,e,f</sup>	C <sup>e</sup>	Y
Club	N	N	Y	Y
Communication Facility	N	C <sup>b,c,e,f</sup>	Y	Y
Correctional Facility or Jail	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	Y
Day Care, all Types	N	C <sup>b,c,f</sup>	Y	Y
Drinking Establishment	N	C <sup>b,c,f</sup>	Y	Y
Compatible Land Uses				
Land Use	No Development	Limited Development Approach Surface	Controlled Development Approach	Limited Development
Drive-through Establishment	N	C <sup>b,c,f</sup>	Y	Y
Dwelling, accessory unit	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Dwelling, multi-unit	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>

Dwelling, single unit attached	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Dwelling, single unit detached	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Dwelling, two unit	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Eating Establishment	N	C <sup>b,c,f</sup>	Y	Y
Eating Establishment, limited	N	C <sup>b,c,f</sup>	Y	Y
Equipment Assembly	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Entertainment and Cultural Facilities	N	N	Y	C <sup>e</sup>
Equipment Sales, Rental and Services	N	C <sup>b,c,f</sup>	Y	Y
Financial Institutions N	N	C <sup>b,c,f</sup>	Y	Y
Food Processing, small scale	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Food Processing N Cb,c,e,f Cb,e Ce	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Food Store N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Fuel Station N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Fuel Station, super N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Health Care and Social Services N N Y Y	N	N	Y	Y
Higher Education Center N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Home Occupation N N Y Y	N	N	Y	Y
Hospital N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Industry, Craftsman N Cb,c,e,f Cb,e Ce	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Industry, Heavy N Cb,c,e,f Cb,e Ce	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Industry, Light N Cb,c,e,f Cb,e Ce	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Information Technology N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Laundry and Dry Cleaning N Cb,c,f Y Y	N	C <sup>b,c,f</sup>	Y	Y
Live-Work	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Lodging Facility	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Manufactured Home	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Medical Support Facility	N	C <sup>b,c,f</sup>	Y	Y
Mobile Home Park	N	N	C <sup>a,b</sup>	C <sup>d,f</sup>
Mortuary	N	N	Y	Y
Park and Recreation Facility	N	N	Y	Y
Parking Facility	C <sup>b,c,e,f</sup>	C <sup>b,c,f</sup>	Y	Y
Pawn Shop	N	C <sup>b,c,f</sup>	Y	Y
Personal Service	N	C <sup>b,c,f</sup>	Y	Y
Planned Unit Development	N	N	C <sup>a,d,f</sup>	C <sup>d,f</sup>
Professional Service	N	C <sup>b,c,f</sup>	Y	Y
Public Service Facility	C <sup>b,c,e,f</sup>	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Compatible Land Uses				
<b>Land Use</b>	<b>No Development</b>	<b>Limited Development Approach Surface</b>	<b>Controlled Development Approach</b>	<b>Limited Development</b>
Public Service Facility, limited	C <sup>b,c,e,f</sup>	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Public Service Use	C <sup>b,c,e,f</sup>	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Railroad Freight Terminal and Station	C <sup>b,c,e,f</sup>	C <sup>b,c,f</sup>	Y	Y
Recreational Vehicle Park	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>

Religious Institution	N	N	Y	Y
Research and Development	N	C <sup>b,c,e,f</sup>	C <sup>b,e</sup>	C <sup>e</sup>
Residential Care Facility	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Retail	N	C <sup>b,c,f</sup>	Y	Y
School	N	C <sup>b,c,f</sup>	Y	Y
Short Term Rental	N	N	C <sup>a,b,f</sup>	C <sup>d,f</sup>
Storage Facility, Indoor	N	C <sup>b,c,f</sup>	Y	Y
Storage Facility, self serve	N	C <sup>b,c,f</sup>	Y	Y
Storage Yard	N	C <sup>b,c,f</sup>	Y	Y
Terminal Yard, trucking and bus	C <sup>b,c,e,f</sup>	C <sup>b,c,f</sup>	Y	Y
Transit Station	C <sup>b,c,e,f</sup>	C <sup>b,c,f</sup>	Y	Y
Vehicle Body Shop	N	C <sup>b,c,f</sup>	Y	Y
Vehicle Repair and Service	N	C <sup>b,c,f</sup>	Y	Y
Vehicle Sales and Rentals	N	C <sup>b,c,f</sup>	Y	Y
Vehicle Washing Facility	N	C <sup>b,c,f</sup>	Y	Y
Warehouse	N	C <sup>b,c,f</sup>	Y	Y
Warehouse, Wholesale with flammable materials	N	N	C <sup>b</sup>	Y

(C) Airport Overlay Height Zone Limitations. In order to support the provisions of this Chapter, there are hereby created and established certain Height Zones, which Zones include all of the land and airspace above the surface of the land. Such Height Zones shall be known respectively as the Approach Surface Height Zone, Transitional Surface Height Zone, Horizontal Surface Height Zone and Conical Surface Height Zone. Such Height Zones are shown on the Idaho Falls Regional Airport Height Limitations Map, located in the City’s Planning Division.

- (1) Establishment of Airport Height Zones: Each portion of a parcel located in more than one (1) of the following Height Zones shall be evaluated independently. The various zones are hereby established and defined as follows:
  - (a) Approach Surface Height Zone. The inner edge of this Zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The Approach Surface Height Zone expands outward uniformly from the edge of the runway to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet. Its centerline is the continuation of the centerline of the runway.
  - (b) Transitional Surface Height Zone. The Transitional Surface Height Zone is the areas beneath the transitional surfaces.
  - (c) Horizontal Surface Height Zone. The Horizontal Surface Height Zone is established by swinging arcs of five thousand (5,000) or ten thousand (10,000) feet radii from the center of each end of the primary surface of the primary runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The Horizontal Surface Height Zone does not include the Approach Surface Height Zone or the Transitional Surface Height Zone. The Horizontal Surface Height Zone is constructed with ten thousand (10,000) feet radii.
  - (d) Conical Surface Height Zone. The Conical Surface Height Zone is established as the area that commences at the periphery of the Horizontal Surface Height Zone and extends

outward from a horizontal distance of four thousand (4,000) feet.

(2) Airport Height Zone Limitations. Except as otherwise provided in this Section, no structure shall be erected, altered or maintained in any Height Zone created by this Section to a height in excess of the applicable height limit herein established for such height Zone. Such applicable height limitations are hereby established for each of the Height Zones as follows:

- (a) Approach Surface Height Zone. Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface of the Airport and extending to a horizontal distance of ten thousand (10,000) feet along the extended runway centerline. The surface then slopes forty (40) feet outward for each foot upward beginning at the end of and at the same elevation as the first ten thousand (10,000) feet and extending to a horizontal distance of forty thousand (40,000) feet along the extended runway centerline.
- (b) Transitional Surface Height Zone. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface of the Airport and the Approach Surface Height Zone and extending to a height of one hundred fifty (150) feet above the Airport elevation. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the Approach Surface Height Zone and extending to where it intersects the Conical Surface Height Zone. Where the Approach Surface Height Zone projects beyond the Conical Surface Height Zone, there are height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the Approach Surface Height Zone and extending a horizontal distance of five thousand (5,000) feet, measured at ninety (90) degree angles to the extended runway centerline.
- (c) Horizontal Surface Height Zone. One hundred fifty (150) feet above the Airport elevation.
- (d) Conical Surface Height Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the Horizontal Surface Height Zone and at one hundred fifty (150) feet above the Airport elevation and extending to a height of three hundred fifty (350) feet above the Airport elevation.

(D) FAA Form 7460.1, Notice of Proposed Construction or Alteration.

(1) Future Uses. No change shall be made in the use of land and/or structure established in any Height Zone defined in this Chapter unless a Form 7460.1 from the FAA has been applied for and received a letter of determination that has “no objection” or “no objection with provisions”. Each application for a Form 7460.1 shall indicate the purpose for which the building permit or development project is desired, with sufficient particularity to be determined whether the use or structure would conform to the regulations of this Chapter. An FAA Form 7460-1, Notice of Proposed Construction or Alteration, shall accompany each application for a building permit, plat, or site plan. The building permit or development project shall be granted where compliance with this Chapter and this Zoning Code is demonstrated and determined by the Zoning Administrator. No building permit or development project shall be granted for any use inconsistent with the provisions of this Chapter.

- (a) In the area lying within the limits of the established Height Zones, no FAA Form 7460.1, Notice of Proposed Construction or Alteration shall be required by this Chapter for any structure where:



- (i) The structure is less than two hundred (200) feet above ground level, and
  - (ii) The structure is lower than an imaginary surface extending outward and upward at a slope of one hundred (100) feet horizontal for each one foot (1') vertical beginning at the closest point of the closest runway to the structure.
- (E) The Zoning Administrator may waive dimensional standards or design and development regulations required by this Code when the building is an aviation facility on land owned by the City at the Airport. (Ord. 3310, 6-18-20)
- (F) Variances. Any person desiring to erect or increase the height of any structure or use of a property, not in accordance with the regulations prescribed in this Chapter, may apply to the Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration regarding the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Variances shall be allowed where it is found that a literal application or enforcement of the applicable regulations will result in unnecessary hardship and when the relief granted will not be contrary to the public interest; not create a hazard to air navigation; do substantial justice; and is consistent with the purpose of this Chapter.
- (G) Enforcement. It shall be the duty of Zoning Administrator to administer and to enforce this Chapter. Applications for permits and variances shall be made to the City. Applications required by this Chapter shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be transmitted to it promptly by the City.

(Ord. 3248, 5-9-19)(Ord. 3310, 6-18-20)

## CHAPTER 6 ADMINISTRATION

11-6-1	Purpose
11-6-2	Duties and Authorities
11-6-3	Application Procedures
11-6-4	Decision-Making Procedures
11-6-5	Decision-Making Criteria
11-6-6	Required Improvements
11-6-7	Enforcement

### **11-6-1: PURPOSE.**

The purpose of this Chapter is to set forth the roles, responsibilities, and processes in the administration of permits and decisions that are authorized by this Code consistent with Idaho Code.

### **11-6-2: DUTIES AND AUTHORITIES.**

- (A) City Council. The City Council shall have the authority to set policy and legislation effecting land use and the administration of this Code, including fees as established by resolution of the Council. The Council shall act on:
- (1) Recommendations from the Planning and Zoning Commission in legislative actions and some quasi-judicial applications.
  - (2) Recommendations from the Board of Adjustment on quasi-judicial applications.
  - (3) Decisions on some quasi-judicial applications without prior recommendations from either the Planning and Zoning Commission or Board of Adjustment.
  - (4) Appeals of the Planning and Zoning Commission, Board of Adjustment and Zoning Administrator decisions.
  - (5) It shall be unlawful to erect, construct, move or structurally alter any building or structure, or any part thereof, until after a written permit to do so, has been issued by the Building Official.
- (B) Planning and Zoning Commission. The Planning and Zoning Commission shall be the designated planning agency for the City. The Commission shall be responsible for final action on some site specific permits and for recommendations to the City Council on land use legislation, comprehensive plan amendments, and other policy matters. In undertaking these responsibilities, the Planning and Zoning Commission shall act as follows:
- (1) Provide for citizen meetings, hearings, surveys, or other methods to obtain advice on the planning process, comprehensive plan, and implementation.
  - (2) Promote a public interest in and understanding of the Planning and Zoning Commission's activities.
  - (3) Make recommendations to the Council concerning the comprehensive plan, planning process, or implementation of the comprehensive plan.
  - (4) Initiate proposed amendments to this Code and conduct a review of this Code from time to time.

- (5) Interpret the provisions of this Code and consistency of actions with the Comprehensive Plan.
  - (6) Conduct public hearings, make decisions and recommendations to the City Council based on the required findings and standards for applications as set forth in Section 11-6-4 of this Chapter.
- (C) Board of Adjustment.
- (1) The Board of Adjustment shall be responsible for decisions on site specific applications, including variances related to exceptions to this Code, conditional use permits, and appeals of decisions made by the Zoning Administrator. (Ord. 3241, 3-14-19)
  - (2) In carrying out its responsibilities, the Board shall conduct public hearings, make decisions and recommendations to the City Council based on the required findings and standards for applications as set forth in Section 11-6-4 of this Chapter.
- (D) Zoning Administrator. The Zoning Administrator shall be the administrative official of this Code. In carrying out this responsibility, the Zoning Administrator or their authorized staff shall act as follows:
- (1) Interpret provisions in the enforcement and administration of this Code.
  - (2) Provide information to the public on planning and zoning matters.
  - (3) Receive and examine applications including, but not limited to, the following:
    - (a) Enter upon any property to make examinations and surveys.
    - (b) Determine the completeness of applications in providing the required information.
    - (c) Maintain records of all materials and correspondence related to land use applications.
    - (d) Maintain records of the Planning and Zoning Commission, Board of Adjustment and City Council hearings and actions.
    - (e) Transmit to the Planning and Zoning Commission, Board of Adjustment and City Council all applications related to their responsibilities as set forth in this Code.
  - (4) Review and act on minor ministerial permits, site plans, adherence to performance standards and compliance with the provisions of this Code.
  - (5) Enforcing the conditions and standards imposed on all permits granted by the city and permitted under this Code.
- (E) Summary of Actions/Decisions. Table 11-6-1 Summary of Actions/Decisions that follows is a list of the actions/decisions the City shall take in the administration of this Code, the decision body responsible and the process and findings under which the action shall be granted.  
(Ord. 3423, 10-28-21)

**Table 11-6-1: Summary of Actions/Decisions**

<p>Notes:          BA = Board of Adjustment          A = Appeal Process          CC = City Council          ADM = Administrative Process          PZ = Planning and Zoning Commission          P = Permit Process          ZA = Zoning Administrator          PH = Public Hearing Process</p>
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Permit/Decision	Code Cross-reference	Recommending Authority	Final Decision-maker	Process
<b>APPEALS</b>				
Decisions of the Zoning Administrator	11-6-3E		BA	A
Decisions of the Board of Adjustment or Planning and Zoning Commission	11-6-4		CC	A
<b>CONDITIONAL USE PERMITS</b>				
All uses listed as conditional in the Tables of Uses	11-2-3, 11-2-4, and 11-2-5			
C <sub>1</sub> Conditional Use (Administrative)			ADM	ADM
C <sub>2</sub> Conditional Use (Board of Adjustment)			BA	PH
C <sub>3</sub> Conditional Use (City Council)		PZ	CC	PH
To Allow Structures Buildings Within Seventy-five feet (75') of the Banks of a Designated Natural Flood Channel	11-4-3		BA	PH
Minor amendment to a PUD	11-6-3I (9)		ZA	ADM
Major amendment to a PUD	11-6-3I (9)	PZ	CC	PH
<b>PARKING AND LOADING</b>				
To allow off-street parking on a separate lot	11-4-5A (3)		ZA	ADM
To determine the number of off-street parking spaces required for uses not listed in Table 11-4-2	11-4-5B (2)		ZA	ADM
To waive additional off-street parking for similar uses in the CC and TN Zones	11-4-5B (3)		ZA	ADM
To reduce or waive off-street parking requirements	11-4-5B (4)		ZA	ADM
To allow a transit access credit to reduce the number of required parking spaces	11-4-5C (3)		ZA	ADM
To allow a reduction in off-street parking in a shared parking situation	11-4-5D (2)		ZA	ADM
To approve a parking site plan	11-4-5F		ZA	ADM
To combine off street loading for two (2) or more buildings	11-4-5H (1)		ZA	ADM
To allow combined loading facilities	11-4-5H (1)		ZA	ADM
<b>PERMITS</b>				
Temporary construction use	11-2-6BB		BA	P
Temporary land use	11-2-6CC		ZA	ADM
Boat docks and boat landing facilities along the Snake River	11-4-8B		CC	ADM
Reconstruction of a monopole	11-5-2E (1)		ZA	ADM
Moving Structures	11-6-5D		ZA	P

<b>PLANS</b>				
Landscape Plan	11-4-4D (3)		ZA	P
Site plans	11-4-5F		ZA	P
<b>WAIVER or EXCEPTIONS</b>				
Variance	11-6-5G		BA	PH
Minimum lot size in PT Zone	11-6-5I		BA	P
<b>ZONING</b>				
Certificate			ZA	ADM
Code amendment	11-6-5I	PZ	CC	PH
Code enforcement	11-6-7		ZA	ADM
Map amendment	11-6-5I	PZ	CC	PH
Map interpretation	11-3-1C	BA	CC	P
Table of Allowed Uses Interpretation	11-2-2A (1)(3)		ZA	ADM
Amendments to Tower Overlay Zones (T-1 and T-2)	11-6-5J	PZ	CC	PH

(Ord. 3218, 9-13-18) (Ord. 3241, 3-14-19) (Ord. 3496, 12-8-22)

### **11-6-3: APPLICATION PROCEDURES.**

The purpose of this Section is to outline the application procedures for a permit or decision under provisions of this Code.

#### **(A) Application Requirements.**

- (1) All uses, structures, or work defined by this Code as requiring review by the City Council, Planning and Zoning Commission, Board of Adjustment or Zoning Administrator must obtain the appropriate permit or permits prior to commencing the use, construction or alteration in or on any property within the City of Idaho Falls.
- (2) All requests for permits and decisions in accordance with this Code shall submit a complete application to the Zoning Administrator on forms approved and provided by the City.
- (3) Some requests for permits and decisions shall require additional application information.
- (4) All information and applications are preferred to be submitted electronically.
- (5) All applications shall be accompanied by a filing fee in an amount as set from time to time by City Council resolution.
- (6) No action shall be taken on an application until the application has been determined to be complete by the Zoning Administrator or their authorized staff.
- (7) No application for a preliminary plat, Planned Unit Development, rezoning, or Conditional Use Permit shall be considered complete until all materials required for compliance with the Neighborhood Meeting in this Code are received by the City. (Ord. 3423, 10-28-21)

#### **(B) Action on the Application.** After an application has been determined to be complete, an action or decision shall occur as follows:

- (1) For an administrative decision identified as “ADM” on Table 11-6-1 Summary of Actions/ Decisions, the Zoning Administrator shall act upon the application within thirty (30) days.

- (2) For a permit request identified as “P” on Table 11-6-1 Summary of Actions/Decisions, the decision-making authority shall act upon the application within sixty (60) days.
  - (3) For an application requiring a public hearing identified as on Table 11-6-1 Summary of Actions/Decisions, the initial hearing shall be held no later than sixty (60) days after the date of the determination of completeness, unless waived by the applicant.
- (C) Public Hearing Procedures. All applications subject to a public hearing as identified on Table 11-6-1 Summary of Actions/Decisions, shall follow the public hearing requirements consistent with Idaho Code.
- (D) Appeal Procedures for Decisions of the Zoning Administrator.
- (1) The Board of Adjustment shall hear and decide appeals wherein it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Code and shall have appellate jurisdiction over all decisions and rulings of the Zoning Administrator.
  - (2) Any citizen or person or any officer or department of the City may appeal to the Board of Adjustment by filing a request in writing with the Zoning Administrator within fourteen (14) days from the grant or refusal of a permit by the Zoning Administrator.
  - (3) Notice of the public hearing on an appeal of the Zoning Administrator’s decision shall be made in accordance with Idaho Code.
- (E) Expiration of Action on Applications. All application approvals shall expire one (1) calendar year from the date of approval unless:
- (1) The city issues a building permit for the proposed improvement, development, or use prior to the expiration of the one (1) calendar year; or
  - (2) By condition of approval, a time period for completion of the application has been specified.
- (F) Resubmittal.
- (1) No application that has been denied by the City shall be resubmitted, in substantially the same form for the same use, within six (6) months from the date of denial.
  - (2) The Zoning Administrator may waive the six (6) month requirement and accept a new application, where the subject property is affected by amendments to the Comprehensive Plan or to this Code. (Ord. 3496, 12-8-22)
- (G) Certificate of Occupancy. No certificate of occupancy shall be issued for any approved application until the development has been inspected and determined to be in compliance with all terms and conditions of the permit, including but not limited to, proper installation of all required improvements.
- (H) Application Procedures for a Planned Unit Development (PUD).
- (1) Applications for a planned unit development shall consist of three (3) procedural steps: pre-application conference, Planning and Zoning Commission hearing and recommendation to the Council, and hearing and final plan approval by the Council. With the concurrence of the Zoning Administrator, an applicant may combine the PUD hearings with the hearings required for associated subdivision applications or zoning Zone changes.
  - (2) Prior to the filing of an application for a PUD permit, and following a Neighborhood Meeting required by this Code, the applicant shall request, and the Zoning Administrator shall schedule a pre-application conference with the Planning Division staff and other City staff, as deemed necessary.

- (a) A pre-application conference with the Planning Division staff is mandatory for all PUD proposals.
  - (b) At the pre-application conference, the applicant shall submit a sketch plan of the proposed PUD and shall outline and generally discuss the nature of the development and proposed land use. This step represents an opportunity to identify any major problems that may exist and identify solutions to those problems before formal application.
- (3) Applications shall be filed not later than one hundred and twenty (120) days after the date of the pre-application conference.
- (a) All applications for a permit shall include information required by the Zoning Administrator.
  - (b) The contents of the application shall be of sufficient clarity, quality and detail to allow the City to determine compliance with the performance standards of this article and the other standards imposed by this Code.
- (4) Applications for a PUD shall be reviewed as a conditional use and shall follow the public hearing requirements consistent with Idaho Code.
- (5) The Planning and Zoning Commission shall review the application for compliance with Section 11-2-6W of this Code.
- (a) If the Commission finds that the proposed plan and uses do not comply with Section 11-2-6W of this Code, it shall make a finding in writing specifying the reasons why the application is not in compliance with such standards and shall deliver the same to the applicant and the Council within forty-five (45) days.
  - (b) The Commission may, at any time, recess the public hearing to a later date and no further public notice shall be necessary, provided the motion to recess and the date of the recessed hearing is duly noted in the minutes of Planning and Zoning Commission.
  - (c) Following the conclusion of the public hearing, the Commission shall forward its recommendation in writing to the Council, which recommendation shall include proposed findings in accordance with its recommendation.
- (6) The applicant may, at any time prior to the consideration of the application by the Council, request that application be withdrawn and resubmitted at a later date to the Commission for purpose of making modifications recommended by the Planning and Zoning Commission. In the event the applicant requests reconsideration of the application within ninety (90) days after the date of the hearing before the Planning and Zoning Commission, no filing fee shall be required for such amended application.
- (7) Upon receipt of the recommendation of the Commission, a public hearing before the City Council shall be held, and the Council shall approve or deny the application.
- (a) If the Council denies the application, it shall prepare specific written findings indicating the basis of its denial and the performance standards not met by such application.
  - (b) If the Council approves the application, it shall adopt the findings of the Commission, together with any additional findings or modifications it deems necessary, and order the Zoning Administrator to issue a permit which incorporates the representations made in the application and any other conditions required by the Council in order ensure compliance with this article.
- (8) Approval of the PUD shall expire if no effort is made to complete the PUD within eighteen (18) months from the date of Council's approval of the development plan.

- (a) The Planning and Zoning Commission may grant a written extension for twelve (12) months based on demonstrated cause.
  - (b) For phased PUDs, the PUD or subsequent phases of the initial PUD shall expire automatically if the phases outlined in the development plan are not completed according to the approved phasing schedule identified in this Section.
- (9) PUD amendments shall follow the following procedures for minor and major changes. Amendments shall be in keeping with previous phases or approved PUD development plans and shall meet the same objectives as the original PUD. If the proposed amendment is intended to alter the previously approved plans objectives the applicant will justify how the amendment fits within the whole of the development.
- (a) Minor changes to a PUD planned unit development may be approved administratively and in writing whereupon a permit may be issued. Such changes may be authorized without additional public notice at the discretion of the Zoning Administrator. Changes not specifically identified below shall constitute a major change. Minor changes shall be defined as follows:
    - (i) A change of less than five percent (5%) in the approved number of residential dwelling units, provided an increase will not exceed the permitted density of the Zone.
    - (ii) A change of less than five percent (5%) in the amount of commercial square footage within the development.
    - (iii) A change in location or layout of approved common areas and amenities provided there is no decrease.
    - (iv) A change in building location or placement less than twenty percent (20%) of the building width.
  - (b) Major changes to a PUD must follow the same review, public notice and hearing process required for approval of the initial PUD Planned Unit Development. Major changes shall include, but not be limited to the following:
    - (i) A change in the character of the development.
    - (ii) A change of greater than five percent (5%) in the approved number of residential dwelling units.
    - (iii) A change of greater than five percent (5%) in the amount of commercial square footage within the development.
    - (iv) A reduction in the approved common space and/or amenities provided.
    - (v) A change in the location and placement of buildings greater than twenty percent (20%) of the building width.
    - (vi) An increase in the number of lots above what was approved through the preliminary plan review.
    - (vii) Any other change to the plan not defined herein as a minor change.

**11-6-4: DECISION-MAKING PROCEDURES.**

The purpose of this Section is to describe the manner in which decisions are rendered, the responsibilities



in making decisions and the process for appeal of decisions.

(A) General Provisions.

- (1) All decisions and any conditions for the approval of any permit shall be set forth in writing.
- (2) Any city decision-making body may impose conditions upon the approval of any permit, provided such conditions are reasonably necessary to implement or achieve the requirements of this Code.

(B) Decisions of the Board Adjustment and Planning Commission.

- (1) A majority vote of the members present shall be necessary to decide upon any matter upon which a vote is required to pass.
- (2) For applications that do not require the approval of the City Council, the Planning and Zoning Commission or Board of Adjustment shall approve or deny the application on a majority vote. (Ord. 3241, 3-14-19)
- (3) If the application requires approval by the City Council, the Planning and Zoning Commission or Board of Adjustment shall forward its recommendations to the Council. The Council shall, within a reasonable time, hold at least one (1) public hearing to consider the application.
- (4) Written notice of decisions of the Board of Adjustment and Planning and Zoning Commission, including conditions and Reasoned Statement of Relevant Criteria and Standards, shall be sent within five (5) days to the applicant and/or their representative, and all persons who have requested a copy of the decision.

(C) Appeal Procedures for Board of Adjustment and Planning and Zoning Commission Decisions.

- (1) Decisions of the Board of Adjustment and Planning and Zoning Commission shall be final unless a written appeal is made to the City Council within fourteen (14) days of the date of the written notice of decision described above in paragraph Section 11-6-4B (4).
  - (a) The written notice of appeal shall be filed with the Zoning Administrator and shall set forth the objections to the decision made by the Board of Adjustment or Planning and Zoning Commission.
  - (b) Upon receipt of the appeal, the Zoning Administrator shall forward to the Council the record of the Board of Adjustment or Planning and Zoning Commission, including the Reasoned Statement of Relevant Criteria and Standards, adopted by the Board or the Commission.
- (2) The concurring vote of a majority of the members of the City Council shall be required to reverse any requirement, decision, or condition of the Board of Adjustment or Planning and Zoning Commission.
- (3) Any person aggrieved by a decision of the Council may seek recourse as provided in Idaho Code, as amended.

(D) Hearing Purpose. To provide consistency in the conduct of public hearings and meetings held in conjunction with the process of regulating the use and development of land within the jurisdiction of the City; to protect the public interest and the private rights of all participants in the public hearing process; and to comply with the requirements of Idaho Code Title 67 Chapter 65. The term “decision-making board” shall mean the Board of Adjustment, Planning and Zoning Commission, Council, hearing examiner or advisory board and any other person or persons duly authorized to make a determination regarding zoning or land use planning pursuant to Idaho Code, excluding City staff.

(E) Types of Hearings.

(1) Single Meeting Quasi-Judicial Hearings.

- (a) Single Meeting Quasi-Judicial Hearings shall be required when a permit or discretionary administrative ruling is sought from a decision-making board such as the Board of Adjustment, Planning and Zoning Commission, or Council and only one (1) public hearing is required by this Code or the Idaho Code before final action can be taken on the request. Because such a hearing may influence the individual rights of applicants, this administrative procedure shall be more strictly controlled to protect individual rights. Decisions following Single Meeting Quasi-Judicial Hearings shall be final, subject to appeal to a higher decision-making authority as provided by this Code or the Idaho Code. Permits to which this procedure shall apply are the variance, Conditional Use Permit, Preliminary Plat, or vacation of a portion of a subdivision plat.
- (b) Procedures for Single Meeting Quasi-Judicial Hearings.
  - (i) Pre-hearing. Prior to the conduct of the hearing, no person shall attempt to discuss the subject of the hearing with a member of the decision making board destined to decide the issue. Any such attempt shall be reported by the decision-making board member so approached to legal counsel for the decision-making board who shall advise the decision-making board in that regard. Notices of public hearing shall provide adequate information to allow notice recipients to participate in the hearing process.
  - (ii) The Hearing.
    - a. Public hearings shall be conducted according to orderly procedures as specified by the chair of the meeting, subject to the will of the decision-making board.
    - b. All procedures shall be directed to providing the participants in the hearing a fair chance to be heard by an impartial decision-making board.
    - c. Decision-making board members having a conflict of interest involving the subject matter of a hearing shall participate only as allowed by Idaho Code.
    - d. The chair of the decision-making board shall have sole authority to recognize participants in the hearing process and to maintain order in its conduct. All inquiries regarding the presentation of any person shall be directed to the chair, who shall decide the need for a response and seek one where necessary or appropriate.
    - e. Subject to decision-making board objection, the chair may establish reasonable time limits on presentations in the interest of fairness and to provide more people with a chance to participate. Said limitations may be established at the beginning of the hearing or may be invoked during the hearing when conditions warrant.
    - f. Clapping, jeering, interrupting, commenting, out of turn and personal attacks, and being disruptive and discourteous are not allowed and may cause the perpetrator(s) to be removed from the hearing at the order of the chair or decision-making board.
    - g. Formal rules of evidence will not apply during the hearing, but the chair may rule that certain testimony may be excluded or shortened because of its relevance to the subject of the hearing.
    - h. Hearings conducted in accord with this Section shall generally be conducted in

the following order:

1. Opening of hearing and call to order.
  2. Introduction of hearing item explanation of request and receipt of City staff evidence and materials or applicant's representative(s).
  3. Presentation by applicant.
  4. Testimony in support, opposition, and other public testimony.
  5. Response of applicant testimony or board questions.
  6. Other response as determined by the Chair.
  7. Closure of the public hearing.
  8. Decision-making board deliberations without further unsolicited comment.
- i. Members of the decision-making board may question any participant in the hearing process concerning any representations made or questions raised in the course of the hearing or in written materials submitted prior to the hearing.
  - j. The chair of the decision-making board conducting the hearing may solicit a response to a question seeking a specific objective fact from any participant without reopening the hearing for general testimony.

(iii) Post-Hearing.

- a. At the close of the initial public hearing the decision-making board may take any of the following actions concerning the application before it:
  1. Approve the application as presented.
  2. Reject the application as presented.
  3. Approve the application subject to specific conditions as permitted by the applicable substantive City Code or Idaho Code.
  4. Table the application to allow fact finding by the City staff to receive answers to specific factual questions from the applicant or the interested public. or to defer the decision for further reflection. When a request is tabled. the final decision shall be made at a succeeding regularly scheduled meeting, or at a special meeting for which proper notice has been given. Tabling should seldom occur, due to the practical and logistical problems created thereby.
  5. Schedule a continuation of the public hearing at a specific time and place. This provision shall apply to any visit to the site in question by the decision-making board.
    - aa. Following each public hearing, the decision-making board shall reach a decision regarding the permission sought in the subject application. The deliberations and final decision shall be conducted in an open meeting, subject to the public scrutiny, and shall be made in a timely manner.
    - bb. Decisions in such applications shall be accompanied by a written Reasoned Statement of Relevant Criteria and Standards which

shall set forth the reasons for the decision-making board's decision pursuant to Idaho Code. Reasoned Statement of Relevant Criteria and Standards shall be adopted by specific motion of the decision-making board.

- cc. Adoption of Reasoned Statement of Relevant Criteria and Standards shall constitute a final decision for purposes of appeal.

(2) Two Meeting Quasi-Judicial Hearings.

- (a) General. Two Meeting Quasi-Judicial Hearings shall be required when the permit or regulatory change sought requires a sequence of two (2) or more public hearings before final action may be taken on the request. The initial public hearing shall be conducted by the Planning and Zoning Commission whose task is to prepare a recommendation for submittal to the Council. Following receipt of the recommendation from the advisory board, a second public hearing must be scheduled before the Council before a decision on the request may be rendered. Like those hearings classified as Single Meeting Quasi-Judicial Hearings the rights of individuals are at stake and the protection of those rights is a prime purpose of the required procedure. Like a Single Meeting Quasi-Judicial Hearings procedure the resulting decision from a Two Meeting Quasi-Judicial Hearings procedure is final unless appealed to a subsequent decision-making tribunal. Unlike the Single Meeting Quasi-Judicial Hearings procedure, care must be taken in the steps between the initial and second hearing to protect the interests of all parties involved. Two Meeting Quasi-Judicial Hearings are used in request for changes in zoning district boundaries, changes to the Comprehensive Plan when sought in conjunction with a request for a change in zoning district boundaries, Planned Unit Developments. (Ord. 3423, 10-28-21)
- (b) The Hearings.
  - (i) The Two Meeting Quasi-Judicial Hearings are to be conducted according to the same format as the Single Meeting Quasi-Judicial Hearings in the preceding section. The Two Meeting Quasi-Judicial Hearings procedure differs only in that two (2) successive hearings on the same matter (not on appeal) are required to complete the process. Both hearings are de novo hearings, which allow presentation of any pertinent information regardless of prior participation and/or deliberation in the process.
  - (ii) The first hearing shall be conducted by the Planning and Zoning Commission and shall be held for the purpose of formulating a recommendation to be forwarded to the Council.
  - (iii) The second hearing shall be conducted by the Council according to the same guidelines and requirements which are applied to a Single Meeting Quasi-Judicial Hearings.
- (c) Post-Hearing. At the conclusion of the public hearing held by the Council, the Council may take any of the following actions:
  - (i) Approve the recommendation of the Planning and Zoning Commission, and adopt the Planning and Zoning Commission's Reasoned Statement of Relevant Criteria and Standards.
  - (ii) Approve the recommendation of the Planning and Zoning Commission, subject to modifications to the Planning and Zoning Commission's Reasoned Statement of Relevant Criteria and Standards.
  - (iii) Render a decision different from the recommendation of the Planning and Zoning

Commission, and adopt a new Reasoned Statement of Relevant Criteria and Standards.

- (iv) Defer decision on the request to a later meeting date.
  - (v) Remand the recommendation to the Planning and Zoning Commission for clarification or further documentation of the recommendation prior to reaching a decision.
  - (d) A decision shall be deemed final when a proposal has been either approved or disapproved by the Council.
- (3) Legislative Hearings.
- (a) General. Legislative hearings shall be required for Category B annexation and when amendments are contemplated to the substantive or procedural terms of the Zoning Code, the Subdivision Code, the Sign Code, or the Comprehensive Plan. Legislative hearings are characterized by their general applicability to the community as a whole. Legislative hearings may only be initiated by City staff, the Planning and Zoning Commission, or at the direction of the Mayor or the Council.
    - (i) Legislative hearings are required when changes are proposed to the land use regulations of the City which are subject to the requirements of Title 67, Chapter 65 of the Idaho Code, such as changes to the Zoning Code, the Subdivision Code, the Sign Code, or the Comprehensive Plan.
    - (ii) Legislative hearings are required to be held twice, similar to the Two Meeting Quasi-Judicial Hearings, but legislative hearings are not subject to the same procedural restrictions as are Quasi-Judicial hearings.
    - (ii) Ex parte contacts are not forbidden in conjunction with the legislative hearing process.
  - (b) Pre-Hearing.
    - (i) A legislative hearing may be scheduled by City staff, by order of the chair of the Planning and Zoning Commission, the Mayor, the Council, or by a motion passed by a majority of the membership of the respective board involved.
    - (ii) Upon said order the City staff shall cause to be published a public notice containing the nature of the proposed change contemplated to the land use regulations of the City and the time and place of the hearing.
    - (iii) A copy of the proposed change shall be made available to the public for inspection from the time notice is published to the time of the hearing.
    - (iv) Written comments may be forwarded for consideration any time prior to a vote of the board hearing the matter, as determined by its chair.
  - (c) The Hearing.
    - (i) Testimony may be submitted in any form by any person interested in the legislative proposition, subject to rulings by the chair concerning form, length, or relevance. The chair shall be free to vary the order of hearing procedures as necessary or desirable.
    - (ii) Hearings conducted in accordance with this Section shall generally be conducted in the following order:
      - a. Opening of the hearing and call to order.
      - b. Introduction of hearing item and explanation of proposal and receipt of comment and materials presented before the public hearing.

- c. Public testimony in support, in opposition, or other testimony related to the proposal.
      - d. Closure of the public hearing.
      - e. Board deliberations without further unsolicited commitment.
    - (iii) All deliberations on matters which are the subject of legislative hearings shall be conducted in a properly called open meeting of the board considering the proposal.
  - (d) The First Hearing.
    - (i) At the close of the initial hearing, the Planning and Zoning Commission shall prepare a recommendation to the Council concerning the proposal before them. This recommendation may take any of the following forms:
      - a. Approval of the proposal as presented.
      - b. Rejection of the proposal as presented.
      - c. Approval of the proposal subject to modifications as included in the Planning and Zoning Commission's recommendation.
    - (ii) The Planning and Zoning Commission shall forward its recommendation to the Council within forty-five (45) days of the close of the initial public hearing. The recommendation shall be in writing and shall set forth the reasons for the Planning and Zoning Commission's recommendation.
    - (iii) Upon receipt of the Planning and Zoning Commission's recommendation, the Council shall determine whether to hold a second public hearing on the subject of the initial legislative hearing. Upon an affirmative finding, the City shall publish notice of a Council legislative public hearing stating its nature and the time, place, and date.
  - (e) The Second Hearing.
    - (i) Procedures for the second hearing, conducted this time before the Council, shall be the same as for the initial hearing before the Planning and Zoning Commission.
    - (ii) At the conclusion of the second hearing the Council may take any of the following actions:
      - a. Adopt the proposal in ordinance form as originally proposed or as recommended or modified by the Planning and Zoning Commission.
      - b. Reject the change as proposed.
      - c. Propose substantial modifications to the proposal originally made or to the proposal recommended by the Planning and Zoning Commission and return the substantially modified proposal to the Planning and Zoning Commission for a new initial hearing.
- (F) Appeals of Interpretation or Administration.
- (1) The Council shall review the appeal on the written record generated and/or preserved by the Board of Adjustment. Decisions made regarding appeals herein should be founded upon sound reason and practical application of recognized principles of law. When considering the merits of an appeal, no additional public testimony or information shall be taken or considered by the Council. After considering the record and the reasons for the appeal, the Council shall take one

(1) or more of the following actions:

- (a) Sustain the Decision. Sustain the decision of the Board in whole or in part.
- (b) Reverse the Decision. Reverse the decision of the Board in whole or in part.
- (c) Remand the Decision.
  - (i) Remand the matter in whole or in part to the Board with comments and/or instructions for further consideration by the Board or for remand by the Board to the Zoning Administrator in order to gather more information on the matter. The Council shall remand the appeal in whole or in part for gathering of additional material information and a subsequent decision only where it is shown by a preponderance of the evidence that there is:
    - a. New material information not available or readily discoverable at the time of the Zoning Administrator's decision; and
    - b. It is in the public interest to develop such additional material information on the matter.
  - (ii) Procedures and guidelines for an appeal in addition to that contained herein may be established from time to time by resolution of the Council.

(G) Mediation:

- (1) Mediation Request. An applicant or any affected person may, by written request submitted to the Community Development Services Department, request mediation provided that the request is received no later than within seven (7) days of an appealable decision under this Chapter.
- (2) Public Hearing. After receiving the written request, the Community Development Service Department shall present the mediation request to the Council. The Council shall evaluate the request at a public meeting and may order mediation if the Council believes the mediation may resolve the dispute.
- (3) During mediation, any time limitation relevant to the application shall be tolled. Such tolling shall cease when the applicant or any other affected person, after having participated in at least one (1) mediation session, states in writing that no further participation is desired and notifies the other parties, or upon notice of a request to mediate wherein no mediation session is scheduled for twenty-eight (28) days from the date of such request.
- (4) Pre-Mediation Conference. If the Council orders mediation, the Council shall select and pay the expense of the mediator for a first meeting with the mediator and the affected person(s). The first meeting with the mediator shall be to determine whether to schedule additional mediation meetings and to determine compensation to the mediator. The applicant and the affected parties shall be required to participate in the pre-mediation meeting; however, an applicant may decline to participate in mediation requested by an affected person and an affected person may decline to participate in mediation.
- (5) Mediation may occur at any point during the decision-making process or after a final decision is made. If mediation occurs after a final decision, any resolution of differences through mediation shall be the subject of another public meeting before the decision-making body.

(Ord. No. 3300, 2-13-20)

### **11-6-5: DECISION-MAKING CRITERIA.**

The purpose of this Section is to identify the criteria for review and decision on certain types of applications and the required Reasoned Statement of Relevant Criteria and Standards consistent with Idaho Code.

- (A) Appeal of Decisions of the Zoning Administrator. The Board of Adjustment is empowered to reverse, or affirm wholly or partly, or modify the order, requirement, decision, or determination of the Zoning Administrator.
- (B) Conditional Use Permit.
  - (1) The City Council, Board of Adjustment or Planning and Zoning Commission shall approve or deny a conditional use permit application and shall issue written Reasoned Statements of Relevant Criteria and Standards and in accordance with Idaho Code.
  - (2) In the event an application is denied, the City Council, Board of Adjustment or Planning and Zoning Commission may make recommendations to the applicant or set forth conditions under which it would approve the application and the applicant may resubmit their application.
  - (3) In addition to the conditions specified by the Zoning Code for conditional uses in each particular Zone, the City Council, Board of Adjustment, or Planning and Zoning Commission may impose additional conditions, including, but not limited to:
    - (a) Minimizing adverse impact on other developments or adjacent properties.
    - (b) Controlling the sequence and timing of development.
    - (c) Controlling the duration of development.
    - (d) Assuring the development is maintained properly.
    - (e) Designating the exact location and nature of development.
    - (f) Requiring landscaping of on-site or off-site public facilities or services.
    - (g) Restricting the hours of operation of any business or other commercial activity conducted on the premises.
    - (h) Such other conditions as may be necessary to preserve the character and harmony of the zone and avoid conflict with the general characteristics of the area designated in the Comprehensive Plan.
  - (4) Prior to granting a conditional use permit, the City Council, Planning and Zoning Commission, or Board of Adjustment may require studies of the social, economic, fiscal or environmental effects of the proposed conditional use, and may require the submission of a development plan as set forth in Section 11-3-6B of this Code. (Ord. 3241, 3-14-19)
  - (5) A conditional use permit is not transferable from one (1) parcel of land to another.
  - (6) Abandonment of or non-use of a conditional use permit for a period of twelve (12) consecutive months shall terminate said conditional use permit, and any privileges granted shall be null and void.
  - (7) Failure to comply with the conditions of approval for a conditional use permit shall be cause for termination of the approval and shall be deemed to be a violation of this Code.
- (C) Conditional Use Permit to Allow Structures Buildings Within Seventy-Five feet (75') of the Banks of



a Designated Natural Flood Channel may be approved subject to the following conditions:

- (1) Adequate measures are taken to insure the uninterrupted flow of water during floods.
  - (2) Adequate measures are taken to protect the building or structure from damage due to floods.
  - (3) Flood damage hazard to surrounding land and improvements will not be increased as a result of the construction of a building or structure for which a permit is requested.
  - (4) All structures will be located in accordance with the plan of flood drainage adopted by the Council.
  - (5) Applicant has submitted a complete Flood Elevation Certificate.
- (D) Permit for Moving a Building, Including Locating a Mobile or Manufactured Home on a Permanent Foundation.
- (1) The building and lot on which the building is to be located conform to the requirements of this Code.
  - (2) All dedications and improvements, as required by the City for streets and facilities and buildings, shall be provided in conformity with the standards of the City.
  - (3) For mobile homes, the applicant must provide certification from the State of Idaho and the Department of Housing and Urban Development that the structure meets all applicable codes making the structure suitable for human occupancy.
- (G) Variances.
- (1) A variance is a permit issued by the Board of Adjustment pursuant to Idaho Code.
  - (2) A variances may be issued for the area, width, location, height, and lot coverage requirements as set forth in Chapter 3 Zoning Regulations and Chapter 5 Overlay Zones Regulations of this Code and from the regulations in Chapter 4 Design and Development Regulations of this Code which regulate the manner in which conforming uses are developed.
  - (3) Approval of a variance shall be based on the following findings:
    - (a) Undue hardship results from physical limitations on development unique to the property upon which the variance is requested and such hardship is not generally applicable to other properties in the same Zone.
    - (b) Such hardship is not economic in nature not has it been created by the owner of the property or occupant.
    - (c) Granting the variance will not be in conflict with the public interest or create a nuisance or potential harm to the neighborhood in which the lot is located.
- (H) Waiver from the Minimum Lot Size of Thirty Thousand Square Feet (30,000 ft<sup>2</sup>) in the PT Zone.
- (1) A waiver maybe allowed based on the following findings:
    - (a) That the use cannot be practicably developed without the reduced minimum lot size.
    - (b) That the applicant can satisfy the performance standards set forth by use of the improvements, premises and facilities of a contiguous use.

- (2) The issuance of a permit for a use having less than thirty thousand square feet (30,000 ft<sup>2</sup>) may be conditioned upon the conveyance, dedication, grant or joint use agreement between the applicant and the owner of the contiguous use as may be required by the Commission and Council in order to demonstrate the applicant's ability to meet the performance standards. The documents of conveyance or agreement shall include a provision that the document of conveyance or agreement shall be irrevocable without the express written consent of the Council.
- (I) Amendments to the Zoning Code or Zoning Map. Amendments to the Zoning Code or Zoning Map, including changes to existing zoning map, the existing zoning map, or zoning for proposed areas of annexation, may be allowed subject to the following findings:
    - (1) The Zoning is consistent with the principles of City's adopted Comprehensive Plan, as required by Idaho Code.
    - (2) The potential effects on the following:
      - (a) Traffic congestion as a result of development or changing land use in the area and the need that may be created for wider streets, additional turning lanes and signals, and other transportation improvements.
      - (b) Exceeding the capacity of existing public services, including, but not limited to: schools, public safety services, emergency medical services, solid waste collection and disposal, water and sewer services, other public utilities, and parks and recreational services.
      - (c) Nuisances or health and safety hazards that could have an adverse effect on adjoining properties.
      - (d) Recent changes in land use on adjoining parcels or in the neighborhood of the proposed Zoning Map amendment.
  - (J) Amendments to Tower Overlay Zones. In addition to the required findings for zone change as set forth in Section 11-5-6I, amendments to the Tower Overlay Zones may be allowed subject to the following findings:
    - (1) That the requested amendment is consistent with the purposes for Towers and Antennas as set forth in Section 11-5-2A of this Code.
    - (2) That as demonstrated by the applicant, that no existing tower, structure, property within an existing Zone, or alternative technology can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate no existing Zone or technology can accommodate the applicant's proposed antenna may consist of any of the following:
      - (a) No existing towers or structures are located within the existing Zones which meet applicant's engineering requirements in terms of location, height, or structural strength.
      - (b) No existing sites are located within the existing Zones which meet engineering location requirements.
      - (c) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
      - (d) The fees, costs, or contractual provisions required by an owner in order to share an existing tower or structure, adapt an existing tower or structure for sharing, or locate a tower or antenna are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- (e) An alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

#### **11-6-6: REQUIRED IMPROVEMENTS.**

(A) Standards.

- (1) The Zoning Administrator may specify the manner of installing or constructing all required improvements necessary to assure compliance with the requirements of this Code.
- (2) As determined by the Zoning Administrator improvement drawings and specifications shall be required in the application for a permit.
- (3) The installation of all required improvements shall conform to the City Standard drawings and Engineering specifications and any other design or construction standards adopted by ordinance.
- (4) The applicant shall file improvement drawings and specifications for all required improvements and shall obtain the approval of the Planning Administrator prior to the commencement of their construction.

(B) Inspection. The City may inspect all required improvements during construction, and upon a finding that such improvements are not being constructed in conformity with the specifications set forth in Section 11-6-6A, the City may order construction to cease and may withhold the issuance of any Certificate of Occupancy.

(C) Installation of Required Improvement.

- (1) All required improvements shall be installed at the applicant's expense.
- (2) All requests for phasing required improvements shall be submitted as part of the application for a permit, and phased installation may be permitted if the phasing was a condition for the issuance of the permit.
- (3) Phasing shall be permitted only upon a specific finding Zoning Administrator that such phasing will not violate the performance standards set forth in the review of the application and upon the following additional conditions:
  - (a) One-half of the required improvements shall be commenced within one year from the date the permit is issued.
  - (b) All required improvements shall be completed within three (3) years from the date the permit is issued.

(D) Completion of Required Improvements. All required improvements shall be completed prior to occupancy or use of any portion of the property.

(E) Continuous Obligations for Maintenance.

- (1) All required improvements not dedicated to the public shall be maintained in a good state of care, condition and repair at all times. All such required improvements which become functionally obsolete or worn out shall be replaced with a comparable improvement.
- (2) Any applicant or owner of property who fails to maintain any privately owned required improvement in accordance with the approved plans shall be deemed to be in violation of this Zoning Code.
- (3) The City may enforce against person or entity that fails to complete the required improvements

using the procedure set forth in Section 11-6-7 of this Code.

#### **11-6-7: ENFORCEMENT.**

- (A) Continuing Obligation. Maintenance of improvements, conditions of approvals, and requirements of this code shall be a continuing obligation of the applicant or their successors. Any failure to meet these obligations shall be deemed a violation of the Code and subject to the penalties set forth in Title 1, Chapter 3 General Penalty Provisions of City Code.
- (B) Violation. Any person or entity that violates any provisions of this Code shall be guilty of a misdemeanor, and upon conviction shall be subject to penalties as set forth in City Code.
- (C) Procedures for Enforcement.
  - (1) A written notice of failure to maintain the required improvements, conditions of approval, or requirements of this Code shall be served upon all owners of record of the property. The notice shall be in writing and shall be mailed to the owner(s)'s or address last shown on the records of the Bonneville County Assessor. Service of the notice shall be deemed to be complete upon its deposit in the U.S. mail, postage prepaid in the manner set forth above. The notice shall contain a brief description of the terms of the maintenance plan, conditions of approval or violation of the Code.
  - (2) Any person receiving the notice, may, within ten (10) days of the date of service, request a hearing before the Board of Adjustment, which request shall be delivered to the Zoning Administrator. Following receipt of the request, the Zoning Administrator shall deliver the request to the Board of Adjustment which shall hold a hearing within twenty (20) days from that date. At the hearing, the person may request a reasonable extension of time for curing their failure to comply or otherwise demonstrate good cause why they should not be required to comply. (Ord. 3218, 9-13-18)
  - (3) If compliance is not completed within thirty (30) days after the date the notice of failure to maintain the public improvements was served, or any extension allowed by the Board of Adjustment, the owner or owners of the property subject thereto shall be deemed to be in violation of this Zoning Code, and shall be subject to the penalties set forth in Title 1, Chapter 3 General Penalty Provisions of City Code. (Ord. 3233, 12-20-18)
- (D) Nuisance. Any building or structure which has been set up, erected, constructed, altered, enlarged, converted, moved, remodeled or maintained contrary to the provisions of this Code, and any use of land or building or premises established, conducted, maintained or operated contrary to the provisions of this Code are hereby declared to be unlawful and opposed to the orderly development of the community and shall therefore be considered a public nuisance.

#### **11-6-8: THE NEIGHBORHOOD MEETING**

- (A) Purpose. The purpose of the Neighborhood Meeting is to allow the developer to present the proposal to neighbors and other members of the public prior to the formal public hearing so that the parties can discuss and consider neighborhood impacts, compatibility, public safety, mitigation of impacts, design and construction elements, traffic, and the like. The Neighborhood Meeting gives the developer the opportunity to explain how the proposed development is consistent with the principles in the Comprehensive Plan and complies with this Code. A further purpose is to allow developers to have related applications considered concurrently by the hearing bodies.
- (B) When Required.
  - (1) A Neighborhood Meeting shall be required for each of the land use matters below. Where

the applicant desires to file more than one (1) application involving the same project and/or property and desires all related applications to be considered within the same hearing, only one Neighborhood Meeting shall be necessary, as long as all relevant applications are discussed in such Neighborhood Meeting.

- (2) A Neighborhood Meeting shall be required as a prerequisite to filing of an application with the City for the following land use matters:
  - (a) Preliminary Plat;
  - (b) Planned Unit Development;
  - (c) Rezoning;
  - (d) Conditional Use Permit; or
  - (e) Any combination of the foregoing.

(C) Notice of Meeting.

- (1) Notice of the Neighborhood Meeting shall be given to all property owners of record within three hundred feet (300') of the subject property. Such notice shall be provided at least fourteen (14) days before the first Neighborhood Meeting regarding the subject property. Notice of the Neighborhood Meeting shall be made by mail to the current or last known address of the property owners of record. Property owners of record shall be determined by review of records in the possession of Bonneville County. Alternatively, the City may provide a list of property owners to the applicant upon receipt by the City of the proper request form and the appropriate fee.
- (2) Notice shall include a vicinity map, the general nature of the proposal, the size of the land, the number of lots/dwelling units, the date, time and location of the meeting, and the name, address, telephone number and email address of a contact person. The Neighborhood Meeting shall be set at a date, time, and place reasonably calculated to facilitate the attendance of the property owners who are required to receive notice. Evening meetings during the work week are encouraged.

(D) Format.

- (1) General. The applicant or applicant's representative shall conduct the Neighborhood Meeting according to orderly procedures. The person conducting should provide the participants in the Neighborhood Meeting a fair chance to be heard. The person conducting will have the authority to recognize participants in the Meeting and to maintain order in the conduct of the Neighborhood Meeting. Formal rules of evidence will not apply during the Neighborhood Meeting, but the person conducting may limit the duration of comments or presentation where necessary to give the broadest number of participants the opportunity to express their views.
- (2) Order. The Neighborhood Meeting shall generally be conducted in the following order; however, the Meeting should not be so formal that it precludes or unduly limits participation by those in attendance nor should it be so unruly that information gathering and exchange cannot occur:
  - (a) Opening of the Neighborhood Meeting and a call to order;
  - (b) Introduction of the proposal/project by the applicant and/or the applicant's representatives;
  - (c) Public comments in support of the application;

- (d) Public comments in opposition of the application;
  - (e) Questions and/or other public testimony;
  - (f) A response of the applicant (if desired by applicant);
  - (g) Any related business; and
  - (h) Close of the Neighborhood Meeting.
- (3) Other. Conduct by all participating in the Neighborhood Meeting should be respectful, should avoid personal attack, and should be directed toward gathering and exchanging information regarding the proposal(s).
- (E) Scope. Each Neighborhood Meeting shall be conducted so that those in attendance can discuss the project/proposal which is the subject of the application(s) to be filed. Where more than one (1) application is to be considered in the same public hearing, the Meeting shall include discussion of all related matters. For example, where there is to be a submittal for a rezoning along with a preliminary plat, both shall be thoroughly discussed in the Neighborhood Meeting.
- (F) Submission of Neighborhood Meeting Materials to City.
- (1) Time to submit materials. Neighborhood Meeting materials required to be submitted pursuant to this Code shall be submitted with the application(s) and relevant fee(s).
  - (2) Materials to be submitted. The following shall be submitted to the City with the original filing of the land use application(s) and shall constitute part of such land use application(s):
    - (a) Time, date and location of the Neighborhood Meeting;
    - (b) Names and addresses of property owners to whom notice was sent;
    - (c) Names and addresses of all attendees;
    - (d) Summary of comments, suggestions and discussion;
    - (e) Applicant's response to comments, suggestions and discussion, including any modifications made or intended to be made to the project proposal/application as a result of the Neighborhood Meeting comments; and
    - (f) Materials utilized or submitted (including plans, proposals, designs, power point presentations, maps, handouts, petitions, letters, studies, etc.) shall be submitted with the application for the related project(s). The summary of comments, suggestions and discussion should be extensive enough to allow the reader to understand what occurred.
    - (g) A verbatim transcript of the Neighborhood Meeting is not required nor is a video and/or audio tape (unless the applicant wishes to submit it).
- (G) Notice of Hearing. Following receipt by City staff of the required submittals with the application and fee(s), notice of a public hearing on the related application(s) shall be scheduled before the Planning and Zoning Commission. If required, notice of such public hearing shall take place not less than fifteen (15) days prior to the required public hearing before the Planning and Zoning Commission pursuant to this Code.

(Ord. 3423, 10-28-21)

**CHAPTER 7  
APPENDICES**

**11-7-1: DEFINITIONS.**

Land Use Classification	Definition
<b>Accessory use</b>	A use that is incidental and subordinate to the principal use, conducted upon the same property. The accessory use must be a permitted use in the designated zoning. (Ord. 3233, 12-20-18)
<b>Accessory Structure</b>	A detached structure that is incidental and subordinate to the primary structure and is located upon the same property. The term accessory structure shall include, but not be limited to, the following: private garage, storage structure, workshop, and/or greenhouse.
<b>Adult Business</b>	See Adult Business Chapter of the Code.
<b>Agriculture</b>	The use of land for farming, pasturage, aquaculture, horticulture, floriculture, viticulture, and animal husbandry, including riding stables and equestrian schools and the associated accessory structures for packing, treating and storing produce to standard industry practices. "Agriculture" does not include commercial stock yards or feed yards, where a concentration of livestock is fed for the purpose of fattening for market. (Ord. 3496, 12-8-22)
<b>Agriculture Tourism</b>	The use of working agricultural lands for commercial purposes including farm stands, roadside markets, orchards, wineries, pumpkin patches , U-pick operations, corn mazes, hayrides, farm stays, farm tours, petting farms, on-farm retail dairies and creameries, on-farm restaurants or cafes, on-farm retail, farm museums and education related purposes.
<b>Agriculture Sales and Service</b>	The use of a site for the sale and rental of farm tools, and implements, feed, grain, tack, animal care products, and farm supplies.  Agriculture sales and services shall not include the sale of large machinery, such as tractors and combines that are activities classified as Equipment Sales, Rental and Service.
<b>Airport</b>	The use of a site for the take-off and landing of aircraft, and other associated activities including, aircraft maintenance and storage; aviation training; regulation of air traffic control; passenger terminals; parking; and vehicle rentals.
<b>Airport Elevation</b>	The highest point of an airport's usable landing area measured in feet from mean sea level. (Ord. 3248, 5-9-19)
<b>Airport Disclosure Note</b>	A required note on a record plat that discloses the properties proximity to the airport, potential noise impacts, and future improvements and aircraft operations of the Idaho Falls Regional Airport. (Ord. 3248, 5-9-19)
<b>Alley</b>	A public way primarily for utility use and for servicing the contiguous property.
<b>Amenity</b>	An area of activity, either indoor or outdoor, designed to be accessible to and principally for the use of persons residing or working within a development. An amenity may be located within the required common space, for example, a playground placed within a common yard. (Ord. 3452, 3-31-22)

<b>Amusement Center</b>	The use of a building for indoor amusement including, but not limited to, video games, laser games, bingo, pool, billiards, card rooms, bowling alleys, shooting ranges, child amusement rides, and indoor playground facilities.
<b>Amusement Center, Outdoors</b>	The use of a site that contains outdoor amusement facilities, such as miniature golf courses, water parks, amusement parks, movie theaters, race tracks, or zoos.
<b>Animal Care Clinic</b>	The use of a site where small animals or household pets weighing less than two hundred pounds (200lbs) are given animal daycare, grooming, medical or surgical treatment and are cared for during the time of such treatment.
<b>Animal Care Facility</b>	The use of a site that is designed or used for the boarding, care, grooming, diagnosis or treatment of four (4) or more animals, including all animals over two hundred pounds (200lbs). Animal care shall include an animal clinic, animal hospital, or veterinary office or kennel. Care of smaller animals is also classified as “Animal Care Clinic”.
<b>Antenna</b>	An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
<b>Applicant</b>	An individual, firm, corporation, partnership, association, syndicate, trust or other legal entity that executes an application. The applicant need not be the owner of the property; however, he shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.
<b>Artist Studio</b>	The use of a site for the practice and instruction of applied arts or crafts or performing arts.
<b>Auction, Livestock</b>	The use of a site for the sale of livestock to the highest bidder.
<b>Base Flood</b>	The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.
<b>Base Flood Elevation</b>	The computed elevation to which floodwater is anticipated to rise during the base flood.
<b>Basement</b>	The story or level of a building which is partially or totally below ground level.
<b>Bed and Breakfast</b>	A building which has no more than eight (8) sleeping rooms for guests to stay of less than thirty (30) days. “Bed and breakfast” shall not include boarding /rooming house, lodging facility, group dwelling unit or short term rental as defined by this Zoning Code
<b>Boarding /Rooming House</b>	A building, other than a lodging facility, or bed and breakfast where meals or sleeping accommodations are provided for compensation for more than thirty (30) days.



<b>Building</b>	Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
	Grade: The average of the finished ground level at the center of exterior walls of a building.
	Height: The vertical distance from the grade to top of building walls. Where the building walls vary in height along a side yard, the height of the building shall be determined by multiplying the length of each section of the wall by its height and dividing the sum derived by the total length of the wall.
	Main: One (1) or more of the principal buildings upon a lot.
<b>Building Contractor Shop</b>	The use of a site for exclusive use of a building contractor and employees that is not a "storage yard."
<b>Building, Garden and Farm Supplies</b>	The use of a site for the retail sale and service of merchandise typically, used for home, farm and garden improvements. Building, garden and farm supplies includes but is not limited to; home and garden centers; hardware stores; lawn and garden equipment supply stores; paint and wall paper stores; building supply stores; lumber yards; nursery, garden and farm supply stores
<b>Carport</b>	An unenclosed structure for the storage of automobiles.
<b>Cemetery</b>	The use of a site for the permanent preservation of human remains and which is dedicated for cemetery purposes. Cemetery purposes may include columbarium, crematorium, mausoleum, and mortuary operated in conjunction with the cemetery.
<b>Change of Use</b>	An enlargement of the use through the addition of more square footage devoted to the use; or if a use changes from one category to another as listed in Chapter 2 Land Use Regulations allowed uses in all zones.
<b>Clear Vision Triangle</b>	A triangular area on a corner lot within which there are certain height limitations in order to provide sight distance for vehicles.
<b>Club</b>	The use of a site owned or operated by an organized association of persons for a social, literary, political, educational and/or recreational purpose that is primarily operated for the exclusive use of members and their guests; and not primarily operated for profit or to render a service customarily carried on as a business.
<b>Commercial Vehicle</b>	A vehicle used for the transportation of persons or property for hire, compensation or profit, or used in connection with the operation of a business or home occupation.
<b>Common Space</b>	Land which is held in common by all property owners in the PUD and is accessible to all occupants of the PUD. Common spaces shall not include areas within any road (excluding landscaped medians within private roads), driveway, parking area, sidewalk contiguous to a street right-of-way, required landscape strip or buffer, or a drainage facility that does not include additional physical amenities other than open space.
<b>Communication Facility</b>	The use of a site for broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, and excluding "public service facilities" and "personal wireless service facilities."
<b>Comprehensive Plan</b>	A plan which has been adopted by the Council pursuant to Idaho Code Section 67-6508 for the purpose of guiding development in the City.

<b>Conditional Use</b>	A use that because of peculiar characteristics, size, operations, location with reference to surroundings, streets and existing improvements, or demands upon public facilities is allowed in a zone subject to approval by the Planning and Zoning Commission or Board of Adjustment and subject to special requirements in accordance with Chapter 6 Administration of the Zoning Code and as enabled by IC §67-6512.
<b>Conical Surface</b>	A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one feet (20:1) for a horizontal distance of four thousand feet (4000') (Ord. 3248, 5-9-19)
<b>Correctional Facility or Jail</b>	The use of a site for housing, care, and supervision of persons confined by law.
<b>Day Care</b>	The use of a home, structure or place where non-medical care, protection or supervision is regularly provided to children under twelve (12) years of age, or disabled persons of any age, for periods less than twenty-four (24) hours per day, while the parents or guardians are not on the premises. There are three types of day care facilities distinguished by the number of individuals served:
	<b>Day care, center:</b> more than thirteen (13).
	<b>Day care, group:</b> more than six (6) but no greater than thirteen (13).
	<b>Day care, home:</b> five (5) or fewer.
<b>Density</b>	A unit of measurement, the number of dwelling units per acre of land.
<b>Drinking Establishment</b>	The use of a site primarily for the sale or dispensing of liquor by the drink or glass, but not including eating establishments with a wine and beer license where the principal business is serving food. The drinking establishment includes, but is not limited to a bar, brewery, lounge, night club, and tavern.
<b>Drive-Through Establishment</b>	The use of a site where the principle business is transacted directly with customers who are in a motor vehicle. The term drive-through establishment shall include, but not be limited to, providing food or beverage service, bank service, prescription drugs, and/or film processing. The term “drive-through establishment” shall not include fuel sales facility or vehicle washing facility as herein defined.
<b>Dwelling Unit</b>	<p>A structure(s) designed for or occupied exclusively by one (1) “household,” for living or sleeping purposes and having one (1) kitchen or set of cooking facilities, or group residence in which eight (8) or fewer unrelated persons with disabilities, elderly persons, or minors when in a facility licensed by the State of Idaho and who are supervised at the group residence in connection with their disability or age related infirmity under the following conditions:</p> <ol style="list-style-type: none"> <li>1. Resident staff, if employed, need not be related to each other or to any of the persons with disabilities, elderly persons, or minors residing in the group residence</li> <li>2. No more than two (2) of such staff shall reside in the dwelling at any one time.</li> </ol> <p>The term dwelling does not include boarding /rooming house, lodging, residential care facility or recreational vehicle.</p>
<b>Dwelling, Accessory Unit</b>	A dwelling unit that is incidental and subordinate to the principal use of the premises and that does not alter the essential characteristic of the use. In commercial and industrial zones, these units may be allowed for use as a custodial or caretaker dwelling unit.

<b>Dwelling, Multi Unit Attached</b>	A structure containing more than two (2) dwelling units attached by a common wall or walls, where each dwelling unit is located on a separate lot and each unit has open space on at least two (2) sides.
<b>Dwelling, Single Unit Attached</b>	A structure containing three (3) dwelling units attached by a common wall or walls, where each dwelling unit is located on a separate lot. (Ord. 3496, 12-8-22)
<b>Dwelling, Single Unit Detached</b>	A structure consisting of only a single dwelling unit separated from all other dwelling units by open space.
<b>Dwelling, Two-Unit</b>	A structure consisting of two (2) dwelling units which may either be attached side by side or one (1) above the other.
<b>Dwelling, Multi-Unit</b>	A structure, or portion thereof, that contains four (4) or more dwelling units, where all such units are located on the same property. (Ord. 3496, 12-8-22)
<b>Eating Establishment</b>	The use of a site where food items are prepared, served and consumed by patrons, primarily on-site. The serving of alcoholic beverages may also be provided but is secondary to the service of food. Eating establishment includes, but is not limited to: a café, coffee shop, delicatessen, diner, eatery, grill, pizza parlor, restaurant, and sushi bar.
<b>Eating Establishment, Limited</b>	The use of a site for an establishment not exceeding a total of three thousand square feet (3,000 ft <sup>2</sup> ), where a limited number of food items are prepared, served and consumed by patrons on or off the site. Eating establishment, limited includes but is not limited to: a coffee shop, delicatessen, pizza parlor, retail bakery, fast food, sushi bar, and food stand.
<b>Entertainment and Cultural Facility</b>	The use of a site that provides space for performing and visual arts, film or cultural activities.
<b>Equipment Sales, Rental and Service</b>	The use of a site the sale, rental or servicing of farm and construction heavy equipment and vehicles; machinery; tools; and other similar industrial equipment but excluding junk yards and auto wrecking yards.
<b>Existing Communications Structure</b>	Support structure or any other structure, including but not limited to, base stations, buildings, water tanks, transmission towers, poles, light poles, traffic signal poles, signs, or similar structures to which a Small Wireless Facility can be attached and that was in existence on or prior to July 1, 2019.
<b>Financial Institutions</b>	The use of a site for lending, exchanging and handling money or currency for customers. Financial Institutions includes, but is not limited to credit unions, savings and loan, commercial banks, cash machines, insurance agents, and loan establishments.
<b>Flood Insurance Rate Map (FIRM)</b>	The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
<b>Floodway</b>	The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').
<b>Floor Area</b>	The sum of the areas of the several floors of the building, including basements, mezzanine and intermediate floored tiers and penthouses of headroom height, measured from the exterior walls or from the centerline of walls separating buildings. Covered walkways, open, roofed-over areas that are paved, porches, and similar spaces shall have an area factor of 0.50. The floor area does not include such features as pipe trenches, exterior terraces or steps, chimneys, roof overhangs, or other similar areas or facilities.

<b>Food Products, Processing</b>	The use of a site for producing, manufacturing, processing or storage of food products. Food products (processing) includes, but is not limited to beverages, coffee, ice, snacks, fruits, vegetables, spices, confectionery, meat, seafood, and dairy products. May include retail sales of products on the premises.
<b>Food Products, Processing (Small Scale)</b>	The use of a site not exceeding three thousand a total of square feet (3,000 ft <sup>2</sup> ) for producing, manufacturing, processing, or storage of food products on a small scale and limited production. The use includes but is not limited to catering, smoking and curing, canning and preserving. Typically also includes retail sales of products on the premises.
<b>Food Store</b>	The use of a site for the sale of fresh, partially or fully prepared food for off-site consumption with an inventory of consumable goods, toiletries, cleaning supplies, and household supplies. “Food store” includes grocery store, delicatessens, bakery and convenience stores.
<b>Fuel Station</b>	The use of a site which has no more than eight (8) fuel dispensing pumps. The term shall exclude bulk wholesale fuel dispensing facilities.
<b>Fuel Station, Super</b>	The use of a site for the sale of motor fuel and automotive related merchandise. The use may also include bulk wholesale fuel dispensing facilities, a convenience store selling a limited number of groceries and self-service items. The use has nine (9) or more gasoline dispensing pumps.
<b>Guest</b>	A person staying or receiving services at a lodging facility, boarding house, rooming house or rest home, or similar use for compensation.
<b>Grade</b>	The elevation of the finished surface of the ground adjacent to the exterior wall of a building or structure.
<b>Hazard to Air Navigation</b>	An obstruction or interference determined to have a substantial adverse effect on the safe and efficient utilization of navigable airspace. (Ord. 3248, 5-9-19)
<b>Health Care and Social Services</b>	The use of a site for ambulatory health care services. Health care and social services included offices of dentists; physicians; chiropractors; optometrists; mental health practitioners; physical, occupational and speech therapists; audiologists; outpatient care centers; family planning centers, medical and diagnostic laboratories, imaging centers, kidney dialysis centers; blood and organ banks, and clinics.
<b>Height</b>	The datum shall be mean sea level elevation, unless otherwise specified. (Ord. 3248, 5-9-19)
<b>Higher Education Center</b>	The use of a site for institutions of higher learning, post-high school, including colleges and technical training centers.
<b>Home Occupation</b>	An occupation or profession conducted entirely within a dwelling unit or an accessory building and carried on by persons residing on the premises and clearly incidental to a residential use.
<b>Hospital</b>	The use of a site primarily for the maintenance and operation of medical or surgical care of patients twenty four (24) hours a day. “Hospital” does not include clinic, convalescent, or boarding /rooming house, residential care facility or other types of cases necessitating forcible confinement of patients.
<b>Household</b>	One (1) or more individuals occupying a dwelling unit and living as a single household unit, and pursuant to IC §67-6531 any group residence in which eight (8) or fewer unrelated persons with disabilities or elderly persons reside and who are supervised at the group residence in connection with their disability or age related infirmity.

<b>Household Pet</b>	A dog, cat, fowl, reptile, fish, rodent or similar domestic animal weighing less than two hundred pounds (200 lbs.) at full maturity.
<b>Improvement</b>	Any alteration to the land or other physical constructions associated with building site developments.
<b>Industry, Craftsman</b>	The use of the site not exceeding one thousand five hundred square feet (1,500 ft <sup>2</sup> ) for small-scale, craftsman-operated production of materials, assembly of parts, or the blending of materials including wood, metal, plastics, canvas, fabrics, computer components, electronics, oils, and resins; the sale of works produced and instruction. “Craftsman-Industry” includes but is not limited to; artist studios, jewelry manufacturing, candle-making, furniture and re-finishing, machine shops, cabinet makers, sign shops, and frame shops.
<b>Industry, Heavy</b>	A use engaged in the basic processing and manufacturing of materials or products, predominately from extracted or raw materials or engaged in storage or manufacturing processes using flammable or explosive materials. Or storage or manufacturing processes that involve hazardous or commonly recognized offensive conditions. This also includes the distribution of such products and parts. (Ord. 3210, 8-23-18)
<b>Industry, Light</b>	The use of a site for the manufacture, processing, fabrication, assembly, treatment, publishing, and/or packaging of finished products or parts, predominantly from previously prepared materials. This also includes the distribution of such products and parts. (Ord. 3210, 8-23-18)
<b>In-Fill</b>	Development designed to occupy vacant land that remains after the majority of development has occurred in an area.
<b>Information Technology</b>	The use of a site for processing data. The use includes, but is not limited to, internet and software; recording and broadcasting studios; data processing centers, internet providers and other information systems.
<b>Laundry and Dry Cleaning</b>	The use of a site for the pick-up and delivery of dry cleaning and laundry without the operation of a laundry or dry cleaning on site.
<b>Live-Work Unit</b>	The use of a site for commercial or small scale manufacturing activity and dwelling unit(s) located within, near or contiguous to the working space.
<b>Lodging Facility</b>	A building that is designed for or is occupied by guests for a stay of thirty (30) days or less. Physical features of a lodging facility generally include sleeping rooms, sanitary facilities, and a registration/lobby area for guests. Hotels, inns, and motels, as defined by this Zoning Code, are lodging facilities. Bed and breakfasts, recreation vehicle parks, and short term rentals, as defined by this Zoning Code, are not lodging facilities.
<b>Lot</b>	Real property occupied or to be occupied by a building or buildings, together with open spaces associated with the use(s) on the lot.  <b>Corner:</b> A lot situated at a junction of two (2) public streets, or situated on a curved street whose radius is thirty five feet (35’) or less, and where the angle formed by the intersection of the tangent is one hundred and five degrees (105°) or less.  <b>Interior:</b> A lot with only one (1) frontage on a street.
<b>Manufactured Home</b>	A structure, constructed after June 15, 1976, pursuant to Idaho Code HUD manufactured home construction and safety standards.
<b>Medical Support Facilities</b>	The use of a site to store and sale medical supplies and equipment, and medical waste storage and disposal.

<b>Mixed Use Development</b>	A development that combines both residential and limited commercial uses within the same physical structure or in close proximity within the same development and where both uses exist individually and are not accessory to each other.
<b>Mobile Home</b>	Factory-assembled structure(s) generally constructed prior to June 15, 1976 as defined by Idaho Code.
<b>Mobile/Manufactured Home Park</b>	Any parcel of ground two (2) acres or more upon which two (2) or more manufactured homes and/or mobile homes are located. A mobile/manufactured home park shall not include a location used by mobile home dealers exclusively for the display, storage or sale of manufactured/mobile homes. (Ord. 3452, 3-31-22)
<b>Monopole</b>	A single, freestanding, self-supporting pole-type structure supporting one (1) or more antenna. A pole, light pole, traffic light, and any pole used for adornment may qualify as a monopole.
<b>Mortuary</b>	The use of a site in which deceased human bodies are kept temporarily while prepared for burial or cremation.
<b>Nonconforming</b>	<p><b>Building:</b> Any structure that legally existed prior to the adoption date of this code, or at the time of annexation or rezone, which does not conform to the site area, coverage, setback, open space, height, or other regulations prescribing physical development standards for the zone in which it is located.</p> <p><b>Lot:</b> A lot that lawfully existed prior to the effective date of this title, but that does not now conform to the dimensional standards for the zone in which it is located.</p> <p><b>Use:</b> A use which does not conform to the provisions of the Zoning Code, but which was in existence at the effective date of the Zoning Code or any amendment to the Code.</p>
<b>Neighborhood Meeting</b>	A meeting required to be held and conducted by an applicant for certain types of proposed land use changes in order to provide an opportunity for dialogue between the applicant and the public, especially those who live close to the property that is the subject of the application. The Neighborhood Meeting must be held in advance of any quasi-judicial hearing of the application pursuant to the Local Land Use Planning Act. (Ord. 3423, 10-28-21)
<b>Open Space</b>	An area substantially open to the sky and suitable for outdoor recreation or enjoyment. The term open space may include, but is not limited to parks, playgrounds, water areas, landscaping, patios, enclosed yards, sports courts, swimming pools, and picnic areas. The term shall not include impervious surface area such as parking and driveways.
<b>Parcel</b>	A lot.
<b>Park and Recreation Facility</b>	The use of a site which has been dedicated, designed for, or used for outdoor recreation activities, including City parks and playgrounds, church or club-sponsored parks and playgrounds and the like, but not including outdoor theaters and similar commercial recreational activities.
<b>Parking Facility</b>	The use of a site for parking vehicles for a fee. "Parking facility" includes surface lots and garages, but shall not include the storage of wrecked or dismantled automobiles.

<b>Parking Space</b>	Space within a building or parking area, exclusive of drive-ways, ramps, columns, booths, and office and maintenance facilities in an area for the exclusive purpose of vehicular parking.
<b>Pawn Shop</b>	The use of a site for the transaction that loans money on the security of pledges of personal property; or deposits or conditional sales of personal property; or the purchase or sale of personal property.
<b>Personal Service</b>	The use of a site for the provision of individualized services generally related to personal needs. “Personal service” include, but are not limited to, beauty and health care services (such as salons, hair nail and skin care, spa, and barbers); locksmiths; and repairs such as footwear and leather goods, electronics, and watches.
<b>Planned Unit Development</b>	A development planned as a whole that demonstrates innovation in design to protect natural features or create public amenities through more flexible standards, (such as lot sizes, densities and setbacks), than would normally apply under the Zoning Code.
<b>Primary Surface</b>	A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200’) beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (Ord 3248, 5-9-19)
<b>Professional Service</b>	The use of a site for the provision of professional service uses including, but not limited to; accountants, architects, landscape architects and other design services; computer designers; printers and engravers; consultants; lawyers; media advisors; photography studios, and title companies.
<b>Public Service Facility</b>	The use of a site for a public utility or infrastructure. “Public service facility” includes power plants and substations; water treatment plants or pumping stations, transmission, sewage disposal or pumping plants; recycling centers; storage yards; well-houses, and other similar public service structures.
<b>Public Service Facility, Limited</b>	Small-scale public infrastructure such as storm ponds, lift stations, and other similar utility infrastructure.
<b>Public Service Use</b>	The use of a site for administrative, judicial and cultural activities provided to the public from the city, state or federal government; and non-profit organizations.
<b>Railroad Freight Terminal and Station</b>	The use of a site for the freight and passenger pick-up, and may also include a freight distribution facility for truck or shipping transport.
<b>Recreational Vehicle</b>	Any vehicle or unit mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of a size or weight for which unrestricted use of the highways of the state can be made without a special highway use permit. The term shall not include a van or camper shell which does not have self-contained sleeping accommodations, eating or restroom facilities. The term recreational mobile homes shall include, without limitation, all travel trailers, self-propelled motor home units, self-contained campers and camping tent-trailers.
<b>Recreation Vehicle Park</b>	The use of a site by two (2) or more recreational vehicles or travel trailers for temporary living.

<b>Redeveloping</b>	A parcel of land that has been previously developed or subdivided and to which municipal water, sewer, power, police, fire and other services are already available, but that has never been built upon, or where existing buildings are vacant or underutilized and where new building, infrastructure or other development activity is intended to take place.
<b>Religious Institution</b>	An establishment that by design and construction is primarily intended for the use of conducting organized religious services, meetings, and associated activities and that is recognized as a religious corporation or society of the State of Idaho with a state tax exempt status in accord with Idaho Code.
<b>Replacement Pole</b>	A new support structure of proportions and of equal or lesser height or such other height that is not reasonably likely to constitute a substantial change to a pre-existing support structure, as determined by the Zoning Administrator. If any material change is made to the height, circumference, or power consumption of the existing installation an application detailing the change shall be submitted to the City Planning Division as a new project requiring a new permit.
<b>Research and Development Business</b>	The use of a site, generally in a campus style environment, for research, development, education, testing, training, and light manufacturing of ideas from various fields of science and technology.
<b>Residence</b>	A dwelling.
<b>Residential Care Facility</b>	The use of a site for providing routine living assistance to more than eight (8) clients. "Residential care facility" includes, but is not limited to, assisted, assisted care and skilled nursing facility, children's or other residential care facility, and drug and alcohol treatment facility.
<b>Right-Of-Way</b>	A strip of land reserved 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 landscaped areas.
<b>Retail</b>	The use of a site that offers onsite sales of merchandise to the public for monetary compensation. "Retail" includes, but is not limited to, convenience stores; food stores; apparel and accessories stores; book, computer, auto parts (but excluding installation and repair), and music stores; electronics and appliances; florists; furniture and home furnishings; general merchandise stores; health and personal care stores; hobby, office supplies, stationary and gift stores; specialty stores; sporting goods; and used merchandise stores.
<b>Retail, with Limited Wholesaling</b>	Retail establishments with incidental wholesaling, but excluding establishments where the principle activity is a storage warehouse.
<b>Runway</b>	A defined area on an airport that is specifically prepared for landing and takeoff of aircraft along its length. (Ord. 3248, 5-9-19)
<b>School</b>	The use of a site as a public or private educational facility designed, constructed, or used for education or instruction in any branch of knowledge.
<b>Setback</b>	The shortest distance between the property line and any portion of the foundation, wall or frame of a building.
<b>Setback Line</b>	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 allowed in any code (fire, building, life safety, etc.) adopted by the City.



<b>Short Term Rental</b>	Any individually or collectively owned dwelling unit or any unit or group of units in a condominium, cooperative, or timeshare, or owner-occupied residence that is offered for a fee and for thirty (30) days or less. Short term rental shall not include a unit that is used for any retail, restaurant, banquet space, event center, or another similar use.
<b>Sidewalk</b>	That portion of the road right-of-way outside the roadway which is improved for the use of pedestrian traffic.
<b>Small Wireless Facility</b>	<p>A type of internet broadband infrastructure that is smaller than a tower, and comprised of one (1) or more antenna and associated equipment, including support structures, that do not exceed any of the total volumes specified below on a structure:</p> <ul style="list-style-type: none"> <li>i. Each individual antenna, excluding the associated equipment, is individually no more than three cubic feet (3ft3) in volume; and</li> <li>ii. All antennas on the structure total no more than six cubic feet (6ft3) in volume; and,</li> <li>iii. All other wireless equipment associated with the structure, excluding cable runs for the connection of power and other services, do not cumulatively exceed: <ul style="list-style-type: none"> <li>a. Twenty-eight cubic feet (28ft3) for collocations on all non-pole structures (including but not limited to buildings and water tanks) that can support fewer than three (3) providers; or,</li> <li>b. Twenty-one cubic feet (21ft3) for collocations on all pole structures (including but not limited to light poles, traffic signal poles, and utility poles) that can support fewer than three (3) providers; or,</li> <li>c. Thirty-five cubic feet (35ft3) for non-pole collocations that can support at least three (3) providers; or,</li> <li>d. Twenty-eight cubic feet (28ft3) for pole collocations that can support at least three (3) providers; and</li> </ul> </li> <li>iv. All support structures shall be certified to be safe from falling by a Professional Structural Engineer licensed by the State of Idaho.</li> </ul>
<b>Storage Facility, Indoor</b>	The use of a site that provides rented or leased space where individual units are accessed from the inside of a building, through a common door to individual storage spaces. May include caretaker dwelling and/or office. (Ord. 3233, 12-20-18)
<b>Storage Facility, Outdoor</b>	The use of a site that provides rented or leased storage space where individual units are accessed independently from the exterior of a building through man or garage type doors. May include caretaker dwelling, office, and/or storage yard. (Ord. 3233, 12-20-18)
<b>Storage Yard</b>	The use of a site where equipment, inventory, supplies, vehicles or other similar items are stored outside.
<b>Story</b>	That portion of a building included between the surface of a floor and the next ceiling above it.

<b>Street</b>	<p>The entire width between the boundary lines of a public right-of-way. A public right-of-way for an alley shall not be considered a street</p> <p><b>Arterial:</b> A major street intended to move traffic from one part of the City to another. Arterial streets are identified in The Access Management Plan.</p> <p><b>Collector:</b> A street which provides direct access to abutting property and collects and distributes traffic between local and arterial streets. Collector streets are identified in the The Access Management Plan.</p> <p><b>Local:</b> A street whose primary function is to provide access to abutting property.</p>
<b>Structural Alterations</b>	<p>Any change in the supporting members of the building such as the bearing walls, columns, beams, girders or roof.</p>
<b>Structure</b>	<p>Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. The term structure includes buildings, manufactured and mobile homes, walls and fences.</p> <p><b>Accessory:</b> A detached structure in a residential zone that is incidental and subordinate to the principal structure and is located upon the same property. The term accessory structure shall include, but not be limited to, the following: private garage, storage structure, workshop, and/or greenhouse.</p>
<b>Support Structure(s)</b>	<p>A structure designed to support Small Wireless Facilities including, but not limited to, Monopoles, vertical facilities, utility poles, light poles, traffic signal poles, billboards, and other freestanding self-supporting structures.</p>
<b>Terminal Yard, Trucking and Bus</b>	<p>The use of a site where equipment, inventory, supplies, vehicles or other similar items are stored inside or outside.</p>
<b>Tower</b>	<p>Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures. The term also includes any supporting structures.</p> <p><b>Guyed:</b> A supporting structure of metal crossed strips or bars steadied by wires in a radial pattern around the structure.</p> <p><b>Height:</b> When referring to a tower or other similar structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.</p> <p><b>Lattice:</b> A supporting structure consisting of metal crossed strips or bars supporting antennas and related equipment.</p> <p><b>Preexisting Towers and Preexisting Antennas:</b> A tower or antenna for which a building permit has been properly issued prior to the effective date of this Zoning Code, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.</p>
<b>Transit Station</b>	<p>The use of a site for passenger loading, unloading, transferring passengers, including station platforms or park and ride lots.</p>

<b>Transitional Surfaces</b>	These surfaces extend outward at ninety degree angles to the runway centerline and the runway centerline extended at a slope of seven feet (7') horizontally for each foot (1') vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of five thousand feet (5,000') measured horizontally from the edge of the approach surface and at ninety degree angles to the extended runway centerline. (Ord. 3248, 5-9-19)
<b>Use</b>	The specific purposes for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.
<b>Vehicle Body Shop</b>	The use of a site for painting repairing or straightening the body and/or chassis of vehicles
<b>Vehicle Repair</b>	The use of a site for the repair, rebuilding or reconditioning of motor vehicles.
<b>Vehicle Sales, Rentals and Service</b>	The use of a site for the sale or rental of new and used motor vehicles, manufactured homes, travel trailers, recreation vehicles, and incidental repairs and servicing. Trucks and/or farm implements are classified as Equipment Sales, Rental and Service.
<b>Vehicle Washing Facility</b>	A facility used to clean the exterior and/or interior of motor vehicles. (Ord. 3210, 8-23-18)
<b>Warehouse</b>	The use of a site for wholesale distribution of manufactured products, supplies and equipment, excluding retail sales. (Ord. 3210, 8-23-18)
<b>Wholesale</b>	Sale of goods for resale as distinguished from sale of goods to ultimate consumers.
<b>Yard</b>	An open space on the same lot with a building unoccupied or unobstructed from the ground upward, except as otherwise provided in this Zoning Code. <b>Front:</b> A yard lying between the front lot line and the nearest foundation line of the main building and extending across the full width of the lot. <b>Rear:</b> A yard lying between the rear lot line and the nearest foundation line of the main building and extending across the full width of the lot. In the case of a corner lot where the building fronts on a side street, the rear yard may be established from the rear of the house to the side property line. <b>Required:</b> The open space around building as required by the Zoning Code. <b>Side:</b> An open space between the side of the main building and the side line of the lot and extending from the front yard to the rear yard.
<b>Zone</b>	A specifically delineated area within which uniform development regulations set out the uses, placement, spacing, and size of land and structures. <b>Base:</b> The underlying zone. <b>Overlay:</b> A Zone which is superimposed over a Base Zone and in which certain regulations and restrictions apply which supplement or which modify the regulations and restrictions applying in the underlying Base Zones.

(Ord. 3263, 7-25.19)