

# Title 8 ZONING

## Chapter 1 PURPOSE, SCOPE, CONFORMANCE AND AMENDMENTS

### 8-1-1: SHORT TITLE:

This title shall be known and may be cited and referred to as the *TWIN FALLS COUNTY ZONING ORDINANCE*. (Ord. 21, 12-1-1998)

### 8-1-2: PURPOSE:

This title is enacted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property and property values; to secure the most appropriate use of lands; to control the density of population; to prevent undue traffic congestion and to facilitate adequate and economical provisions for public improvements, all in accordance with a comprehensive plan for the desirable future physical development of Twin Falls County; to provide a method of administration and to prescribe penalties for the violations of provisions hereafter described, all as authorized by the legislature and constitution of the state. (Ord. 21, 12-1-1998)

### 8-1-3: SCOPE AND CONTENT:

This title shall consist of the text hereof of the chairman of the county planning and zoning commission and by the appropriate signatures of the board of county commissioners, and marked and designated as the maps of the county zoning ordinance, which maps of Twin Falls County are now filed in the office of the recorder of Twin Falls County, said ordinance and each and all of its terms are to be read and interpreted in light of the provisions of said maps. For the purpose of administration and enforcement, the zoning maps in the office of the county planning and zoning administration shall be considered as official zoning maps. Any and all amendments to the official zoning map shall also be made on the zoning maps in the office of the county planning and zoning administration at the time the amendment is filed with the county recorder. (Ord. 21, 12-1-1998)

### 8-1-4: REFERENCES:

Wherever in this title reference is made to other special zoning ordinances or codes of Twin Falls County, such cross reference is for the coordination of this title with such other ordinances, but to any extent such other ordinance has not yet been adopted, such reference shall be ignored. (Ord. 21, 12-1-1998)

### **8-1-5: PRESERVATION OF PRIVATE PROPERTY RIGHTS:**

- A. This title shall be interpreted in its various particulars to equally protect each citizen from the undue encroachment on his private property by the neighbors' use of their private property to the end that within the plan established, each citizen shall have the maximum use of his property without placing undue burden upon that of his neighbors.
- B. In the administration of this title, every person shall be secure in his person, house, papers and effects, and no administrator, agent or employee of the county shall enter upon, investigate or search any of the premises of any citizen without the consent of such citizen or order issued by a court of proper jurisdiction.
- C. Every citizen of Twin Falls County shall at all times have the right to appear in person or by his agent before the commission or board as the case may be, in the proper order of business and in conformance with this title to propose or object to a proposal before the commission and to appeal any decision of the commission to the board pursuant to the procedures contained in [chapter 3](#) of this title.
- D. In the enforcement of this title, it shall be deemed to apply similarly and equally to each person and each property in similar circumstances, and shall not be enforced to discriminate between one individual and/or another individual or other group as compared to all others, similarly situated. (Ord. 21, 12-1-1998)

### **8-1-6: CONFLICT WITH OTHER LAWS:**

In their interpretation and application, the provisions of this title shall be held to be minimum requirements. The provisions of this title shall control where this title imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations or resolutions. (Ord. 21, 12-1-1998)

### **8-1-7: COMPLIANCE WITH PROVISIONS:**

No lot shall be used and no structure or part of a structure shall be constructed, reconstructed, altered, occupied or used except as this title permits. (Ord. 21, 12-1-1998)

### **8-1-8: PRIOR RIGHTS AND PERMITS:**

The enactment of this title shall not terminate or otherwise affect rights, variances and permits acquired or authorized for work that is actively in progress under the provisions of any ordinance hereby repealed. Where a building permit has been issued for the construction of a building or structure, and for an authorized use and occupancy thereof in accordance with the law prior to the effective date hereof, said building or structure may be completed in conformance with the approved plans and on the basis for which the said building permit has been issued, provided

construction of said building or structure is commenced within one hundred eighty (180) days of the effective date of the building permit and diligently prosecuted to completion. (Ord. 21, 12-1-1998)

### **8-1-9: MAINTENANCE OF MINIMUM REQUIREMENTS:**

No lot dimensions of areas, yards or off street parking area existing on or after the effective date amendment hereof shall be reduced below the minimum requirements of this title. (Ord. 21, 12-1-1998)

### **8-1-10: PUBLIC LANDS:**

All unincorporated lands of the county except those designated differently on the zoning map are designated agricultural preservation whether being owned by the federal, state or county government. If these lands are leased, traded or sold, their use shall be governed by the appropriate zone. (Ord. 21, 12-1-1998)

### **8-1-11: AMENDMENTS:**

- A. Submission: This zoning ordinance, including the map, may be amended, but all proposed amendments shall be submitted first to the planning and zoning commission for its recommendations which recommendations shall be submitted to the board of county commissioners.
- B. Written Petition: Any person seeking an amendment of the zoning ordinance shall submit to the county zoning administrator a written petition designating the change desired, the reasons therefor, and wherein the proposed amendment would further promote the objectives and purposes of the zoning ordinance, together with a fee as determined by the board of county commissioners and posted in the office of the county zoning administrator. The applicant shall be responsible for notification of the adjacent property owners within a radius of three hundred feet (300') of exterior boundaries, by certified U.S. mail, proof of notification shall be presented to the zoning administrator at least one week prior to the public hearing date.
- C. Recommendation: Before recommending an amendment to the zoning ordinance, it must be shown that such amendment is reasonably necessary, is in the interest of the public and is in harmony with the objectives and purposes of this zoning ordinance. Failure on the part of the planning and zoning commission to make recommendations within sixty (60) days shall be deemed to constitute approval of such proposed amendment unless a longer period is granted by the board of county commissioners.
- D. Public Hearing Required Before Amending; Notice: Amendments to the zoning ordinance may be adopted only after a public hearing in relation thereto has been held by the board of county commissioners in which parties of interest and citizens shall have an opportunity to be heard. A notice of the time and place of such hearing shall be published in a newspaper of general circulation in the county at least fifteen (15) days before the date of the hearing.
- E. Effective: Amendments shall require a majority of the members of the board of county commissioners before an amendment can be effective. (Ord. 21, 12-1-1998)

## **8-1-12: PUBLIC HEARINGS:**

- A. Hearing Notice: The notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by Twin Falls County ordinance(s).
  
- B. Publication Of Notice: Notice of time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county at least fifteen (15) days prior to such hearing.
  
- C. Notification Of Property Owners: The property owner(s) within three hundred feet (300') of the proposed location will be notified by first class mail. Notice shall also be posted on the property not less than one week prior to the hearing.
  
- D. Alternate Notice: When notice is required to two hundred (200) or more property owners, the following alternate form of notice may be followed: The board of county commissioners may order that the notice be published three (3) times in a newspaper of general circulation in the county, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing. The notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by Twin Falls County ordinance(s). (Ord. 163, 10-1-2003)

## **Chapter 2**

### **DEFINITIONS**

#### **8-2-1: CONSTRUCTION OF WORDS:**

For the purpose of this title, certain words and terms are defined as follows:

- A. Words in the present tense include the future and the future includes the present; the singular number includes the plural and the plural the singular.
- B. The word "lot" includes the words "plot", "tract" or "parcel of land" as the sense may require it.
- C. The term "erected" means "constructed", "altered", "moved" or "repaired".
- D. The words "shall" and "must" are always mandatory.
- E. The word "district" is synonymous with the word "zone".
- F. The term "building inspector" is synonymous with the term "planning and zoning administrator".
- G. The term "planning and zoning commission" is synonymous with the term "zoning commission", and the term "planning commission" is synonymous with the term "zoning commission". (Ord. 21, 12-1-1998)

## **8-2-2: DEFINITIONS:**

**ACCESSORY BUILDING<sup>1</sup>:** A secondary building, the use of which is incidental but similar to that of the main building and which is located on the same plot and is a permitted use for that particular zone in which it is located.

**ACCESSORY USE<sup>2</sup>:** The use of land, secondary building or part thereof, on a portion of the main building, such as being accessory to or incidental to the principal use of the premises.

**AGRICULTURAL BUILDING:** Any building or structure qualifying under group U occupancy (agricultural buildings) as defined by the latest edition of the international building code as adopted by Twin Falls County, with the following exceptions:

- A. That the building or structure is not a place of human habitation, nor used by the public.
- B. That the building or structure is not a place of employment where agricultural products are processed, treated or packaged including, but not limited to, milking barns, free stall barns or other like structures.
- C. Any building or structure qualifying under group A occupancy (assembly) section 303 or group B occupancy (business) section 304 occupancy as defined by the latest edition of the international building code as adopted by Twin Falls County.

**AGRICULTURE:** Tilling of soil, horticulture, floriculture, forestry, fisheries, viticulture, raising crops,

livestock, farming, dairying and animal husbandry including all uses customarily accessory and incidental thereto, but excluding slaughterhouses, fertilizer works, boneyards and commercial feedlots. Incidental retailing of goods on the premises of goods and products raised on the premises shall also be considered as being within the definition of agriculture.

**AIRPORT:** Any area of land or water that has been set aside, designated, classified and duly established by jurisdictional authorities which may be used for any or all of the following purposes: aircraft terminals for people, mail, or freight, airport traffic control, weather stations, aircraft storage and repair, tie down areas, storage of fuel or oil and other aircraft supplies and parts, approach zones, landing strips, taxiways, clear area, hangars, offices and such other facilities, buildings or structures.

**AIRPORT INFLUENCE AREAS:** The areas surrounding the Joslin Field, Magic Valley regional airport and Buhl airport that are affected by significant aircraft noise and safety hazards.

**ALLEY:** Any public space or thoroughfare which has been dedicated or deeded to the public for public use and which provides a secondary public means of access to abutting properties.

**ANIMAL CLINIC OR VETERINARY OFFICE:** Any building or portion thereof designed or used for the care or treatment of cats, dogs, or other animals in which veterinary service including clipping, bathing, boarding and other services are rendered to dogs, cats and other small animals and domestic pets. Small animal hospital or veterinary hospital is the same as a small animal or veterinary clinic, the distinction being that in case of an animal hospital there is a licensed veterinarian on the premises.

**ANIMAL UNIT RESTRICTIONS:** Restrictions placed on animal densities in each zone district. See chapters 17 and 18 of this title.

**ANIMAL UNIT(S):** A term used to establish an equivalency for various species of livestock. See chapters 17 and 18 of this title for specific animal unit restrictions and equivalencies.

**APARTMENT HOUSE OR MULTI-FAMILY USE:** Any building or portion thereof which contains three (3) or more dwelling units including residential condominiums.

**AREA, BUILDABLE:** The space within the setback lines remaining on a lot after the minimum open space requirements of this title have been complied with.

**AREA OF CITY IMPACT:** Land surrounding the city limits of each city, agreed upon in accordance with Idaho Code 67-6526.

**AREA, PRIVATE PARKING:** An open, graded area, other than a street or public way, designed, arranged and made available for the storage of private passenger automobiles of occupants of the building or buildings for which the parking area is developed.

**AREA, PUBLIC PARKING:** An open area, other than a street or alley, used for the temporary parking of automobiles and available for public use, whether free or for compensation or as an accommodation for clients or customers.

**AREA SETBACK:** The space on a lot required to be left open and unoccupied by buildings or structures, either by the front, side or rear yard requirements of this title, or by delineation on a recorded subdivision/planned unit development map.

**AUTOMOBILE, TRAILER AND CAR LOT SALES AREA:** Premises on which new or used passenger automobiles, mobile homes, manufactured homes, trailers or trucks in operating condition are displayed in the open for sale or trade or rental, and where repair of such vehicles is limited to vehicles owned by the sales lot operator and offered for sale.

**AUTOMOBILE WRECKING YARD:** Any area, lot, land or parcel, excluding farm equipment on a farm, and excluding completely enclosed buildings, whereon more than two (2) motor vehicles without current registration or where more than two (2) inoperable or dismantled motor vehicles, (not in operating condition) are standing more than thirty (30) days, or on which such used motor vehicles or parts thereof, are dismantled or stored. For the purposes of this definition, the term "inoperable" means the motor vehicle cannot move under its own power or does not meet the minimum legal requirements necessary for the motor vehicle to be operated in a safe and lawful manner upon the roads and highways in the state of Idaho as set forth in the motor vehicle laws of the state of Idaho.

**BARN:** A building for the housing of farm animals, milking of livestock, and the storage of farm equipment, machinery, products, or feed.

**BOARD:** The Board of County Commissioners of Twin Falls County, Idaho.

**BOARDING HOUSE:** Including lodging house or rooming house. Any building or portion thereof other than a hotel, where lodging and/or meals are provided for more than five (5) persons for compensation. Rest homes and homes for the aged are not included in this definition.

**BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING CLASSIFICATION; AGRICULTURAL:** A building located on agricultural property and used to shelter farm implements, hay, grain, habitation and which is not used by the public.

**BUILDING, EXISTING:** A building erected prior to the effective date hereof or one for which a legal building permit has been issued, prior to the effective date, subject to Section [8-1-8](#) of this Title.

**BUILDING HEIGHT:** The vertical distance from grade to the highest point of the coping of a flat roof, or to the deck of a mansard roof or to the average height of the highest gable of a pitched or hip roof.

**BUILDING LINE:** A line established by law or agreement and usually parallel to property line beyond which a building or structure may not extend.

**BUILDING, MAIN:** A building other than an accessory building, and for which the use thereof is authorized by this Title for the district in which it is located.

**BUILDING, NONCONFORMING:** Any building which does not conform to the requirements of this Title.

**BUILDING SITE:** The ground area of a building or group of buildings together with all open spaces as required by this Title.

**BUSINESS:** The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, or the ownership or management of



office buildings, offices, recreation or amusement enterprises or the maintenance and use of offices or professions and trades rendering services.

**CABIN:** A small one story dwelling usually of simple construction containing three (3) or fewer rooms used for sleeping.

**CANYON FLOOR:** That area between the mean high-water mark and where the final slope is greater than thirty percent (30%).

**CANYON LANDS:** The canyon rim and floor extending from the mean high-water mark to the outermost rim setback.

**CANYON RIM:** The canyon rim is the point below which the final slope of County canyons exceeds thirty percent (30%) for a distance of ten (10) or more feet. The "final slope", as the term is used here, excludes minor breaks in the canyon wall which have a slope of less than thirty percent (30%), but are: a) inaccessible from existing streets, and/or b) less than one hundred feet (100') in width. There may be multiple rims meeting this definition. The location of the rim shall be determined before any excavation or grading preparatory to development occurs.

**CARPORT:** A roofed structure entirely open on two (2) or more sides.

**CLINIC OR MEDICAL HEALTH CENTER:** A building other than a "hospital" as defined herein, used by two (2) or more licensed physicians or dentists associated with one another for the purpose of receiving and treating patients.

**CLUB OR LODGE:** The social use of a building or of any premises by a nonprofit association, where such use is restricted to enrolled members and their guests.

**COLLECTION POND, TEMPORARY:** Intended for the temporary impoundment of surface water runoff.

**COMMERCIAL FEEDLOT; STOCKYARD:** See chapters 17 and 18 of this title.

**COMMERCIAL SLAUGHTER AND MEATPACKING FACILITIES:** Includes the: a) slaughtering, b) meat canning, c) curing, d) smoking, e) salting, f) packing, g) rendering, h) freezing, or other similar establishments in which meat products are so processed for sale to the public and where the inspection of meat, meat byproducts and meat food products are maintained.

**COMMISSION:** The planning and zoning commission of the county of Twin Falls.

**CONDITIONAL USE<sup>3</sup>:** A nonpermitted use which may be allowed with conditions if not in conflict with the plan or requirements of this title.

**CONDITIONAL USE/LAND DIVISION:** The process which may allow the division of one parcel of land into two (2) parcels. All land divisions or splits, shall have equal shares of water transferred to the parcel(s) created.

**CONDITIONAL USE/TEMPORARY HARDSHIP:** Provides for the temporary placement of a mobile home on the property where the need to care for the elderly, or other medical hardship exists which makes it necessary to have someone living in close proximity while care is being provided.

**COOP:** A cage or small enclosure under one hundred twenty (120) square feet used to confine, restrict or house poultry or small furbearing animals.

**CORRAL:** A fenced enclosure where livestock are confined, stabled, fed, or maintained and where crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over more than ten percent (10%) of the enclosure. See chapters 17 and 18 of this title.

**DAYCARE CENTER:** A place, home, building, or location providing care, with organized plan and instructions, for more than five (5) children of presecondary school age not residing on the same premises.

**DRIVE-IN ESTABLISHMENT:** An establishment, other than a service station or truck stop, which is designed to accommodate the motor vehicles of patrons in such manner as to permit the occupants of such vehicles, while remaining therein, to make a purchase or receive services.

**DUPLEX:** A building designed for or used by two (2) families or housekeeping units.

**DWELLING:** A building, or portion thereof, containing one dwelling unit, and which complies with the structural requirements of the adopted building code. The term "dwelling" does not include any travel trailer, "motel", "hotel", "guesthouse" or "boarding house" as defined herein.

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

**DWELLING, SINGLE-FAMILY:** A building designed for use and occupancy by no more than one family.

**DWELLING, TWO-FAMILY:** A detached building designed for use and occupied exclusively by two (2) families living independently of each other, known also as a duplex.

**DWELLING UNIT:** A suite of two (2) or more habitable rooms providing complete living facilities for one family including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EMERGENCY/25-YEAR PONDS:** Designed as a 25-year, 24-hour storm event lagoon system to retain normal precipitation, moisture or snow runoff.

**FAIRGROUNDS:** An area used as an entertainment site for festivals or carnivals and may include buildings or structures. Such facilities are subject to county ordinance 18, assembly ordinance, as amended.

**FAMILY:** An individual or two (2) or more persons related by blood, marriage, or adoption; or a group of not more than five (5) persons (excluding servants) who need not be related by blood, marriage, or adoption living together in a dwelling unit.

**FAMILY FOOD PRODUCTION:** The keeping of domestic animals and fowl for the production of food for the use of the family occupying the premises.

**FARM LABOR DWELLING UNIT:** Dwelling unit(s) for farm laborers employed full time in connection with the agricultural use of the land.

**FEEDLOTS; AGRICULTURAL:** See chapters 17 and 18 of this title.

**FLOODPLAIN:** Land that may be submerged by floodwaters.

**GARAGE:** A building or portion thereof in which a motor vehicle containing flammable or combustible liquids or gas in its tank is stored, repaired or kept.

**GARAGE, DETACHED:** A building or a portion of a building, not more than one thousand six hundred (1,600) square feet in area, in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

**GARAGE, PUBLIC:** Any garage other than a private garage.

**GOVERNING BODY:** The board of county commissioners of Twin Falls County.

**GRADE (ADJACENT GROUND ELEVATION):** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet (5') (1,524 mm) from the building, between the building and a line five feet (5') (1,524 mm) from the building.

**GUEST:** A person other than a member of a family hiring or occupying a room for living or sleeping purposes.

**GUESTHOUSE:** A detached or attached structure, being an accessory to a one-family dwelling with not more than three (3) bedrooms, and which shall be used or designed for use primarily by guests and not to be used as rental property.

**HEALTH DEPARTMENT:** State of Idaho department of health and welfare, or South Central district health department.

**HOME, MOBILE (MANUFACTURED HOME):** A detached single-family dwelling unit with all of the following characteristics:

- A. Designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections for attachment to outside systems.
- B. Designed to be transported after fabrication on its own wheels.
- C. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connection to facilities and the line.
- D. Such unit may not or need not meet structural requirements of a dwelling as provided in the adopted building code.

**HOME, NURSING:** A building housing any facility, however named, whether operated for profit or not, the purpose of which is to provide skilled nursing care and related medical services for more than eight (8) individuals suffering from illness, disease, injury, deformity or requiring care because of old age. Also known as a "rest home".

**HOME OCCUPATION:** Any gainful operation, profession or craft, which is customarily incidental to or carried on in a dwelling place, and wherein the use is clearly incidental and secondary to the use

of the dwelling for dwelling purposes, and which occupation is carried on only by the immediate members of the family residing within the dwelling, and: a) the use does not change the character of the dwelling, b) not more than one-fourth ( $\frac{1}{4}$ ) of the area of one floor of said dwelling is used for such use, c) no external alterations or construction features not customary in dwellings is involved, and no external indication of said home occupation except for a sign as provided in this Title.

**HORSE, WILD - FREE ROAMING:** All unbranded and unclaimed horses and burros on public lands of the United States.

**HORSES FOR PRIVATE USE:** Horses kept and maintained as an accessory use to a dwelling for the pleasure and use of the occupants thereof, and not used for commercial purposes.

**HOSPITAL:** An institution where the ill or injured human beings are offered treatment of a type recognized by State law, such as medicine and surgery, osteopathy and the like.

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

**HOUSE, BOARDING:** A building other than a hotel or restaurant where meals are provided for compensation to three (3) or more persons, who are not members of the householder's family.

**HOUSEHOLD PET:** Animals or fowl customarily permitted in the house and kept for company or pleasure, including dogs, cats, canaries and similar pets.

**IMPOUNDMENT:** A hollow structure with sloping or curving sides typically used for holding water or other liquid.

**INDUSTRIAL:** Refers to the manufacturing, processing and testing of goods and materials.

**INFILL:** To fill in areas consisting of outcrops and poor ground that cannot be farmed.

**JUNKYARD:** See definition of Salvage Yard.

**KENNEL:** A premises where more than four (4) adult dogs are raised, kept, housed, boarded or are engaged in the commercial business of breeding.

**LAND USE PLAN:** A general plan adopted and maintained by the County which shows the most appropriate use of land within the County. (Said Land Use Plan to be included in and made part of the Master Plan.)

**LIVESTOCK CONFINEMENT OPERATION (LCO)<sup>4</sup>:** Any lot, corral, or facility:

- A. Where livestock are confined and maintained for a total of one hundred eighty (180) days, or more in any twelve (12) month period; and
- B. Where crops, vegetation, forage, growth or postharvest residues are not sustained in the normal growing season over more than ten percent (10%) of the enclosure; and
- C. Where the number of animal units per acre exceeds the animal density restriction for that zone.

**LODGING HOUSE:** See definition of House, Boarding.

**LOT:** A parcel of land that is described by reference to a recorded plat or by metes and bounds.

**LOT, CORNER:** A lot abutting upon two (2) or more streets at their intersection.

**LOT, INTERIOR:** A lot abutting on any street.

**LOT LINE:** A line bounding the lot described in the title to the property.

**LOT, THROUGH:** A lot having frontage on two (2) streets which are parallel or nearly so.

**LOUNGE:** See definition of Tavern Or Lounge.

**MAJOR DRAINAGE:** Such as, but not limited to, Rock Creek, Salmon Falls Creek, Deep Creek, Mud Creek, Cottonwood Creek, Dry Creek, McMullin Creek, Cedar Draw, Cedar Creek, Deadman's Gulch, Blue Gulch, Tuana Gulch, Desert Creek and the Snake River.

**MANUFACTURED BUILDING:** Any building or building component, other than a mobile home, which is constructed according to standards contained in the uniform building code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

**MANUFACTURED HOME:** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

**MAPS, ZONING:** The map or maps of Twin Falls County which are part of this title designating zoning districts.

**MASTER OR GENERAL PLAN:** A comprehensive plan, or part thereof, which has been adopted by the board of county commissioners for the purpose of building development in the county, including, but not limited to, a plan or plans of land use, streets, parks, and playgrounds, public buildings, off street parking, neighborhood conservation and similar plans.

**MAY:** The term "may" when used in association with usages implies a use other than a designated use. In no way does the term "may" imply an approval or a permit but rather a usage that might be considered.

**MOBILE HOME:** A structure with over one thousand (1,000) square feet of interior area pre-HUD 1976. Not to include recreational or travel trailers.

**MOTEL:** A building or group of two (2) or more detached, semidetached, or attached buildings containing guest rooms with automobile parking space provided in connection therewith, and designed, intended to be used or used primarily for the accommodation of transient automobile travelers and which are rented by the day. This definition shall include auto cabins, tourist courts, motor courts, motor lodges, and similar designations.

**NONCONFORMING BUILDING:** A building, structure, or portion thereof, which does not conform to the regulations of this Title applicable to the zone or district in which such building is situated, but

which existed prior to the effective date in accordance with Section [8-1-8](#), subsections [8-9-1A](#) and B, and Section [8-9-2](#) of this Title.

**NONCONFORMING USE:** A use of premises which does not conform to the regulations of this Title, but which was in existence at the effective date hereof.

**NUISANCE:** In regards to agricultural operations, is defined as being flies, odors, animal noises, tractor operations, discharges or other operations that may be found to be annoying, unpleasant, or obnoxious. Nothing in this definition or Title, however, shall be construed to limit the protections provided for agricultural activities in chapter 45, title 22 of the Idaho Code, also known as the Right To Farm Act. See Section [8-9-16](#) of this Title.

**NUISANCE WAIVER:** A form signed by owners or occupants of one-family dwellings and divisions of land specifically waiving any nuisance claim(s) they may have against agricultural operations including livestock confinement operations.

**NURSERY/DAYCARE:** A home or building in which children are tended or kept for compensation, and licensed by State law to provide such facilities and services. See also definition of Daycare Center.

**OCCUPANCY, CHANGE OF:** Any change in the character or use of a building or premises, not including change of tenants, proprietors, occupants.

**OFF-STREET PARKING:** An area adjoining a building providing for the parking of automobiles which does not include a public street but has convenient access to it.

**PARCEL:** A unit of land in the ownership of one person and constituting a portion of a separate tract of land.

**PARK, MOBILE HOME:** Any area, tract, plot or site of land developed, located and maintained for dwelling purposes on a permanent or semipermanent basis.

**PARK, TRAVEL TRAILER:** Any area, tract, plot or site of land whereupon two (2) or more travel trailers are placed, located and maintained for dwelling purposes on a temporary basis and equipped with sanitary facilities. Such facility shall be located on major highways or in the vicinity of public recreational facilities. Other public convenience items may be required by the Board.

**PARKING AREA OR LOT (PUBLIC):** An open area, other than a street or public way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

**PARKING AREA (PRIVATE):** An open area, other than a street or public way, designed, arranged and made available for the storage of private passenger automobiles of occupants of the building or buildings for which the parking area is developed and is necessary and accessory.

**PARKING SPACE:** A usable space within a public or private parking area or a building of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.

**PASTURE:** An enclosed parcel of land where grass and fodder are grown for the grazing of

domestic livestock.

**PEN:** A small enclosure under one hundred twenty (120) square feet for the confinement of animals.

**PLANNED UNIT DEVELOPMENT:** See [Title 10, Chapter 3](#) of this Code.

**PLOT:** A parcel of land consisting of one or more lots or portions thereof, which is described by reference to a recorded plat or by metes and bounds.

**PREBUILT HOME:** See definition of Manufactured Building.

**PRINCIPAL DESIGNATED USE:** The main use of land or building as distinguished from a subordinate, accessory use or other uses.

**PROPERTY:** A lot or plot including all buildings and improvements thereon.

**PROPERTY LINE:** A recorded boundary of a plot.

**PUBLIC:** Operated by a government entity.

**PUBLIC WATER AND SEWAGE SYSTEM:** A water or sewage system which is owned and operated by a local government authority or by local utility company adequately controlled by a governmental authority.

**REPAIR:** The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not apply to any change in a structure such as would be required by additions to, or remodeling of such structure.

**RESIDENCE COURT:** A group of one story buildings connected or detached facing directly on a street or a common court which opens into a street.

**RESIDENTIAL USE:** A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, but not including hotels, boarding and lodging houses, trailers, camp cars or travel trailers.

**REST HOME:** See definition of Home, Nursing.

**RESTAURANT:** Any land, building, or part thereof, other than a boarding house, where meals are provided for compensation, including, among others, such uses as cafe, cafeteria, coffee shop, lunchroom, tearoom, and dining room.

**RODEO:** An area used as an entertainment site for an exhibition and/or competition of the skills of cowboys.

**ROOMING HOUSE:** See definition of Boarding House.

**SALVAGE YARD:** A place where scrap, waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used lumberyards, and places or yards for storage of salvaged structural materials and equipment; but not including such places where such uses are conducted entirely

within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations conducted on the premises. See subsection [8-9-3C](#) of this Title.

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

**SCHOOL:** An institution conducting regular academic instruction at elementary secondary and college levels. The minimum lot area must be ten (10) acres.

**SCHOOL, TRADE OR INDUSTRIAL:** An institution or facility conducting instruction in the technical, commercial or trade skills such as business, beauticians, barbers, electricians, automotive and so forth.

**SERVICE:** Providing, attaching, or hooking up to any building, mobile home, or other structure any line or pipe which is intended to provide any of the following services: telephone, gas, electricity, water or sewage disposal.

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

**SHED, LOAFING:** A slight structure built for the sheltering of farm animals, single storied with one or more sides completely open, where the animals range at will rather than occupy fixed stanchions.

**SHED, MACHINE:** A structure usually of large size used to shelter farm equipment and machinery.

**SIGN:** Any structure or natural object, such as tree, rock, brush, and the ground itself, or part thereof or device attached thereto or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, word, model, flag, banner, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. For the purpose of this definition, the word "sign" does not include the flag, pennant, or insignia of any nation, state, county, or other political unit, or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

**STABLE, PRIVATE:** A detached accessory building or structure for the keeping of one or more horses or cows owned and used by the occupant of the premises and not for remuneration, hire or sale.

**STABLE, RIDING:** A building or structure used or designed for the boarding or care of riding horses for remuneration, hire or sale.

**STORY:** That portion of a building included between the surface of a floor and the ceiling next above it.

**STREET:** The public right of way which provides vehicular and pedestrian access to adjacent properties. The term street includes also the terms thoroughfare, parkway, thruway, road, avenue, boulevard, land, place and other such terms.



**STREET; LOCAL ROADS:** Any dedicated street serving as the principal means of access to property which has not been designated as a State or Federal highway, major collector or minor collector.

**STREET; MAJOR COLLECTOR:** The highways of the County which have been designated as major collectors by the highway district having jurisdiction to provide an improved system of roads for efficient, safe and economical movement of through traffic given first priority.

**STREET; MAJOR HIGHWAY:** The highways of the County which have been designated as State or Federal highways.

**STREET; MINOR COLLECTOR:** The highways of the County which have been designated as minor collectors by the highway district having jurisdiction to provide an improved system of roads for efficient, safe and economical movement of through traffic with equal priority given to through traffic and property access.

**STRUCTURAL ALTERATIONS:** Any change in the supporting members of the building such as the bearing walls, columns, beams, girders or roof.

**STRUCTURE:** Anything constructed or erected which requires permanent location above or below the ground or attached to something having a permanent location on the ground including signs and billboards.

**SUBDIVISION:** Land with more than three (3) splits occurring. See [Title 10](#) of this Code.

**SUBDIVISION, MOBILE HOME OR MANUFACTURED HOME:** A parcel or tract of land of at least one acre in size developed as a planned unit development for the purpose of creating both single ownership and common interest in real property for the placement of mobile home units. The development must be compatible with existing development in the area.

**TAVERN OR LOUNGE:** A building where alcoholic beverages are sold for consumption on the premises, not including restaurants when the principal business is serving food.

**TRAILER COURT:** See definition of Park, Travel Trailer and [Chapter 8](#) of this Title.

**TRAILER, TRAVEL:** Designed to be pulled behind a passenger vehicle or pickup truck, whether self contained or not, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle.

**TRAILER, TRAVEL; PARK:** See definition of Park, Travel Trailer and [Chapter 8](#) of this Title.

**UNINCORPORATED TERRITORY:** All of the territory within the boundaries of Twin Falls County, Idaho, which lies outside of incorporated cities and villages.

**USE:** The purpose for which land or a building thereon is designed, arranged or intended or for which it is occupied, maintained or leased.

**USE, ACCESSORY:** See definition of Accessory Use.

**USE, CONDITIONAL OR ADDITIONAL:** See definition of Conditional Use.

**USE, PRINCIPAL:** The main use of land or buildings as distinguished from a subordinate, accessory or conditional use.

**UTILITY:** Any public or private corporation or company which supplies the public or a group of individuals with the following commodity, service or both: telephone, gas, electricity, water, or sewage disposal.

**VARIANCE:** See [Chapter 14](#) of this Title.

**WASTE LAGOON:** An open impoundment with earthen or concrete embankments for the purpose of runoff collection for the purpose of settling, or temporary storage of the following forms of livestock wastes: semisolid, slurry, and/or liquid.

**YARD:** The open, unoccupied space on the lot between the property or lot lines and the front, rear or side wall of a building.

**YARD, FRONT:** The yard across the full width of the lot or plot which faces the street and extends from the front building line of the building to the front property line. All buildings shall comply with the highway district regulations regarding front yard setbacks for major and minor collectors as designated on the Official County Highway Map.

**YARD, REAR:** The yard across the full width of the lot or plot opposite the front yard, extending from the rear building line of the building to the rear property line.

**YARD, SIDE:** The yard between the side building line of the building and the adjacent side property line and extending from the front yard to the rear yard.

**ZONING MAP:** The zoning map or maps of Twin Falls County, Idaho, incorporated into this Title designating zoning districts together with all amendments subsequently adopted.

**ZONING OFFICIAL:** The zoning administrator or his authorized representative.

**ZONING PERMITS AND CERTIFICATES:** A. Zoning Compliance: A building permit once issued serves as a zoning permit.

B. Occupancy Certificate: A document issued by the zoning administrator authorizing the occupancy and use of completed buildings, structures or premises and the proposed use thereof for the purpose of ensuring compliance with the provisions of this title and other county codes and regulations.

C. Notice Of Noncompliance: A document issued by the zoning administrator indicating that a use or structure is nonconforming to the district regulations or is not in conformity with other conditions or requirements of this title. (Ord. 21, 12-1-1998; amd. Ord. 172, 10-20-2004; Ord. 173, 10-20-2004)

## **Chapter 3**

# **ADMINISTRATION, BOARDS, AND COMMISSIONS**

### **8-3-1: ADMINISTRATION AND OFFICERS:**

## A. Zoning Administrator:

1. Appointment: There is created the office of zoning administrator (administrator), to be appointed by the board of county commissioners (board).
2. Compensation: The administrator shall be paid a salary as may be determined by the board. Such salary and other necessary expenses shall be paid from any appropriation made by the board, together with any other funds which may become available by gift or by fees collected and placed to the account of the planning and zoning commission (commission).
3. Duties: The administrator shall be the administrative official of the commission and shall administer the provisions of this code as it relates to planning and zoning issues. In addition the administrator shall:
  - a. Receive and examine applications for, and issue, building permits, sign permits, zoning approval letters, and temporary use permits and maintain permanent records thereof.
  - b. Conduct such investigations of buildings, structures, and use of land as are necessary to determine compliance with the terms of this code.
  - c. Prepare application guidelines, forms, and administrative procedures.
  - d. Receive, file and transmit to the commission and/or the board all applications, petitions and other communications on which it acts.
  - e. Authorize such public hearings as are necessary to comply with the requirements and objectives of this code.
  - f. Serve as an advisor to the commission making recommendations on matters concerning rezoning, variances, special use permits, PUDs, subdivisions, zoning and comprehensive planning.
  - g. Provide reports and discussions for use by the commission on each item on the agenda.
  - h. If an application for a permit does not qualify for the usage under the terms of this code, then the administrator may deny the application, and/or may recommend other alternatives to the applicant.
  - i. Maintain permanent records of all inspections and determinations made involving the inspection of buildings, structures and use of lands to ensure continuous compliance with the terms of this code.
  - j. Order the abatement of violation of this code and order compliance with this code and, if necessary, aid in the prosecution of such violations.
  - k. And any other such duties and responsibilities as may be assigned by the board or as provided for in this code.
  - l. Final determinations and actions of the administrator may be appealed to the board pursuant to the appeals procedure in this code.

- B. Planning And Zoning Director: It shall be the duty of the director to assist the administrator in the administration of this code and in the absence of the administrator to act in the administrator's stead.
- C. Building Inspector: It shall be the duty of the building inspector to assist the administrator with the enforcement of the provisions of the building code.
- D. Code Enforcement Officer: It shall be the duty of the code enforcement officer to enforce the provisions of this code.
- E. Prosecuting Attorney: The prosecuting attorney of Twin Falls County may institute any necessary legal proceedings to enforce the provisions of this code.
- F. Sheriff: The Twin Falls County sheriff and authorized representatives shall have the authority to enforce the provisions of this code. (Ord. 231, 4-20-2012)

## **8-3-2: COMPLIANCE:**

### A. General Provisions:

1. No building permit may be lawfully issued, nor may an occupancy certificate be granted, until the administrator has given authorization indicating all requirements of this code, all conditions of approval, and any other specific project related requirements have been met.
2. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is occupied or used in violation of the provisions of this code or any amendment hereto, the county may pursue any one or more of the following actions:
  - a. Seek voluntary compliance;
  - b. Issue a civil citation (infraction);
  - c. Pursue a civil action to enforce compliance with the terms of this code or to enjoin, restrain or abate any violation of the terms of this code; or
  - d. Pursue criminal prosecution.
3. Violation of any conditions of approval, an administratively issued permit, a special use permit, or any other requirements of this title is a violation of this code and may subject such permit to revocation. Revocation of any such permit may be made by the approving entity after notice and hearing as provided by this code.
4. Any violation of any conditions of approval, an administratively issued permit, a special use permit, variance, or any other requirements of any zoning ordinance is a public nuisance, and instead of, or in addition to, any other criminal or civil enforcement measure authorized by this code, may be enjoined or restrained by the county as other nuisances are abated under

authority of applicable state law.

B. General Penalties: Except as otherwise stated in this code, violations of any of the provisions of this title shall be punishable as follows:

1. For a first violation the violator will be deemed guilty of an infraction and shall pay the fixed penalty of fifty dollars (\$50.00) per day that the violation continues.
2. For a second violation within two (2) years, the violator will be deemed guilty of a second offense infraction and shall pay the fixed penalty of one hundred dollars (\$100.00) per day that the violation continues.
3. For a third violation within two (2) years, the violator will be deemed guilty of a misdemeanor and may be fined up to one thousand dollars (\$1,000.00) and may be jailed for up to six (6) months.
4. A citation shall be issued in person by a uniformed officer of the county or authorized designee, or may be mailed by certified mail, return receipt requested, to the occupant and the owner of record if the occupant is not the owner of record. The citation shall include the date(s) of the violation, the location of the property, and reference to the section(s) of this code violated.
5. Each day of continuing violation may be assessed as a separate violation.

C. Notification, Action Of Prosecuting Attorney: Whenever the administrator shall determine that a violation has occurred, he shall notify the prosecuting attorney of such violation and recommend action that should be taken. Upon knowledge of violation, whether or not recommendation has been received from the administrator, the board may request the prosecuting attorney to commence action, criminal or civil, to correct the violation and to punish the same.

D. Action Of The County: In the event any action is taken or any construction commenced in violation of the provisions of this code, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful action or construction or to restrain, correct or abate such violation or to prevent any illegal act, conduct, business or use in or about such premises. (Ord. 231, 4-20-2012)

### **8-3-3: PERMITS AND CERTIFICATES:**

A. Issuance: Building permits shall be issued by the zoning administrator or authorized representative. Application for such permits shall be on a form approved by the board. The applicant shall furnish all information indicated upon the application form. No construction or alteration shall be commenced or if no structures are involved, no use shall be commenced except for agricultural uses until the proper certificate has been issued by the zoning administrator.

1. No permits shall be issued for any use in violation of this title or any other county ordinance. Any certificates secured in violation of the state or federal law shall be invalid.

2. The certificate shall be invalid upon violation by the applicant of any of the conditions of the certificate.
  3. No certificate or permit will be issued without the written approval of the highway district, South Central district health department, or Twin Falls Canal Company.
- B. Conditions For Permit; Issue: There shall be filed with the zoning administrator an application for such permit, setting forth the type of such construction, alteration or change, and the zoning administrator may, where conditions make it advisable to require it, require the applicant to submit a plan with the application showing such work as is to be done. On all matters of concern or interest to citizens generally, which would involve the issuance of a permit for a purpose to which there might be general objection, the zoning commission shall order notice to be published in a newspaper of general circulation within the county of a public hearing to be had on such application; such notice shall be published for not less than fifteen (15) days prior to the public hearing, the zoning commission shall further order that notice be given by the applicant to the property owners or residents within a radius of three hundred feet (300') or as otherwise required by this title of the subject property by mailing said notice to the property owners or residents, which shall be deemed sufficient notice for the purpose of this subsection, and at such hearing all interested parties shall be heard. Return receipt of said notice mailing must be provided by the applicant.
- C. Conformity Required: No use, structure or buildings shall be permitted within the county in each zone except as hereinafter designated.
- D. Occupancy Certificate: Upon completion of a project and prior to occupancy of the premises, as specified in the adopted building code, the applicant shall secure an occupancy certificate. Said certificate shall be issued by the zoning administrator after all conditions specified have been met and approvals required on the building permit have been secured. (Ord. 21, 12-1-1998)

#### **8-3-4: PERMIT REQUIRED; EXCEPTIONS:**

- A. Applications: Any person, firm or corporation desiring to construct, erect, move or repair a building in the unincorporated territory of Twin Falls County, shall first apply for a permit from the planning and zoning department. All applications for permits shall be accompanied by a plat showing the size and location of the existing buildings and buildings to be erected. The plat shall also show the zone in which the plot or parcel of land is located. Existing roads and lanes, roads or alleys to be constructed or utilized must also be indicated and proof of property ownership. (Ord. 21, 12-1-1998)
- B. Exceptions: See [title 7, chapter 3](#) of this code for possible exceptions. (Ord. 173, 10-20-2004)

#### **8-3-5: FEES:**

The board may establish fees to defray the costs of processing applications for public notice. Fees

shall be payable at the time of application, and such funds shall be deposited in the general fund and may be appropriated therefrom for the purpose of the planning and zoning commission. (Ord. 21, 12-1-1998)

### **8-3-6: PENALTIES:**

Each violation of this title shall be a misdemeanor. Each day that work continues after notification of violation shall constitute a separate offense, and each violation shall be punishable as provided in section 18-113, Idaho Code. (Ord. 21, 12-1-1998)

### **8-3-7: INJUNCTION:**

In addition to any of the foregoing remedies, the board may institute any appropriate action or proceeding to prevent any unlawful action or construction, to restrain, correct or abate any violation, or prevent any illegal act, conduct, business or use in or about any premises. (Ord. 21, 12-1-1998)

### **8-3-8: PLANNING AND ZONING COMMISSION:**

The planning and zoning commission shall be known as the commission. The duties and responsibilities of the planning and zoning commission are as follows:

- A. Appointment; Terms Of Office: The board of county commissioners shall appoint a planning and zoning commission and fill vacancies. The term of office for each appointive member, as defined by Idaho Code, 67-6504, shall be no less than three (3) years and no more than six (6) years. Vacancies occurring otherwise than through the expiration of terms shall be filled by the board. Members may be removed for cause by a majority vote of the governing body. Legal advice shall be made available to the zoning commission by the prosecuting attorney for any purpose pertaining to this title.
- B. Organization: The members of the commission shall elect its own chairman and create and fill such other offices as it may determine it requires. Any expenditures of the commission shall, exclusive of gift or fees, be within amounts appropriated and set aside by the county, for the purposes of the commission as herein set forth. Within such limits, the commission is authorized to employ such employees and technical advisers as are deemed necessary for its work.
- C. Meetings; Rules Of Order: The commission shall fix its place of meeting and shall conduct at least one regular meeting each month; provided however, that if no issues over which the commission has jurisdiction are pending on its calendar, a meeting may be canceled; provided however, that in any event, one regular meeting shall be held for each month for not less than nine (9) months in each year. Other meetings of the Commission shall be held at the call of the chairman and at such other times as the Commission may determine. The action of the Commission at any meeting may be continued to the next regular meeting without further notice being given.

1. **Quorum:** A majority of the appointive members of the Commission shall be necessary to constitute a quorum at any meeting.
2. **Open To Public:** All meetings shall be open to the public.
3. **Keeping Of Minutes:** The Commission shall keep minutes of its proceedings, shall keep records of its examinations, findings, recommendations and all other official actions, and render a monthly report thereof to the Board. The records herein referred to shall be a public record.
4. **Rules Of Order:** Written rules consistent with the laws of the State for the transaction of business of the Commission shall be adopted. The Commission shall proceed according to its own rules of order for the conduct of business and shall file its rules of order with the County Clerk.
5. **Written Report:** In cases involving a hearing, the review of plats or applications where a finding, determination, decision or recommendation has been made on a subject which has been a matter of contest, then the Commission, in addition to including the matter in its monthly report as prescribed, shall file with the Clerk of the Board no later than ten (10) days after the conclusion of such matter a written report stating the findings and action taken by the Commission in the form of findings of fact and conclusions of law that explain the criteria and standards considered relevant, state the fact relied upon, and explain the justification for the decision based on the criteria, standards and facts set forth.
6. **Public Hearing Procedure:**
  - a. Chairperson will open public hearing and read announcement.
  - b. Chairperson will call for staff report.
  - c. Planning and Zoning Commission members may ask questions. (Such questions should be relevant, concise and based on the finding of fact.)
  - d. Chairperson asks applicant to come forward and state proposal.
  - e. Planning and Zoning Commission members may ask questions of applicant.
  - f. Chairperson will call for testimony in support of proposal. (Chairperson instructs those who wish to comment to state their name for the record and to sign in.)
  - g. Planning and Zoning Commission members may ask questions after each witness. (Such questions should be relevant, concise and based on the findings of fact.)
  - h. Chairperson will call for testimony against the proposal. (Chairperson instructs those who wish to comment to state their name for the record and to sign in.)
  - i. Planning and Zoning Commission members may ask questions after each witness. (Such questions should be relevant, concise and based on the findings of fact.)
  - j. Chairperson will call for final comments by applicant.
  - k. Chairperson will close public hearing.



I. Chairperson will call for Planning and Zoning Commission members discussion and motion.

D. Voting: The concurring vote of a majority of a quorum present shall be necessary to sustain a finding, determination, recommendation or decision of the Commission.

E. Jurisdiction And Authority: The Commission shall have jurisdiction and authority in addition to the jurisdiction and authority granted elsewhere in this Title as follows:

1. Land Usage Studies: Conduct studies pertaining to land usage within the County.

2. Preparations And Recommendations: Prepare and recommend plans and ordinances or amendments thereto to the Board.

a. Pursuant to a study of the County land use, traffic circulation system, population trends and from time to time other pertinent factors and subsequent to the holding of a public hearing thereon, the Commission shall prepare and recommend to the Board a comprehensive plan and such amendments thereto as may be deemed necessary for the unincorporated portions of the County, taking into consideration the following factors to obtain a plan designed to:

(1) Lessen congestion in the streets.

(2) Secure from fire, panic and other damages.

(3) Promote health and the general welfare.

(4) Provide adequate light and air.

(5) Prevent overcrowding of land.

(6) Avoid undue concentration of population.

(7) Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements.

(8) Retain the aesthetic values and the natural beauty of the County.

(9) Such plan shall be made with reasonable consideration, among other things for the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such areas.

b. Pursuant to study and the holding of hearings thereon and in accordance with the General Plan, the Commission shall prepare and recommend to the Board a zoning ordinance and such amendments thereto as may be necessary in dividing the unincorporated portions of the County into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this Title, and regulating or restricting the uniform use of land in each district for trade, industry, residence or other purposes, as well as the percentage of lot that may be occupied, and size of yards, courts and other open spaces, and density of population and further regulate and restrict the erection, construction, reconstruction,

alteration, repair or use of building, and further regulate and restrict the height, number of stories and the size of buildings and other structures.

3. Recommendations And Suggestions: Make recommendations and suggestions to the Board.

a. In addition to the requirements that the Commission prepare and recommend to the Board for adoption the comprehensive plan and a zoning ordinance as herein above set forth, the Commission on its own initiative or upon the request of the Board shall from time to time review said comprehensive plan and zoning ordinance and recommend addition, amendments or repeal of such plans, ordinance or regulations.

b. Furthermore, the Commission shall from time to time make recommendations and suggestions to the Board concerning the future growth, and development and beautification of the County in respect to its public buildings, streets, parks, grounds, and lands consistent with future growth and development of the County in order to promote the public health, morals, safety and welfare of the inhabitants thereof.

4. Reclassification Recommendations: Make recommendations to the Board as it pertains to reclassification of districts or zone change applications, planned unit development applications, and conditional use applications pertaining to subdivisions.

a. Any and all maps, plats, and replat of land which require the approval of the Board, or any official or employee thereof, shall first be submitted to the Commission for its suggestion and the Board within which to examine such maps, plats or replat before resuming same with its suggestions.

5. Render Advice: Render advice to individuals, and to receive and act, as a recommending body to the Board of County Commissioners, upon applications as authorized and specified herein.

a. The Commission is further empowered to give suggestions and advice to individuals concerning landscaping, or location of buildings, structures or works to be erected, constructed or altered by or for such individuals.

6. Receipt And Action Upon Applications As Authorized: The commission upon the receipt of an application, shall process same and submit its findings, determinations and/or recommendations to the board pertaining to said application in accordance with the standards, rules and procedures herein recited, as well as concerning such other applications which might be made incidental to the enforcement and administration of this title. (Ord. 21, 12-1-1998)

## Chapter 4

# SIGN REGULATIONS

### 8-4-1: PURPOSE AND SCOPE:

A. Purpose: The provisions of this Chapter are intended to protect, enhance, and maintain the visual quality of unincorporated lands through the regulation of signs.

B. Scope: Signs are structures. These regulations are not intended to and do not dictate, or limit the content of those signs allowed for general advertising purposes. (Ord. 21, 12-1-1998)

### **8-4-2: DEFINITIONS:**

When used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

**ATTACHED SIGN:** A sign which is mounted to the walls of a building and may either be flat against or projecting from the wall.

**ENTRYWAY SIGN:** A freestanding sign placed at the edge of a parking lot which gives the name and logo of the business located at that site. Maximum height of this sign is thirty inches (30") above grade and shall not obstruct vision of motorists at driveways or street intersections.

**FREESTANDING SIGN:** A sign which is ground supported only and has no support other than one or more columns placed on a foundation designed to withstand the maximum "moment" developed by the sign in high wind without lateral bracing or support.

**ILLUMINATED SIGN:** A sign which uses a light source to make its message readable in darkness. This definition shall apply to all internally and externally lighted signs and reflecting, glowing or radiating signs. (Ord. 21, 12-1-1998)

### **8-4-3: PROCEDURES AND APPROVAL PROCESS:**

A. A sign exempt from a Planning Department permit does not require application with the County but shall conform to all other applicable provisions of this Title.

B. A sign subject to Planning Department approval is a sign for which approval will be granted, provided all approval conditions are satisfied and:

1. The Planning Department shall make the decision.
2. The decision may be appealed by the applicant to the Planning Commission through the formal appeal procedure.

C. Time limit on sign approval:

1. Approval of a sign by the Planning Department shall be void after ninety (90) days if:
  - a. The sign has not been installed within that ninety (90) day period, or
  - b. The sign is a departure from the approved plan.
2. The Planning Director shall upon written request by the applicant, grant an extension of the approval period not to exceed thirty (30) days, provided that:

- a. No changes are made on the original sign as approved by the Director except as requested by him/her.
- b. The applicant can show intent of initiating placement of the sign on the site within the thirty (30) day extension period.
- c. There have been no changes in the applicable policies and ordinance provisions on which the approval was based. (Ord. 21, 12-1-1998)

#### **8-4-4: RESTRICTIONS:**

Applying to all zones except Commercial and Industrial Zones.

##### **A. Sign Regulations, Residential Uses:**

1. Each dwelling may have one sign attached thereto or one yard sign. Such sign shall state only the name and profession of the occupant.
2. "Attached" signs shall not exceed two (2) square feet in area, nor project more than three feet (3') from the building.
3. "Yard signs" shall not exceed three (3) square feet in area, nor measure more than three feet (3') in any direction and no part thereof shall project beyond the property line.
4. Illuminated signs shall be nonflashing.

##### **B. Sign Regulations, Nonresidential Use:**

1. Buildings and premises used for other than residential use may have one sign attached to the building and one sign detached from the building.
2. "Attached" signs shall not exceed thirty two (32) square feet in area.
3. The advertising face of attached signs projecting from a building and paralleling a side property line shall not be located closer than ten feet (10') to said property line.
4. "Detached" signs shall not exceed thirty two (32) square feet in area.
5. The advertising face of detached signs paralleling a side or side street property line shall not be closer than ten feet (10') to said property lines.
6. The requirement of subsection B5 of this Section, shall not apply to detached signs where the advertising face of such sign parallels the front property lines, provided, however, that no part of the sign including the supporting element shall project beyond any property lines.
7. Detached signs may require a minimum clearance of nine feet (9') aboveground and illuminated signs shall be nonflashing. (Ord. 21, 12-1-1998)

#### **8-4-5: COMMERCIAL AND INDUSTRIAL DISTRICTS:**

### A. Individual Business And Governmental Facility Signs:

1. Total sign silhouette area shall not exceed one and one-half ( $1\frac{1}{2}$ ) square feet of silhouette area for each lineal foot of exterior building frontage. The total sign area shall not exceed sixty four (64) square feet for the business property or leasehold.
2. Only one freestanding sign shall be permitted upon business property or leasehold, limited to twenty four (24) square feet in silhouette area. Sign height shall not exceed three feet (3') from grade.
3. Only automobile service stations may have one additional freestanding changeable fuel price sign for the single purpose of advertising the price of fuel, limited to twelve (12) square feet in silhouette area.
4. Signs shall be set back from the public right of way or frontage lease line a minimum distance of five feet (5'), except where the building is closer to the public right of way or frontage lease line than the five foot (5') sign setback and another frontage location is not available for the sign.
5. Signs shall not project more than one and one-half feet ( $1\frac{1}{2}$ ') from the surface of the building.
6. Freestanding identity signs shall not exceed three feet (3') in height.
7. Wall signs shall not exceed twenty five feet (25') in height above grade. (Ord. 21, 12-1-1998)

## Chapter 5 ESTABLISHMENT OF ZONES

### 8-5-1: COUNTY DIVIDED INTO ZONES; DISTRICTS:

In order to accomplish more fully the objectives and purposes of this title, Twin Falls County, is hereby divided into five (5) zones and four (4) overlay districts which shall be known by symbols and/or names as follows:

<u>Short Title</u>	<u>Zones</u>
ARP	Agricultural range preservation zone
A	Agricultural zone
RR	Rural residential zone
C	Commercial zone
I	Industrial zone

CR	Canyon Rim overlay district
AP	Airport overlay district
WPO	Wellhead protection overlay district
OR	Outdoor recreation overlay district

(Ord. 21, 12-1-1998; amd. Ord. 209, 9-22-2008)

### **8-5-2: MAPS ADOPTED:**

- A. Zone Map: The location and boundaries of each of the zones are shown on the official zone map of Twin Falls County, Idaho, and all boundaries, notations and other data shown thereon are as much a part of this title as if fully described therein.

The zone map shall be identified by the signature of the chairman of the board of county commissioners, attested by the clerk, and shall bear the following words:

*I hereby certify that this is the Official Zone Map of Twin Falls County, which was adopted by the Board of County Commissioners on this day of .*

- B. Map Highway Designation:

1. Designation And Location: The designation and location of highways classified as major collectors and minor collectors shall be shown on the official highway designation map, and all boundaries, notation and other data shown thereon are as much a part of this title as if fully described therein.

The highway map shall be identified by the signature of the president of the board of highway district commissioners, attested by the district secretary, and shall bear the following words:

*I hereby certify that this is the Official Highway Designation Map of the Highway District, which was adopted by the Board of said Highway District on this day of .*

2. Special Road Classification: Whenever a permit is issued for construction, reference shall be made to the current highway designation map. Highways designated as major collectors and minor collectors shall be controlled access facilities and the access to them shall be restricted or prohibited by the board of highway district commissioners so as to best serve the traffic for which such facility is intended. Yard setbacks shall be calculated on the basis of eighty feet (80') from the centerline of the roads classified as "major collectors". In the event such structure is to be located at the intersection of two (2) such classified roads, the corresponding setbacks shall apply. (Ord. 21, 12-1-1998)

### **8-5-3: REGULATIONS:**

Within each of the zones, the height, number of stories, and the size of buildings and structures,

and percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes are hereby regulated and restricted as set forth in this Title or as may be amended. (Ord. 21, 12-1-1998)

#### **8-5-4: BOUNDARIES OF ZONES:**

Where uncertainty exists with respect to the boundaries of zones, the following rules shall apply:

- A. **Zone Boundaries:** When indicated boundaries of the Zone Map are approximate street or land survey lines, said street or land survey lines shall be construed to be the zone boundaries.
- B. **Natural Features:** Where the indicated boundaries are approximate canal, natural streams or watercourses, or other clearly defined natural features, the center line of said canal, natural stream, watercourse or natural feature shall be construed to be the zone boundary.
- C. **Absence Of Feature Or Measurement:** In the absence of any street, land survey, canal, natural stream, watercourse or other natural feature or measurement as forming the boundaries of any zone, the scale or measurement shown on the Map shall be used to determine the zone boundary lines.
- D. **Classification Of Vacated Streets Or Alleys:** Whenever a street is vacated, and that street has not been given a zone classification, the land of the vacated street shall have the same zone classification as the land adjacent or abutting land owned or on the same side of the center line of former street to whom such land reverts or in whom said land becomes vested by operation of law or otherwise.
- E. **Disincorporation Or Errors In Legal Description:** In every case where small parcels of territory have not been specifically included within a district through errors in legal description, or where territory becomes a part of the unincorporated area of Twin Falls County by the disincorporation of any city, such territory shall automatically retain its existing use classification until otherwise classified but not to exceed a period of six (6) months following discovery.
- F. **Conflicting Provisions, Map And Text:** In case of conflict between the text and the Maps of this Title, the Maps shall prevail. In case of a conflict between the provisions of the various sections of the text of this Title, the most stringent provisions shall prevail.
- G. **Other Uncertainty:** Where other uncertainty exists, the Zoning Administrator shall interpret the Map. (Ord. 21, 12-1-1998)

#### **8-5-5: CONFORMITY REQUIRED:**

Except as otherwise provided herein, land, buildings and premises in any district shall hereafter be used only in accordance with the regulations herein established for that district and the following general provisions:

- A. No building shall hereafter be erected, constructed, relocated or structurally altered to have a greater height, proportion of coverage or smaller yards or open spaces about it than permissible under the limitations set forth herein for the district in which such buildings are located.
- B. No yards, open spaces or off-street parking space or loading space existing or provided hereafter about any building shall be reduced below the minimum requirements hereinafter set forth for such open space, parking space or loading space, or further reduced if already less than said minimum requirements.
- C. No open space, yard or off-street parking space or loading space existing or hereafter provided for a building or use and necessary to meet or partially meet the requirements of this Title shall be considered as all or part of the yard, open space, off-street parking space or loading space required for any other building or upon any other lot.
- D. No lot held under one ownership at the effective date hereof shall be reduced in dimension or area in relation to any building thereon so as to be smaller than required by this Title, and if already less, the dimension or area of such lot shall not be further reduced. (Ord. 21, 12-1-1998)

## **Chapter 6 DISTRICTS OR ZONES**

### **ARTICLE A. AGRICULTURAL RANGE PRESERVATION ZONE (ARP)**

#### **8-6A-1: PURPOSE; INTERPRETATION:**

- A. Purpose: The purpose of the agricultural range preservation zone is to protect the nonirrigated, high desert areas of Twin Falls County by preserving both good and marginally productive lands in large and contiguous areas and by allowing production of crops, other agricultural operations and small lot residential uses in association with agricultural operations. Potential density would be one dwelling unit per one hundred sixty (160) acres. Conditional use permits may allow public uses, agricultural support activities and other uses consistent with the agricultural character of this zone.
- B. Agricultural Land: The requirements of this title shall not be construed so as to deprive the owner



of agricultural land of the full and complete use of said land for the production of any agricultural products. "Agricultural land" being herein defined as a tract of land containing not less than one hundred sixty (160) acres in ARP zone including canal and railroad right of way used exclusively for agricultural purposes. (Ord. 21, 12-1-1998)

## **8-6A-2: PRINCIPAL PERMITTED USES:**

Permitted uses shall be subject to all other requirements of this title, including chapters 17 and 18 of this title.

Aquaculture farms.

Farm labor dwelling units for any occupant(s) employed full time in connection with the agricultural use of the land. Proof of full time employment with said operation shall be provided to the zoning administrator upon request.

The full and complete use of agricultural land for production of any agricultural product in compliance with Idaho Code section 67-6529.

LCOs/feedlots/stockyards.

Single-family dwellings (1 per 160 acres), accessory use buildings. (Ord. 21, 12-1-1998)

## **8-6A-3: CONDITIONAL USES:**

These items may be approved as a conditional use provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining land. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval. Conditional uses shall be subject to all other provisions of this title, including chapters 17 and 18 of this title.

Agricultural service or support businesses.

Aircraft landing fields or airports.

Animal clinics, animal hospitals, veterinary offices.

Commercial packing facilities.

Gravel pits, rock quarries, sand and clay cinder pits, soil sources.

Greenhouses and nurseries.

Public and quasi-public uses.

Radio and television towers.

### Sanitary landfills.

Single-family dwellings together with accessory use buildings such as garages or storage buildings for immediate family members on one acre, or larger, lots. Any conditional use permit for such dwellings shall specify that the dwelling cannot be sold or rented to someone outside of the immediate family for a period of five (5) years.

### Wastewater treatment systems.

Other uses compatible with and not less restrictive in character than the above designated uses may be considered. (Ord. 21, 12-1-1998)

## **8-6A-4: RESTRICTIONS APPLICABLE:**

- A. It is desirable that in this zone the principal designated uses involving structures be serviced from public water and sewer facilities, however, since such public facilities might not be reasonably available or feasible throughout this zone, then the minimum lot requirements will be controlled by the specific requirements as stated below or the requirements of the health department whichever is greater.
- B. In this zone, no building or premises not customarily incidental to agricultural pursuits, as herein noted, shall be used, nor shall any building, structure or land usage be hereafter erected or altered (unless otherwise provided in this chapter) except for one or more of the above uses in accordance with the following standards:
1. Dwelling units shall be laid out, to the greatest extent feasible, to achieve the following objectives:
    - a. In areas determined to be infill which are unsuitable for growing crops and on the least fertile soil for agricultural uses as those soils are identified in the soil conservation service maps, and in a manner which maximizes the usable area remaining for such agricultural use.
    - b. On the most suitable soils for subsurface septic disposal as ascertained by the South Central health district.
    - c. In areas where basic services, such as public street access and fire protection exist.
    - d. In locations where adequate water resources exist to meet domestic needs as well as irrigation needs for the entire parcel of land.
    - e. In locations that are least likely to conflict with surrounding agricultural activities.
    - f. In compliance with any wellhead protection districts.
    - g. With adequate roads for emergency vehicle access.
  2. Owners or occupants of single-family homes shall specifically waive any nuisance claims they have against agricultural operations existing at the time said owners or occupants construct their homes, including claims against livestock confinement operations. See

nuisance waiver.

3. Single-family homes built subsequent to the date of adoption hereof will not affect expansion of, or setbacks of any existing agricultural operation or livestock confinement operation if located within the defined setbacks of said operation. Mobile homes and manufactured homes shall be considered single-family dwellings provided, however, that they meet the minimum requirements specified in other parts of this code, have a HUD approval sticker and a mobile home rehabilitation certification if the mobile home is older than July 1, 1976, per chapter 25, title 44 Idaho Code.
4. Applicants for dwelling permits shall file with the director the following documents:
  - a. The standard application demonstrating that, where applicable, the proposed development meets all of the requirements of the board's ordinance.
  - b. An environmental analysis, if required, under the board's rules and regulations.
  - c. A site plan and map of the parcel drawn to scale showing the proposed dwelling site.
  - d. Proof of ownership of the land.
  - e. Written approval of the South Central health district for a subsurface disposal system.
  - f. Legal description of the proposed dwelling site.
  - g. Other items mandated by the comprehensive plan and adopted by resolution of the board. (Ord. 21, 12-1-1998)

### **8-6A-5: LOT REQUIREMENTS:**

#### **A. Lot Area:**

1. Principal Uses: The lot area per dwelling unit and for all principal uses in these zones shall be the area expressly allowed above, or if not set out, the area shall not be less than one acre. The site shall be shown to have sufficient space complying with the health department standards, for future construction of a replacement sewage disposal system.
2. Other Uses: The area of each lot, dependent on individual water supply and sewage disposal system, shall be as required by subsection A1 of this section. Where a public sewer or community sewerage system and treatment plan approved by the Idaho department of public health is available for lots, the sewage disposal system of each lot shall be connected thereto.

#### **B. Lot Frontage:**

1. In all cases the minimum average lot width shall not be less than eighty feet (80'). The minimum street frontage shall be sixty feet (60') except in the case of lots abutting a cul-de-sac in which case the minimum frontage shall be thirty feet (30'). Any other reduction in lot frontage must be approved by the planning and zoning commission.

C. Lot Depth: No requirement.

D. Yards: Residential and other uses:

1. Front: A minimum front yard depth of thirty feet (30') shall be provided for all buildings, except where a building exceeds a height of thirty five feet (35'), the front yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35').
2. Side: A minimum side yard of seven feet (7') shall be provided on each side of the main building located on an interior lot, except where a building exceeds a height of thirty five feet (35'), the side yard shall be increased one foot (1') for each five feet (5') of height exceeding thirty five feet (35'). The side street yard of a building located on a corner lot shall not be less than twenty five feet (25').
3. Rear: A minimum rear yard depth of thirty feet (30') shall be provided for all buildings, except where a building exceeds a height of thirty five feet (35'), the rear yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35'). (Ord. 21, 12-1-1998)

### **8-6A-6: ACCESSORY USE BUILDINGS:**

Detached accessory use buildings may be constructed on the rear yard area provided that such buildings plus the principal building shall not occupy more than thirty five percent (35%) of the total lot area nor be located closer than three feet (3') to a side or rear property line of an interior yard except by written, notarized and recorded permission of the adjoining property owner(s) and appropriate firewall construction, nor closer than twenty five feet (25') to the side street property line of a corner lot. (Ord. 21, 12-1-1998)

### **8-6A-7: EAVES PROJECTION:**

- A. Eaves projecting from main buildings shall not be closer than thirty inches (30") to a side or rear property line.
- B. Eaves projecting from accessory use buildings shall not be closer than twelve inches (12") to a side or rear property line. (Ord. 21, 12-1-1998)

### **8-6A-8: OFF STREET PARKING:**

Off street parking shall be as required by [chapter 11](#) of this title. (Ord. 21, 12-1-1998)

## **ARTICLE B. AGRICULTURAL ZONE (A)**

### **8-6B-1: PURPOSE; INTERPRETATION:**

- A. Purpose: The purpose of the agricultural zone is to protect the agricultural character and base of Twin Falls County and allow for limited residential development consistent with the rural environment and by identifying and delineating prime and poor croplands to determine suitability for land uses. Toward this end, the creation of dwelling sites for residential use, whether or not constituting a subdivision, shall only be encouraged on the least fertile soils for agricultural uses and in areas where basic services, such as public street access and fire protection exist. Potential density would be one dwelling per forty (40) acres with subdivisions to be discouraged and only allowable as PUDs, instead of strip residential development on county roads. PUDs, to the extent they are allowed, should be located so that a buffer zone exists between the PUD and any active farms.
- B. Agricultural Land: The requirements of this title shall not be construed so as to deprive the owner of agricultural land of the full and complete use of said land for the production of any agricultural products. "Agricultural land" being herein defined as a tract of land containing not less than forty (40) acres in A zone including canal and railroad right of way used exclusively for agricultural purposes. (Ord. 21, 12-1-1998)

## **8-6B-2: PRINCIPAL PERMITTED USES:**

Permitted uses shall be subject to compliance with all other provisions of this title including chapters 17 and 18 of this title.

Agricultural buildings<sup>1</sup>.

Farm labor dwelling units for any occupant(s) employed full time in connection with the agricultural use of the land. Proof of full time employment with said operation shall be provided to the zoning administrator upon request.

LCOs (livestock confinement operations) in compliance with this title.

One single-family dwelling together with accessory use buildings such as garages or storage buildings for every forty (40) acres or more of contiguous land held under a single ownership.

Private stables.

Public utility buildings and facilities.

Roadside stands or temporary structures used for the sale of farm products raised on the premises, including signs advertising the sale of such products. Such structures shall be located a minimum distance of twenty feet (20') from the highway right of way line and provide not less than five (5) off street parking spaces adjacent thereto.

The full and complete use of agricultural land for production of any agricultural product in compliance with Idaho Code section 67-6529. (Ord. 21, 12-1-1998)

## **8-6B-3: CONDITIONAL USES:**

These items may be approved as a conditional use provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining developed land. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval. Conditional uses shall be subject to all other provisions of this title, including chapters 17 and 18 of this title.

Agricultural support business/operation; i.e., sprinkler or pipe sales, tractor repairs, welding shops, bean or grain warehouses, potato storage facilities, and veterinary clinics.

Cemeteries, mausoleums and crematories.

Churches and monasteries.

Commercial advertising signs in compliance with the sign portion of this title.

Commercial stables.

Dwelling sites may be approved as a conditional use.

Fairgrounds and rodeo grounds.

Gravel, sand and clay pits.

Greenhouses or nurseries.

Group daycare homes.

Home occupations in compliance with [chapter 10](#) of this title.

Hydroelectric power plants. (Impact study required.)

Kennels.

Mines, oil and gas wells.

Parking lots and accessory structures in connection with permitted or existing uses.

Planned unit developments of twenty (20) acres or more, with minimum one acre lots, in accordance with any applicable provisions of this title, provided they are located one thousand three hundred twenty feet (1,320') or one-quarter ( $1/4$ ) mile from any livestock confinement operation's waste lagoon's closest inside edge of the retaining wall, and at least four hundred feet (400') from any livestock confinement operation's corral's outside edge unless a nuisance waiver is signed. See chapters 17 and 18 of this title. Such developments within a city area of impact or one mile of any city limits shall require the approval of such city.

Public parks, public recreation grounds and buildings.

Radio, telephone, and television transmission towers.

Railroad tracks, spurs, switches and facilities.

Temporary living quarters.

Water reservoirs and facilities.

Other uses compatible with and not less restrictive in character than the above designated uses may be considered. (Ord. 21, 12-1-1998)

#### **8-6B-4: RESTRICTIONS APPLICABLE:**

- A. It is desirable that in this zone the principal designated uses involving structures be serviced from public water and sewer facilities, however, since such public facilities might not be reasonably available or feasible throughout this zone, then the minimum lot requirements will be controlled by the specific requirements as stated below or the requirements of the health department, whichever is greater.
- B. In this zone, no building or premises not customarily incidental to agricultural pursuits, as herein noted, shall be used, nor shall any building, structure or land usage be hereafter erected or altered, unless otherwise provided in this chapter, except for one or more of the conditional uses in section [8-6B-3](#) of this article in accordance with the following standards:
1. Dwelling units shall be laid out, to the greatest extent feasible, to achieve the following objectives:
    - a. In areas determined to be infill which are unsuitable for growing crops and on the least fertile soil for agricultural uses as those soils are identified in the soil conservation service maps, and in a manner which maximizes the usable area remaining for such agricultural use.
    - b. On the most suitable soils for subsurface septic disposal as ascertained by the South Central health district.
    - c. In areas where basic services, such as public street access and fire protection exist.
    - d. In locations where adequate water resources exist to meet domestic needs as well as irrigation needs for the entire parcel of land.
    - e. In locations that are least likely to conflict with surrounding agricultural activities.
    - f. In compliance with any wellhead protection districts.
    - g. With adequate roads for emergency vehicle access.
  2. Owners or occupants of single-family homes shall specifically waive any nuisance claims they have against agricultural operations existing at the time said owners or occupants construct their homes, including claims against livestock confinement operations. See Nuisance Waiver.
  3. Single-family homes built subsequent to the date of adoption hereof will not affect expansion

of, or setbacks of any existing agricultural operation or livestock confinement operation if located within the defined setbacks of said operation. Mobile homes and manufactured homes shall be considered single-family dwellings provided, however, that they meet the minimum requirements specified in other parts of this Code, have a HUD approval sticker or a mobile home rehabilitation certification if the mobile home is older than July 1, 1976, per chapter 25 title 44 Idaho Code.

4. Applicants for dwelling permits shall file with the Director the following documents:
  - a. The standard application demonstrating that, where applicable, the proposed development meets all of the requirements of the Board's ordinance.
  - b. An environmental analysis, if required, under the Board's rules and regulations.
  - c. A site plan and map of the parcel drawn to scale showing the proposed dwelling site.
  - d. Proof of ownership of the land.
  - e. Written approval of the South Central Health District for a subsurface disposal system.
  - f. Legal description of the proposed dwelling site.
  - g. Other items mandated by the Comprehensive Plan and adopted by resolution of the Board. (Ord. 21, 12-1-1998)

#### **8-6B-5: LOT REQUIREMENTS:**



#### A. Lot Area:

1. Principal Uses: The lot area per dwelling unit and for all principal uses in this Zone shall be the area expressly allowed above, or if not set out, the area shall not be less than one acre. The site shall be shown to have sufficient space complying with the health department standards, for future construction of a replacement sewage disposal system.
2. Other Uses: The area of each lot, dependent on individual water supply and sewage disposal system, shall be as required by subsection A1 of this Section. Where a public sewer or community sewerage system and treatment plan approved by the Idaho Department of Public Health is available for lots, the sewage disposal system of each lot shall be connected thereto.

#### B. Lot Frontage:

1. In all cases the minimum average lot width shall not be less than eighty feet (80'). The minimum street frontage shall be sixty feet (60') except in the case of lots abutting a cul-de-sac in which case the minimum frontage shall be thirty feet (30'). Any other reduction in lot frontage must be approved by the Planning and Zoning Commission. The minimum street frontage shall not apply to those parcels or lots that are serviced by private driveways.

#### C. Lot Depth: No requirement.

#### D. Yards: Residential and other uses:

1. Front: A minimum front yard depth of thirty feet (30') shall be provided for all buildings, except where a building exceeds a height of thirty five feet (35'), the front yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35').
2. Side: A minimum side yard of seven feet (7') shall be provided on each side of the main building located on an interior lot, except where a building exceeds a height of thirty five feet (35'), the side yard shall be increased one foot (1') for each five feet (5') of height exceeding thirty five feet (35'). The side street yard of a building located on a corner lot shall not be less than twenty five feet (25').
3. Rear: A minimum rear yard depth of thirty feet (30') shall be provided for all buildings, except where a building exceeds a height of thirty five feet (35'), the rear yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35'). (Ord. 21, 12-1-1998)

### **8-6B-6: ACCESSORY USE BUILDINGS:**

Detached accessory use buildings may be constructed on the rear yard area provided that such buildings plus the principal building shall not occupy more than thirty five percent (35%) of the total lot area nor be located closer than three feet (3') to a side or rear property line of an interior yard except by written, notarized and recorded permission of the adjoining property owner(s) and appropriate firewall construction, nor closer than twenty five feet (25') to the side street property line

of a corner lot. (Ord. 21, 12-1-1998)

### **8-6B-7: EAVES PROJECTION:**

- A. Eaves projecting from main buildings shall not be closer than thirty inches (30") to a side or rear property line.
- B. Eaves projecting from accessory use buildings shall not be closer than twelve inches (12") to a side or rear property line. (Ord. 21, 12-1-1998)

### **8-6B-8: OFF STREET PARKING:**

Off street parking shall be as required by [chapter 11](#) of this title. (Ord. 21, 12-1-1998)

## **ARTICLE C. LIVESTOCK CONFINEMENT OPERATIONS<sup>1</sup>**

**(Rep. by Ord. 158, 1-24-2002)**

## **ARTICLE D. RURAL RESIDENTIAL ZONE (RR)**

### **8-6D-1: PURPOSE:**

The rural residential zone is intended to direct residential development toward identified, nonprime agricultural land. Potential density would be one dwelling unit per one acre or greater if required by permitting agencies. Intensive agricultural establishments would not be permitted. Special permits for uses which may conflict with residential development shall be discouraged. (Ord. 21, 12-1-1998)

### **8-6D-2: PRINCIPAL DESIGNATED USES:**

Accessory buildings.

Agricultural buildings<sup>1</sup>.

Farm labor dwelling units for any occupant(s) employed full time in connection with the agricultural use of the land. Proof of full time employment with said operation shall be provided to the zoning administrator upon request.

Home occupations in compliance with [chapter 10](#) of this title.

Mobile homes in compliance with [chapter 8](#) of this title.

Parking lots in connection with permitted uses or structures for this zone.

Public parks, public recreation grounds and buildings, public community centers and swimming pools.

Single-family dwelling units.

Temporary structures used for the sale of farm products raised on the premises including signs advertising the sale of such products. Such structures shall be located a minimum distance of twenty feet (20') back of the highway right of way line and provide not less than five (5) off street parking spaces adjacent thereto.

Water reservoirs and facilities. (Ord. 21, 12-1-1998; amd. Ord. 172, 10-20-2004)

### **8-6D-3: CONDITIONAL USES:**

These uses may be granted by the commission after application and a formal previously advertised public hearing. These items may be approved provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining developed land. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval.

Churches and parish halls. (Heights of buildings to be considered.)

Private noncommercial recreation areas including country clubs, racquet clubs and golf courses.

Schools and private educational buildings having a curriculum similar to that ordinarily given in public schools and colleges. (Minimum area shall be 10 acres.)

Subdivisions and planned unit developments, in accordance with any applicable provisions of this title, provided they are located one thousand three hundred twenty feet (1,320') or one-fourth ( $\frac{1}{4}$ ) mile from any livestock confinement operation's waste lagoon's closest inside edge of the retaining wall, and at least four hundred feet (400') from any livestock confinement operation's corral's outside edge. See chapters 17 and 18 of this title. Such developments within a city area of impact or one mile of any city limits shall require the approval of such city.

Three-family dwelling units.

Two-family dwelling units.

Other uses compatible with and not less restrictive in character than the above designated uses may be considered. (Ord. 21, 12-1-1998)

### **8-6D-4: RESTRICTIONS:**

- A. It is desirable that in this zone the principal designated uses involving structures, be serviced from public water and sewer facilities, however, since such public facilities might not be reasonably available or feasible throughout the zone, then the minimum lot requirements will be controlled by the specific requirements as stated in subsection B of this section, or the requirements of the health department, whichever is greater.
- B. In this rural residential zone (RR), no building or premises not customarily incidental to allowed uses, as herein noted, shall be used, nor shall any building, structure or land usage be hereafter erected or altered, unless otherwise provided in this chapter, except for one or more of the conditional uses in section [8-6D-3](#) of this article in accordance with the standards in section [8-6D-5](#) of this article. (Ord. 21, 12-1-1998)

### **8-6D-5: LOT REQUIREMENTS:**

#### **A. Lot Area:**

1. **Water Supply And Sewage Disposal:** The lot area per dwelling unit and for all uses in an RR zone dependent on individual water supply and sewage disposal systems shall be sufficient to permit proper location, installation and operation of such systems plus future replacement systems in accordance with Idaho department of health standards for subsurface sewage disposal systems and shall not be less than one acre. In platted subdivisions one acre minimum lot size may allow slight variation for inclusion of rights of way and easements at health department discretion.
2. **Minimum Lot Area:** The minimum lot area per dwelling unit and for all other uses in an RR zone served by a public sanitary sewer and water supply system or a state health department approved private sanitary sewer system and water supply system may be nine thousand (9,000) square feet if approved as conditional use.
3. **Public Sewer Unavailable:** In areas not presently served by a public sewer system, lots shall be shown on the plat to be resubdividable into lot sizes permitted at such time as public sewer becomes available. (Ord. 21, 12-1-1998)
4. **Canal:** (Rep. by Ord. 214, 3-2-2009)
5. **Connection To Community Services Required:** Any subdivision or planned unit development located within one-half ( $1/2$ ) mile of the incorporated limits of a municipality shall be required at the developer's expense to connect to that community's services (water and sanitary sewer) provided that the community has the capacity and is willing to allow connection to its services.

- B. **Lot Frontage:** In all cases the minimum average lot width shall not be less than eighty feet (80'). The minimum street frontage shall be sixty feet (60') except in the case of lots abutting a cul-de-sac in which case the minimum frontage shall be thirty feet (30'). Any other reduction in lot frontage must be approved by the planning and zoning commission.

C. Lot Depth: No requirement.

D. Yards: Residential and other uses:

1. Front: A minimum front yard depth of thirty feet (30') shall be provided for all buildings except where a building exceeds a height of thirty five feet (35'), the front yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35').
2. Side: A minimum side yard depth of seven feet (7') shall be provided on each side of the main building located on an interior lot except where a building exceeds a height of thirty five feet (35'); the side yard shall be increased one foot (1') for each five feet (5') of height exceeding thirty five feet (35'). The side street yard of a building located on a corner lot shall not be less than twenty five feet (25').
3. Rear: A minimum rear yard depth of thirty feet (30') shall be provided for all buildings except where a building exceeds a height of thirty five feet (35'), the rear yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35'). (Ord. 21, 12-1-1998)

#### **8-6D-6: ACCESSORY USE BUILDINGS:**

Detached accessory use buildings may be constructed on the rear yard area provided that such buildings plus the principal building shall not occupy more than thirty five percent (35%) of the total lot area nor be located closer than three feet (3') to a side or rear property line of an interior lot except by written, notarized and recorded permission of the adjoining property owner(s) and appropriate firewall construction, nor closer than twenty five feet (25') to the side street property line of a corner lot. See subsections [8-12-1A](#) and B of this title. (Ord. 21, 12-1-1998)

#### **8-6D-7: EAVES PROJECTION:**

- A. Eaves projecting from main buildings shall not be closer than thirty inches (30") to a side or rear property line.
- B. Eaves projecting from accessory use buildings shall not be closer than twelve inches (12") to a side or rear property line. (Ord. 21, 12-1-1998)

#### **8-6D-8: OFF STREET PARKING:**

- A. Off street parking shall be as required by [chapter 11](#) of this title. (Ord. 21, 12-1-1998)

#### **8-6D-9: EXISTING TOWN SITE PLATS:**

- A. Purpose: The purpose for this section is to provide minimum lot size in existing town site plats

for the purpose of development serviced by a public water system and/or waste treatment system, to address existing nonconforming lots, to safeguard life or limb, health, property and public welfare. This section only applies to existing town site plats.

- B. Minimum Lot Area: Minimum lot area shall be twelve thousand five hundred (12,500) square feet when serviced by a public water system and nine thousand (9,000) square feet when serviced by a public water system and a wastewater system. A public water system is defined in IDAPA 58.01.08 as a water system that supplies water to at least twenty five (25) people or has at least fifteen (15) service connections.
- C. Lot Frontage: In all cases, the minimum lot width shall not be less than one hundred feet (100').
- D. Lot Depth: In all cases, the minimum lot depth shall not be less than one hundred feet (100').
- E. Yard Requirements:
1. Front: A minimum yard depth of thirty feet (30') shall be maintained for all structures.
  2. Side: A minimum side yard depth of seven feet (7') for the main structure located on an interior lot shall be maintained. The side street yard of all structures located on a double frontage lot shall not be less than twenty feet (20').
  3. Rear: A minimum yard depth of thirty feet (30') for the main structure and accessory use structures located less than six feet (6') from the main structure shall be maintained.
  4. Accessory Use Structures On Single Frontage Lots: Accessory use structures on single frontage lots shall have a minimum side and rear yard depth of seven feet (7'). The side street yard of all structures located on a double frontage lot shall not be less than twenty feet (20').
- F. Accessory Use Structures: Accessory use structures may be constructed in the rear yard area, provided that the area of such structures combined with the area of the main structure shall not occupy more than thirty five percent (35%) of the total lot area or infringe upon the sanitary sewer system including the replacement drain field area.
- G. Nonconforming Lots: Any existing lot upon which a legally existing structure is located may continue to be occupied and used in accordance with section [8-9-1](#), "Nonconforming Use", of this title. When a legally existing nonconforming structure is replaced, remodeled or repaired, equaling fifty percent (50%) or more of its assessed value, it shall be brought into compliance with the provisions of this chapter and shall not encroach upon road and/or utility easements, shall conform to the setback requirements of this section. (Ord. 205, 3-31-2008)

## **ARTICLE E. COMMERCIAL ZONE (C)**

### **8-6E-1: PURPOSE:**

The purpose of this Zone is to provide for areas that will fulfill the need for travel-related services, retail sales and professional offices, neighborhood or local commercial services throughout the County, and encourage the grouping together of light industrial uses capable of being operated under such standards as to location and appearance of buildings and the treatment of the land about them, that they will be unobtrusive and not detrimental to surrounding property owners. The zones are established to encourage the development of shopping centers as they relate to the needs of the urban areas throughout the County and servicing the major highways or arterials catering both to local and travel-related services, retail sales and professional offices. Areas set aside as C Zone may be classified as such in conformity with the Comprehensive Plan, and where it is found that in the public interest there is a need for light industrial activities with subsequent findings that light industrial or commercial uses are the best use for the land involved. (Ord. 21, 12-1-1998)

## **8-6E-2: PRINCIPAL DESIGNATED USES:**

Auto repair and garages, auto painting shops, auto upholstery shops, muffler shops, automobile parts shops, and similar uses; provided storage of partly dismantled automobiles shall be carried on within a completely enclosed building.

Automobile parts.

Automobile sales and service establishments.

Bakeries, retail.

Barbershops and beauty shops.

Book and stationery stores.

Bowling alley, dance halls.

Branch banks.

Broadcasting buildings and facilities.

Business offices.

Candy stores.

Cocktail lounges, bars, beer parlors, nightclubs and liquor stores.

Confectionery stores.

Delicatessens.

Dog kennels and veterinary clinics.

Drugstores.

Dry-cleaning agencies and self-service laundries.

Family clothing stores.

Farm and garden supply stores.

Farm equipment and contractors' equipment sales and service.

Floral shops, nurseries.

Gift and greeting card shops.

Grocery stores, fruit, vegetable and meat markets.

Hobby shops and toy stores.

Home furnishings and accessories.

Ice skating rinks, rollerskating rinks, and swimming pools (see Section [8-9-6](#) of this Title, swimming pools).

Jewelry stores including the repairing of jewelry, watches and clocks.

Lumberyards and building material and supplies.

Medical and dental offices or clinics, pharmacies, and related services.

Mini-warehouse.

Motels, hotels and rooming halls.

Pawnshops.

Pet stores.

Professional offices.

Public service buildings, such as post offices and fire stations.

Public buildings and public utility structures.

Repair shops for radio, television and small appliances.

Restaurants, food drive-ins, refreshment stands.

Sale of hay, grain and bulk quantities of seed and agricultural supplies.

Service stations.

Shoe repair and shoeshine shops.



Stores selling a combination of items, provided only those items which are commonly sold in the establishments listed herein.

Supermarkets.

Trade school.

Trailer sales or rental.

Variety stores.

Wedding chapels.

Wholesale of small items. (Ord. 21, 12-1-1998)

### **8-6E-3: CONDITIONAL USES:**

These uses may be granted by the Commission after an advertised public hearing. These items may be approved provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining developed land.

Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval.

Assembly plant, light manufacturing, packaging plant, fabrication of goods and merchandise, offices, bottling and distribution plants, light repair facilities, and wholesale business. Other assembly of limited manufacturing or industrial uses similar to those listed.

Auction establishments.

Sale of secondhand and salvage goods.

Transit or trucking terminal.

Woodworking, sheet metal, and contractor shops. (Ord. 21, 12-1-1998)

### **8-6E-4: OTHER USES:**

A. It is impossible to list all of the commercial, retailing and service facilities that are compatible with this Zone. Any requested facility of a compatible nature upon application for a building permit can be resolved by the Zoning Administrator. If the Zoning Administrator is in doubt, then he should submit the request to the Planning and Zoning Commission for resolution.

B. Other uses may be considered upon the filing of a conditional use application, and application for a zone variance or a zone change. (Ord. 21, 12-1-1998)

### **8-6E-5: RESTRICTIONS:**

- A. It is desirable that in this Zone the principal designated uses involving structures, be serviced from public water and sewer facilities, however, since such public facilities might not be reasonably available or feasible throughout the Zone, then the minimum lot requirements shall be controlled by the specific requirements as stated in subsection B of this Section, or the requirements of the health department, whichever is greater.
- B. In this Commercial Zone (C), no buildings or premises not customarily incidental to the allowed uses, as herein noted, shall be used, nor shall any building, structure or land usage be hereafter erected or altered, unless otherwise provided in this Article, except for one or more of the conditional uses in Section [8-6E-3](#) of this Article, in accordance with the standards in Section [8-6E-6](#) of this Article.
- C. Provisions for the on-site detention of storm water runoff shall be provided for based on standard engineering practice and in compliance with all local, State and Federal requirements.
- D. All driveways entering and exiting the property shall be curbed and conform to Highway Standards and Procedures for the Highway Districts of Twin Falls County, Idaho 1994, or latest issue.
- E. All outside storage or waste areas that may occur in this Zone shall be totally enclosed as determined by the Commission. (Ord. 21, 12-1-1998)

### **8-6E-6: LOT REQUIREMENTS:**

#### **A. Lot Area:**

1. Individual Water And Sewer: The lot area for all uses dependent on individual water supply and sewage disposal systems shall be sufficient to permit proper location, installation and operation of such systems in accordance with the Idaho Department of Health Standards for Subsurface Sewage Disposal Systems.
2. Residential Uses: The provisions of the Rural Residential Zone shall apply.
3. Nonresidential Uses: The area of each lot dependent on individual water supply and sewage disposal system shall be as required by subsection A1 of this Section plus the total square feet of area required front, rear, and side yards, off-street parking space and floor area of all buildings hereof.

#### **B. Lot Frontage:**

1. For residential uses the minimum average lot width shall not be less than eighty feet (80'). The minimum street frontage shall be sixty feet (60') except in the case of lots abutting a cul-de-sac in which case the minimum frontage shall be thirty feet (30'). Any other reduction in lot

frontage must be approved by the Planning and Zoning Commission.

2. For nonresidential uses, the lot width shall be the combination of structure width and required side yards.

C. Lot Depth: No requirement.

D. Setbacks:

1. Front: A minimum setback distance of fifty feet (50') from the highway right of way to the wall of any structure upon the property shall be required.
2. Minimum Distance: A minimum distance of ten feet (10') shall be required between the highway right of way and any area to be used for the display of any items for sale or trade. Parking is also prohibited in this area. This area may be used for landscaping purposes which will not interfere with sighting requirements which allow for the safe egress or ingress to the property.
3. Rear: A minimum rear yard depth of five feet (5') shall be provided for all buildings except where a building exceeds a height of thirty five feet (35'), the rear yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35').
4. Side: A minimum side yard depth of ten feet (10') shall be provided for all buildings. Buildings may share a common wall provided that it conforms to the Uniform Building and Fire Codes. (Ord. 21, 12-1-1998)

### **8-6E-7: ACCESSORY USE BUILDINGS:**

Detached accessory use buildings may be constructed on the rear yard provided that such buildings shall not occupy more than thirty five percent (35%) of the rear yard area nor be located closer than three feet (3') to a side or rear property line of an interior lot, nor closer than fifteen feet (15') to the side property line of a corner lot. (Ord. 21, 12-1-1998)

### **8-6E-8: EAVE PROJECTION:**

- A. Eaves projecting from a main building shall not be closer than thirty inches (30") to a side or rear property line.
- B. Eaves projecting from accessory use buildings shall not be closer than twelve inches (12") to a side or rear property line. (Ord. 21, 12-1-1998)

### **8-6E-9: OFF-STREET PARKING:**

Off-street parking shall be as required by [Chapter 11](#) of this Title. (Ord. 21, 12-1-1998)

## **8-6E-10: SIGN REGULATIONS:**

Sign regulations shall be as required by [Chapter 4](#) of this Title. (Ord. 21, 12-1-1998)

# **ARTICLE F. INDUSTRIAL ZONE (I)**

## **8-6F-1: PURPOSE:**

The I Zone is established to provide for the location of all industrial activity compatible with plans for the development of the County including those uses listed as permitted in the C Zone and, in addition, certain other industrial uses are excluded from the C Zone. Areas set aside as I Zone may be classified as such in conformity with the Comprehensive Plan and where it is found that in the public interest there is a need for industrial activities substantially free from residential or retail commercial activities with the subsequent finding that industrial uses are the highest and best use for the land involved. (Ord. 21, 12-1-1998)

## **8-6F-2: PRINCIPAL DESIGNATED USES:**

Principal and conditional uses as listed in the C Zone except residential uses.

Processing of candy, cosmetics, ceramics and similar products.

Processing of dairy products.

Public utility and public service installations, including repair and storage facilities.

Warehouse. (Ord. 21, 12-1-1998)

## **8-6F-3: CONDITIONAL USES:**

A. These uses may be granted by the Commission after application and a formal previously advertised public hearing provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining developed land. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval.

Acid manufacturing, pharmaceuticals and chemical processing.

Asphalt, lime, gypsum manufacturing.

Mixing plants, concrete or other odor-free plants.

Publicly owned refuse dumps, sanitary landfills or transfer facilities.

Recycling centers and facilities.

Salvage yards with sight-obscuring fences.

Stockyards, slaughterhouses.

- B. It is impossible to list all of the industrial facilities that are compatible with this Zone. Any requested facility of a compatible nature upon application for a building permit can be resolved by the Zoning Administrator. If a usage is requested which creates doubt in the mind of the Zoning Administrator, then he should submit the request to the Planning and Zoning Commission for resolution.
- C. Other uses may be considered upon the filing of a conditional use application, an application for a zone variance or a zone change. These uses may be granted by the Commission after a formal previously advertised public hearing provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining developed land. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval: salvage yards with sight-obscuring fences; refuse dumps; acid manufacturing; asphalt, lime, gypsum manufacturing; animal byproducts plants; milling or smelting of ores; stockyards, feed yards, slaughterhouses. (Ord. 21, 12-1-1998)

#### **8-6F-4: RESTRICTIONS:**

- A. It is desirable that in this Zone the principal designated uses involving structures, be serviced from public water and sewer facilities, however, since such public facilities might not be reasonable, available or feasible throughout the Zone, then the minimum lot requirements shall be controlled by the specific requirements as stated in subsection B of this Section, or the requirements of the health department, whichever is greater.
- B. In this Industrial Zone (I), no buildings or premises not customarily incidental to the allowed uses, as herein noted, shall be used, nor shall any building, structure or land usage be hereafter erected or altered, unless otherwise provided in this Article, except for one or more of the conditional uses in Section [8-6F-3](#) of this Article in accordance with the above standards in Section [8-6F-5](#) of this Article.
- C. All driveways entering and exiting the property shall be curbed and conform to Highway Standards and Procedures for the Highway Districts of Twin Falls County, Idaho 1994, or the latest issue. (Ord. 21, 12-1-1998)

#### **8-6F-5: LOT REQUIREMENTS:**

#### A. Lot Area:

1. Individual Systems: The lot area for all uses dependent on individual water supply and sewage disposal systems shall be sufficient to permit proper location, installation and operation of such systems in accordance with the Idaho Department of Health Standards for Subsurface Sewage Disposal Systems.
2. Nonresidential Uses: The area of each lot dependent on individual water supply and sewage disposal system shall be as required by subsection A1 of this Section plus the total square feet of area required front, rear, and side yards, off-street parking space and floor area of all buildings hereof.

#### B. Lot Frontage:

1. For nonresidential uses, the lot width shall be the combination of structure width and required side yards.

#### C. Lot Depth: No requirement.

#### D. Setbacks:

1. Front: A minimum setback distance of fifty feet (50') from the highway right of way to the wall of any structure upon the property shall be required.
2. Minimum Distance: A minimum distance of ten feet (10') shall be required between the highway right of way and any area to be used for the display of any items for sale or trade. Parking is also prohibited in this area. This area may be used for landscaping purposes which will not interfere with sighting requirements which allow for the safe egress or ingress to the property.
3. Rear: A minimum rear yard depth of five feet (5') shall be provided for all buildings except where a building exceeds a height of thirty five feet (35'), the rear yard shall be increased one foot (1') in depth for each five feet (5') of height exceeding thirty five feet (35').
4. Side: A minimum side yard depth of ten feet (10') shall be provided for all buildings. (Ord. 21, 12-1-1998)

### **8-6F-6: ACCESSORY USE BUILDINGS:**

Detached accessory use buildings may be constructed on the rear yard provided that such buildings shall not occupy more than thirty five percent (35%) of the rear yard area nor be located closer than three feet (3') to a side or rear property line of an interior lot, nor closer than fifteen feet (15') to the side property line of a corner lot. (Ord. 21, 12-1-1998)

### **8-6F-7: EAVE PROJECTION:**

- A. Eaves projecting from a main building shall not be closer than thirty inches (30") to a side or rear property line.
- B. Eaves projecting from accessory use buildings shall not be closer than twelve inches (12") to a side or rear property line. (Ord. 21, 12-1-1998)

#### **8-6F-8: OFF-STREET PARKING:**

Off-street parking shall be as required by [Chapter 11](#) of this Title. (Ord. 21, 12-1-1998)

#### **8-6F-9: SIGN REGULATIONS:**

Sign regulations shall be as required by [Chapter 4](#) of this Title. (Ord. 21, 12-1-1998)

## **ARTICLE G. CANYON RIM OVERLAY DISTRICT (CR)**

#### **8-6G-1: PURPOSE:**

It is the purpose of this article to protect and preserve the canyon lands and areas in Twin Falls County. These assets have regional and national significance. Because of the aesthetic quality and diversity of the resources within the canyons, retaining them in their natural condition is a priority. Furthermore, it is the intent of this article to protect the public from possible hazards associated with the canyon. (Ord. 21, 12-1-1998)

#### **8-6G-2: APPLICABILITY:**

The canyon rim overlay district shall apply to "canyon lands" as defined in this title, and shall have the requirements as set forth in this article. (Ord. 21, 12-1-1998)

#### **8-6G-3: PRINCIPAL PERMITTED, ACCESSORY AND CONDITIONAL USES:**

All principal permitted, accessory and conditional uses permitted in the underlying zoning district are permitted in the canyon rim overlay district to the extent that such uses are consistent with the standards of this article. (Ord. 21, 12-1-1998)

#### **8-6G-4: DESIGN AND DEVELOPMENT STANDARDS:**

The following design and development standards shall apply within the canyon rim overlay district:

- A. **Yard Requirements:** No dwelling may be constructed or placed within one hundred feet (100') of a canyon rim located in Twin Falls County, the measurement will begin at the structural wall of the dwelling closest to the canyon rim. In case a question exists as to the exact location of the rim, the zoning administrator will make the determination. Requests for a lesser setback will require an application to the director, but in no case shall the setback be less than fifty feet (50'). The following is required at the time of application:
1. The name, address, and telephone number of the Idaho licensed professional engineer responsible for preparation of the application.
  2. A parcel map showing the parcel boundaries, the proposed canyon rim setback, building envelope, or building location, the disposal facilities, any watercourses or drainageways across or adjacent to the parcel.
  3. Any other information required by the director that may clarify the application and provide a basis for the findings. When all the above information is submitted, the director shall submit the application to the commission for a conditional use permit.
- B. **Determination Of Canyon Rim:** Due to the unique features of canyons, multiple canyon rims may meet the definition of "canyon rim". Therefore, the location of the canyon rim for purposes of the setback requirements of the canyon rim overlay zone shall be determined before any lesser setback is approved or any development, including, but not limited to, excavation or grading on a lot occurs. A property owner shall consult with the zoning administrator to determine the canyon rim for the lot for purposes of development and/or the lesser setback. (Ord. 21, 12-1-1998)
- C. **Height Requirements:** The maximum allowable structure height within the canyon rim overlay district shall be thirty five feet (35') for any structure. (Ord. 166, 3-8-2004)
- D. **Landscaping:** Owner's option, unless the requirements have been placed upon the planned unit development or subdivision of which the subject site is a part. Those requirements shall be met as a part of the site's development.
- E. **Alteration Of The Natural Landscaping:** Dumping of material along canyon rims, into canyons, or anywhere in the County except for a designated landfill or transfer station is prohibited. (Ord. 21, 12-1-1998)

#### **8-6G-5: WAIVER OF LIABILITY:**

A waiver of liability for Twin Falls County shall be filed in conjunction with the approval. A notarized signature is required and the form shall be filed with the County Clerk and recorded with the deed. (Ord. 21, 12-1-1998)

## **ARTICLE H. AIRPORT OVERLAY (AP)**



## **8-6H-1: PURPOSE:**

This district or zone is intended to prevent the encroachment of air space required for flight safety and in doing so, to also consider the safety of residential and other uses on the ground. Horizontal and vertical spacing is generally based on federal aviation agency recommendations. Electromagnetic restrictions are provided to prevent disorientation of electronic aviation aids. Light, glare, and smoke requirements are intended to prevent visual loss of contact with ground, structures, or other obstructions. This zone is applied in conjunction with existing zone, but should the requirements or prohibitions of the existing regular zones be determined to be less, then the provisions of this zone will apply. (Ord. 21, 12-1-1998)

## **8-6H-2: PRINCIPAL DESIGNATED USES:**

Commercial uses, on the airport proper, will be determined by the governing body.

Dude ranches.

The growing of soil crops including all farming, livestock and poultry raising activities.

Home occupations, suburban, rural or external.

Livestock confinement operations, in compliance with chapters 17 and 18 of this title.

Mobile homes on the specified minimum lot size of larger parcels.

One-family dwellings, accessory use buildings and farm labor dwelling units, as related to the agricultural use of the land<sup>1</sup>.

Parks and golf courses, public parks, public recreation grounds and public buildings<sup>2</sup>.

Stables, private or riding.

Temporary structures used for the sale of farm products raised on the premises including signs advertising the sale of such products. Such structures shall be located a minimum distance of twenty feet (20') back of the highway right of way line and provide not less than five (5) off street parking spaces adjacent thereto<sup>3</sup>.

Water reservoirs and facilities<sup>4</sup>.

Other uses compatible with the above designated uses may be considered upon the filing of a conditional use application, and application for a zone variance or a zone change. (Ord. 21, 12-1-1998)

## **8-6H-3: CONDITIONAL USES:**

These uses may be granted by the planning and zoning commission after a formal previously

advertised public hearing. These items may be approved provided they are determined to be an appropriate use of the land at the proposed location and provided they will not have an adverse effect upon adjoining developed land. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, level of maintenance standards, parking, etc., may be stipulated in the approval.

Cemeteries.

Commercial advertising signs provided they are located not less than fifty feet (50') back of any street or highway right of way lines provided however, that signs along state and federal highways shall comply with the state requirements.

Gravel, sand and clay pits.

Kennels.

Other uses compatible with and not less restrictive in character than the above designated uses may be considered. (Ord. 21, 12-1-1998)

#### **8-6H-4: RESTRICTIONS:**

A. Lighting:

1. Any pulsating, flashing, rotating, oscillating, or other type of lighting intended as an attention getting device is prohibited.
2. Floodlights, spotlights, or other lighting device shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the grounds.

B. Glare: Glare producing building materials shall not be allowed on any structure or any other use of the land.

C. Electromagnetic: No use may be made of land which results in electromagnetic radiation which interferes with radio communication between aircraft, or between aircraft and airport, or interferes with established radio navigation aids.

D. Smoke: No use may be made of land which emits smoke, dust or any visible fumes or vapors into the atmosphere.

E. Building Height Limitations: The maximum building height shall be thirty five feet (35'), provided, however, the zoning administrator may authorize additional height for structures as provided in federal aviation agency regulations part 77. (Ord. 21, 12-1-1998)

#### **8-6H-5: LOT REQUIREMENTS:**

Lot requirements shall be as provided in the agricultural zone (A). (Ord. 21, 12-1-1998)

## **ARTICLE I. WELLHEAD PROTECTION OVERLAY ZONE (WPO)**

### **8-6I-1: SHORT TITLE AND PURPOSE:**

A. This Article shall be known as the *WELLHEAD PROTECTION PLAN*.

B. It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize public and private losses due to contamination of the public water supply, and to formalize ground water protection/pollution abatement and control procedures. Specific goals are to:

1. Protect human life and health;
2. Ensure that the public is provided with a sustainable safe potable water supply;
3. Minimize expenditure of public money for pollution remediation projects;
4. Minimize regulations and land use; and
5. Minimize business interruptions. (Ord. 21, 12-1-1998)

### **8-6I-2: DEFINITIONS:**

When used in this Article, the following words and phrases shall have the meanings given in this Section:

**AGRICULTURAL RUNOFF WASTEWATER:** Water diverted for irrigation but not applied to crops, or runoff of irrigation tail water from the cropland as a result of irrigation.

**AQUIFER REMEDIATION RELATED WELLS:** These wells shall include those used to prevent, control, or remediate aquifer pollution, including, but not limited to, Superfund sites.

**COMMUNITY WATER SYSTEM:** A public system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty five (25) year-round residents.

**COMMUNITY WELLHEAD:** The upper terminal of a well, including adapters, ports, seals, valves and other attachments.

**FACILITY:** Refers to any business or corporation that is built, installed, or established to serve a particular purpose.

**HAZARDOUS WASTE DISPOSAL FACILITY:** A hazardous waste treatment, storage, or disposal facility which receives hazardous material as described in part 40 chapter 260.1 of the Code of Federal Regulations.

**HAZARDOUS WASTE OR MATERIAL:** Any waste or material which because of its quantity, concentration, physical, chemical or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of or otherwise managed; or
- C. Any material or substance designated as a hazardous or toxic substance defined by title 40 part 261.3 of the Code of Federal Regulations, or any material or substance designated as a hazardous or toxic substance by the State of Idaho, acting through the Division of Environmental Quality or any successor agency.

**INJECTION:** The subsurface emplacement of fluids.

**LIVESTOCK CONFINEMENT OPERATION:** As defined elsewhere in this Zoning Ordinance.

**NONCOMMUNITY WATER SYSTEM:** A public water system that is not a community water system.

**PUBLIC WATER SYSTEM:** A system that provides the public with piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty five (25) individuals daily at least sixty (60) days out of the year. Such term includes:

- A. Any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system; and
- B. Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system.

Public water system is either a "community water system" or a "noncommunity water system".

**SANITARY LANDFILL:** A solid waste disposal operation where the wastes are spread on land in thin layers, compacted to the smallest practical volume, and covered with cover material once each day of operation in order to safeguard against environmental pollution, nuisances, and health hazards.

**STORM WATER RUNOFF:** Water discharged as a result of rain, snow, or other precipitation.

**TIME OF TRAVEL DISTRICTS (TOT):** The time required for a contaminant to move in the ground from a specific point to a well.

**UNDERGROUND INJECTION WELL:** Any excavation or artificial opening into the ground which meets the following three (3) criteria:

- A. It is a bored, drilled or dug hole, or a driven mineshaft, or a driver well point; and

B. It is deeper than its largest straight-line surface dimension; and

C. It is used for or intended to be used for injection.

WELLHEAD PROTECTION OVERLAY DISTRICT IA: A minimum fixed radius extending no less than fifty feet (50') radially from the wellhead supplying potable water to the public water supplies.

WELLHEAD PROTECTION OVERLAY DISTRICT IB: A three (3) year time of travel district (TOT) as defined in this Section.

WELLHEAD PROTECTION OVERLAY DISTRICT II: A six (6) year time of travel district (TOT) as defined in this Section.

WELLHEAD PROTECTION OVERLAY DISTRICT III: A ten (10) year time of travel district (TOT) as defined in this Section.

WELLHEAD PROTECTION OVERLAY DISTRICT (WPO): A land use designation on the land use map, or a zoning designation on a zoning map, that modifies the basic underlying designation in some specific manner. The Wellhead Protection Overlay District will also appear in the hazardous component of the Comprehensive Plan. A map will define specific area districts centering around wells supplying drinking water to a public water system. The map is delineated using one of the following methods:

Calculated fixed radius;

Arbitrary fixed radius;

Simplified variable shapes;

Semi-analytical, and analytical methods;

Hydrogeologic mapping;

Numerical modeling;

and follow the guidelines established in the Idaho Wellhead Protection Plan. (Ord. 21, 12-1-1998)

### **8-6I-3: ESTABLISHMENT OF DISTRICT:**

There is hereby established a Wellhead Protection Overlay District identified and described as all the area within the ten (10) year TOT district around public water supplies as shown on the Official Zoning Map. It is further established that these areas be composed of four (4) districts, "Wellhead Protection Overlay District IA", "Wellhead Protection Overlay District IB", "Wellhead Protection Overlay District II", and "Wellhead Protection Overlay District III" as they are defined in this Article. The city of Twin Falls may record with the County Recorder's office a metes and bounds description of the Wellhead Protection Overlay District. (Ord. 21, 12-1-1998)

### **8-6I-4: PRINCIPAL PERMITTED USES, ACCESSORY USES AND CONDITIONAL USES:**

Principal permitted, accessory and conditional uses are those uses set forth in the base zone except as may be restricted by the standards listed herein and other sections of the Zoning Ordinance. (Ord. 21, 12-1-1998)

### **8-6I-5: PROHIBITED USES:**

- A. Zone IA: Uses permitted within Zone IA shall be limited to necessary public water supply wellhead equipment including the following: wellhead facility buildings, water storage tanks, disinfection equipment, disinfection chemical storage and approved landscaping. All other uses shall be prohibited.
- B. Zone IB: The following uses or conditions shall be and are hereby prohibited within Zone IB of the wellhead protection areas:
1. Sanitary landfills.
  2. Livestock confinement operations.
  3. Hazardous waste disposal facility.
  4. Injection well is a prohibited use except for the following:
    - a. Closed systems.
  5. All manufacturing or industrial businesses involving the collection, handling, manufacture, use, storage, transfer or disposal of any hazardous solid or liquid material or waste having potential impact on ground water.
  6. Existing sewer lines shall not be closer than one hundred feet (100') of a wellhead or of a new sanitary system and sewer lines shall not be closer than one hundred fifty feet (150') of a wellhead.
  7. Existing septic tanks or drain fields shall not be closer than one hundred feet (100') of a wellhead and new installation of septic tanks or drain fields shall not be closer than two hundred feet (200') away from the wellhead.
  8. Junk or salvage yards.
  9. Disposal of waste oil, oil filters, tires and all other petroleum products.
  10. Land use activities posing a hazard or threat to existing ground water quality as deemed by the Zoning Administrator during review process of applications.
- C. Zone II: The following uses or conditions shall be and are prohibited within Zone II of the wellhead protection area:
1. Sanitary landfills;

2. Hazardous waste disposal facility;
3. Injection well is a prohibited use except for the following:
  - a. Deep well injection (below 18 feet in depth):
    - (1) Geothermal heat;
    - (2) Heat pump return;
    - (3) Cooling water return;
  - b. Shallow well injection only (less than 18 feet in depth), including:
    - (1) Storm runoff;
    - (2) Agricultural runoff wastewater;
    - (3) Special drainage water;
    - (4) Aquifer recharge;
    - (5) Aquifer remediation;
    - (6) Septic systems (general).
4. Land use activities posing a hazard or threat to existing ground water quality as deemed by the Zoning Administrator during review process of applications.

D. Zone III: The following uses or conditions shall be and are prohibited within Zone III of the Wellhead Protection Overlay Zone:

1. Injection wells except for the following:
  - a. Deep well injection (below 18 feet in depth):
    - (1) Geothermal heat;
    - (2) Heat pump return;
    - (3) Cooling water return.
  - b. Shallow well injection only (less than 18 feet in depth):
    - (1) Storm runoff;
    - (2) Agricultural runoff wastewater;
    - (3) Special drainage water;
    - (4) Aquifer recharge;
    - (5) Aquifer remediation;

(6) Septic systems (general).

2. Land use activities posing a hazard or threat to existing ground water quality as deemed by the Zoning Administrator during review process of applications. (Ord. 21, 12-1-1998)

### **8-6I-6: NOTICE OF PROPOSED ACTION TO OPERATOR OF PUBLIC OR COMMUNITY WATER SUPPLY:**

Whenever there is a request which requires approval from the Planning and Zoning Commission for land lying within a wellhead protection overlay district, written notice of the hearing shall be given to the entity operating the public or community water supply within that overlay district. The Planning and Zoning Commission may require a granting of easements for monitoring wells if the Commission deems it appropriate for protection of the public water supply. (Ord. 21, 12-1-1998)

### **8-6I-7: NONCONFORMING USE:**

Any legal use existing at the time of the adoption hereof and listed as a prohibited use herein, shall become a legal nonconforming use and may not be expanded or improved except as otherwise provided in the Zoning Ordinance. (Ord. 21, 12-1-1998)

### **8-6I-8: ENFORCEMENT:**

It shall be unlawful for any person, corporation, government entity or business to occupy or use the land within the area designated in the Wellhead Protection Overlay District of Zone I, II, and III contrary to, or in violation of, any of the provisions of this Article. (Ord. 21, 12-1-1998)

### **8-6I-9: AMENDMENTS:**

Proposed amendments will require approval from all of the counties and municipalities that this Article affects. (Ord. 21, 12-1-1998)

## **ARTICLE J. OUTDOOR RECREATION OVERLAY (OR)**

### **8-6J-1: PURPOSE:**

This zone is intended to cover those areas of Twin Falls County which are currently being used and have a potential for recreational usages. In identifying these areas the general plan has provided for areas to be used for recreational purposes for the enjoyment of the citizens of Twin Falls County as well as extending certain areas into national tourist sites. Minimum lot size shall be the same as the underlying zone. (Ord. 21, 12-1-1998)



## **8-6J-2: PRINCIPAL DESIGNATED USES:**

The growing of crops and raising of livestock and buildings related thereto provided they do not exceed the animal unit restrictions as outlined in chapters 17 and 18 of this title.

Hot road mix plants on a temporary basis for not more than the duration of specific project's time frame.

One-family dwellings or mobile homes.

Private summer cottages and accessory buildings, hunting and fishing cabins, and fisheries.

Public parks and playgrounds.

Water pumping plants, reservoirs, well and facilities, pipelines, public utility buildings and structures. (Ord. 21, 12-1-1998)

## **8-6J-3: CONDITIONAL USES:**

These uses may be granted by the planning and zoning commission after a formal previously advertised public hearing. These items may be approved provided they are determined to be an appropriate use of land at the proposed location and provided they will not have an adverse effect upon adjoining developed land. Condition requiring special or additional sanitation facilities, landscaping, parking, etc., may be stipulated in the approval. Impact study shall be required.

Dude ranches.

Hydroelectric dams, power plants, transmission lines and stations.

Livestock confinement operations, in compliance with chapters 17 and 18 of this title.

Planned unit developments provided they are located one thousand three hundred twenty feet (1,320') or one-quarter ( $\frac{1}{4}$ ) mile from a livestock confinement operation's waste lagoon's closest inside edge; corral's outside edge. See chapters 17 and 18 of this title.

Use of a recreational nature including sleeping accommodations, food facilities, and other commercial, semicommercial, or organizational enterprises.

Subdivisions, provided they are located one thousand three hundred twenty feet (1,320') or one-quarter ( $\frac{1}{4}$ ) mile from a livestock confinement operation's waste lagoon's closest inside edge of the retaining wall and at least four hundred feet (400') from a livestock confinement operation's corral's outside edge. See chapters 17 and 18 of this title.

Other uses compatible with the above designated zone are subject to review committee. (Ord. 21, 12-1-1998)

## **8-6J-4: RESTRICTIONS:**

The restrictions of the underlying zone shall apply in this zone. (Ord. 21, 12-1-1998)

#### **8-6J-5: LOT REQUIREMENTS:**

The lot requirements of the underlying zone shall apply in this zone. (Ord. 21, 12-1-1998)

#### **8-6J-6: ACCESSORY USE BUILDINGS:**

The accessory use building provisions of the underlying zone shall apply in this zone. (Ord. 21, 12-1-1998)

#### **8-6J-7: EAVE PROJECTION:**

The eave projection provisions of the underlying zone shall apply in this zone. (Ord. 21, 12-1-1998)

#### **8-6J-8: OFF STREET PARKING:**

Off street parking shall be as required by [chapter 11](#) of this title. (Ord. 21, 12-1-1998)

## **Chapter 7 CONDITIONAL USES**

#### **8-7-1: INTENT:**

The intention of a conditional use application is to consider a usage largely suitable for the respective zone but possessing characteristics such as to require review and appraisal by the planning and zoning commission. The review and appraisal is to determine whether or not the proposed use can be made compatible for the particular area in which it is intended or whether or not it possesses characteristics for which special treatment may not satisfactorily prevent damage, devaluation, hazard, nuisance, or other detriment to persons or property in the vicinity. A conditional use permit or any part thereof, being restrictive, is issued to the person and not the property, therefore cannot be sold, leased, or transferred. A conditional use permit can only be used by the person on the land for which the conditional use permit was originally intended. A conditional use/land division provides for the one time division of property, and is not to be confused with a subdivision (more than 3 divisions of the same parcel of property). Applications that may be considered by the planning and zoning commission are those which are specifically listed for its consideration. Items which are of such nature as to change to a less restrictive policy or precedent shall be considered by the planning commission. (Ord. 21, 12-1-1998)

### **8-7-2: APPLICATION REQUIRED:**

Every person seeking a conditional use permit shall submit an application upon a form prescribed by the commission, along with an impact study<sup>1</sup>, accompanied by a filing fee as specified herein. (Ord. 21, 12-1-1998)

### **8-7-3: FORM, SCOPE AND CONTENT OF APPLICATION:**

All applications for conditional use permits shall be accompanied by appropriate architectural and site development plans to scale which shall show building location; landscaping; prominent existing trees; ground treatment; fences; off street parking and circulation; location and size of adjacent streets; north arrow and property lines; drawings of the major exterior elevations showing exterior building treatment; existing grade and proposed new grades. Required landscaping plans shall be approved prior to occupancy of the building. Such plans required for consideration of the planning and zoning commission shall be prior to issuance of sign permits. (Ord. 21, 12-1-1998)

### **8-7-4: AUTHORITY:**

The zoning administrator shall have the authority to authorize a public hearing. (Ord. 21, 12-1-1998)

### **8-7-5: FEES:**

The zoning administrator shall charge, demand, and receive, and the applicant for conditional use shall pay, at the time of filing and receiving said application, a filing fee as determined by the board of county commissioners and posted in the office of the county zoning administrator. (Ord. 21, 12-1-1998)

### **8-7-6: NOTICE OF HEARING AND PUBLICATION:**

The commission and/or board may hold a public hearing and public notice of hearing on every application for a conditional use shall be given in the same form as required for reclassification of zoning or land use district, except that the date for such hearing shall be set by the zoning administrator within a reasonable time and in no case later than sixty (60) days after receipt of the application and all necessary documents pertinent thereto. The applicant shall be responsible for notification of the adjacent property owners within a three hundred foot (300') radius, or as required by this title, of the exterior boundary, by certified U.S. mail, proof of notification shall be presented to the zoning administrator at least one week prior to the public hearing date. If in the opinion of the commission hearing the facts from the applicant, the decision is made that the request should not be carried to a public hearing, the commission may reject the application at that point. (Ord. 21, 12-1-1998)

### **8-7-7: ACTION BY PLANNING AND ZONING COMMISSION:**

The planning and zoning commission, after investigating and hearing an application for a conditional use permit, may either approve, condition, modify or deny the application after hearing the evidence presented at the public hearing giving consideration to the following:

- A. The location of the proposed use is compatible to other land uses in the general neighborhood and does not place undue burden on existing transportation and service facilities in the vicinity.
- B. The site is of sufficient size to accommodate the proposed use and all yards, open spaces, walls, and fences, parking, loading, landscaping and such other features as are required by this title and other county ordinances that may apply have been met.
- C. The site will be served by streets of sufficient capacity to carry the traffic generated by the proposed use.
- D. The proposed use, including any conditions required by the planning and zoning commission, will not adversely affect other property in the vicinity.
- E. The proposed use necessitates higher standards of site development than listed specifically in this title in order for the proposed use to be compatible with other property uses in the vicinity. If such determination is made, the commission may specify all such standards so determined to be necessary conditions to the conditional use and/or building permit. No occupancy of any part of the site or facilities shall occur until all those conditions have been complied with. (Ord. 164, 11-12-2003)

#### **8-7-8: CONDITIONAL USE, LIMITATION:**

It shall not be the intent of this chapter to restrict or specify as general practice the particular architectural design proposed or to specify the exterior detail or design, color or materials proposed by the applicant, except as such detail is of such magnitude as to affect the general appearance and compatibility of the development with its surroundings. The committee or commission, in acting upon the application, shall provide that approval of a permit shall be contingent upon acceptance and observance of specified conditions, including, but not limited to, the following matters:

- A. Conformity to approved plans and specifications.
- B. Open spaces, buffer strips, walls, fences, advertising signs, concealing hedges, landscaping, lighting.
- C. Volume of traffic generated, requirements for off street parking, vehicular movements within the site and points of vehicular ingress and egress.

- D. Performance characteristics, related to the emission of noise, vibration and other potentially dangerous or objectionable elements.
- E. Limits on time of day for the conducting of specified activities.
- F. Guarantees as to compliance with the terms of the approval.
- G. Outdoor advertising, including the number, location, color, size, height, lighting and landscaping of outdoor signs and structures as related to creation of traffic hazards and appearance in harmony with surrounding development and community objectives.
- H. Street dedications and public improvements on property frontages. (Ord. 21, 12-1-1998)
- I. Any person successful in obtaining a conditional use permit shall commence operations within a specified time of one year. Any corporation or entity successful in obtaining a conditional use permit shall commence operations within a specified time of two (2) years. Electrical, telephone, pipeline providers, and other utilities successful in obtaining a conditional use permit shall commence operations within a specified time of ten (10) years. A conditional use land division shall be recorded with the county recorder within one year. Noncompliance with the above time limitations renders the approval of said permit null and void. (Ord. 212, 1-5-2009)

### **8-7-9: MODIFICATION, EXTENSION, AND REVOCATION:**

Upon request of the holder of a conditional use permit, the commission may modify or extend the term, conditions and limitations of said permit in accordance with the limitations and requirements of this title. The commission may revoke or modify, upon notice and hearing, a conditional use permit for the breach or violation of any condition or limitation of said permit. (Ord. 21, 12-1-1998)

### **8-7-10: APPEAL TO BOARD OF COUNTY COMMISSIONERS:**

- A. An appeal may be made to the board regarding a decision of the commission by any of the following persons:
  - 1. Rejected applicant.
  - 2. Anyone who personally appeared or filed a written comment or voiced an opinion at the hearing.
  - 3. Anyone within three hundred foot (300') radius of the exterior boundary of subject property or as required by this title.
  - 4. Anyone who has substantial information that may alter conditions that were present at the hearing.

B. Appeals must be filed within twenty (20) calendar days. (Ord. 21, 12-1-1998)

### **8-7-11: ACTION BY BOARD:**

Within a reasonable time after receipt of an appeal, the board shall establish a date for hearing such appeal and shall notify the affected parties of the date, time, place and purpose thereof. Upon hearing the appeal, the board shall consider the record and such additional evidence as may be offered and may affirm, reverse or modify, in whole or in part, the order, requirement, permit, decision, or determination appealed from, or make and substitute any additional conditions which in its deliberations it may find warranted under the provisions of this title, or may remand it back to the planning commission for consideration. Nothing contained herein is intended to affect or alter any party's right to appeal to a district court. (Ord. 21, 12-1-1998)

### **8-7-12: APPLICATION RESUBMITTAL:**

No application for a conditional use permit which has been denied by the commission or the board, shall be resubmitted in either the same or substantially the same form or with reference to substantially the same premises for the same purpose in less than six (6) months from the date of final action thereon. (Ord. 21, 12-1-1998)

### **8-7-13: PLANNED UNIT DEVELOPMENT:**

Planned developments, as defined, are of such substantial different character from zoned and special permit usages that specific and additional standards and exceptions are required. The planned unit development may be superimposed upon any or all zones where planned unit developments are allowable as a conditional use, and shall be governed by the Twin Falls County planned unit development provisions in [title 10, chapter 3](#) of this code. Planned unit developments shall be located one thousand three hundred twenty feet (1,320') or one-fourth ( $\frac{1}{4}$ ) mile from an existing livestock confinement operation's waste lagoon's closest inside edge of the retaining wall and at least four hundred feet (400') from a livestock confinement operation's<sup>2</sup> corral's outside edge. (Ord. 21, 12-1-1998)

### **8-7-14: SUBDIVISION ORDINANCES:**

- A. Residential subdivisions may be permitted as listed in the RR zone upon application and compliance with [title 10](#) of this code. Other zones may be considered by the planning commission.
- B. Residential subdivisions shall be located one thousand three hundred twenty feet (1,320') or one-fourth ( $\frac{1}{4}$ ) mile from an existing livestock confinement operation's waste lagoon's closest inside edge of the retaining wall and at least four hundred feet (400') from a livestock confinement operation's<sup>3</sup> corral's outside edge. (Ord. 21, 12-1-1998)

## Chapter 8

# MOBILE HOMES AND/OR MANUFACTURED HOMES

### 8-8-1: PROVIDING SERVICE WITHOUT BUILDING PERMIT PROHIBITED:

It shall be unlawful for a utility to provide any service to any building, mobile home, or other structure outside the limits of any incorporated city in Twin Falls County until such utility has been furnished with a copy of the building permit which has been issued for such building, mobile home or other structure.

It is illegal for any manufactured home and/or mobile home dealer, installer, salesperson, contractor or any other such person to allow any home to be occupied without first obtaining an occupancy permit from the County Building Department. (Ord. 21, 12-1-1998)

### 8-8-2: DEFINITIONS:

For the purpose of this Chapter, the following words shall have the meanings herein ascribed to them:

**SERVICE:** Providing, attaching, or hooking up to any building, mobile home, or other structure any line or pipe which is intended to provide any of the following services: telephone, gas, electricity, water or sewage disposal.

**UTILITY:** Any public or private corporation or company which supplies the public or a group of individuals with the following commodity, service or both: telephone, gas, electricity, water, or sewage disposal. (Ord. 21, 12-1-1998)

### 8-8-3: APPLICATION REQUIRED:

The following uses of mobile homes and/or manufactured homes require the acceptance and approval of an application by the County Building Department (see [Title 7, Chapter 1](#) of this Code):

- A. Permitted Zones: Mobile homes or manufactured homes may be placed in the Agricultural Range Preservation Zone (ARP), Agricultural Zone (A), Rural Residential Zone (RR), and Outdoor Recreation Overlay District (OR) which allow residential use with the following conditions:
1. The mobile home/manufactured home shall be located on a parcel of land of the minimum lot size or larger in area of the applicable zone.
  2. Comply with all area and yard requirements for a single-family dwelling in the same zone.
  3. The unit must provide for skirting and the skirting shall be to the ground and be of similar material as the home or as provided for conventional homes under the Uniform Building Code.

4. Footing and foundation must be provided to the manufacturer's specifications.
  5. The minimum dimension shall be twelve feet (12') with a minimum square footage of one thousand (1,000) square feet.
  6. Modifications may be made for additions, garages, carports, decks, steps, or accessory use buildings. All uses shall be constructed in accordance with the requirements of the Uniform Building Code as adopted by Twin Falls County.
  7. Shall have nonmetallic, wood, shake, or asphalt shingle roof with a minimum slope of sixteen degrees (16°) (2:12), and a minimum eave of six inches (6") attached to the perimeter of the roof.
  8. Shall have horizontal aluminum, or simulated wood, or wood siding.
  9. Shall be permanently affixed upon a foundation having an anchoring system totally concealed under the structure and based on recommendation of the manufacturer.
  10. The manufactured or mobile home shall bear the HUD acceptance label as authorized by the Idaho Department of Labor. Exception: all manufactured or mobile homes manufactured before June 1976, must comply with Idaho Code, chapter 25, title 44 and present a compliance certificate.
  11. All health department, highway districts, and canal company approvals must be secured.
- B. Mobile Homes And/Or Manufactured Homes And Travel Trailer Parks: All manufactured, mobile home parks and travel trailer parks will fall under a conditional use and may be granted by the Commission after a formal, previously advertised public hearing. Conditions requiring special or additional sanitation facilities, landscaping, developed recreation facilities, reduced density, parking, etc., may be stipulated in the approval. (Ord. 21, 12-1-1998)

#### **8-8-4: RECREATIONAL VEHICLES AND TRAVEL TRAILER PARKS:**

- A. At least one side of the park shall abut upon an improved collector or greater capacity street.
- B. The spaces in a travel trailer park shall be not less than one thousand five hundred (1,500) square feet in area for trailers eight feet (8') or less in width; three thousand two hundred (3,200) square feet in area for mobile homes fourteen feet (14') or less in width; four thousand five hundred (4,500) square feet in area for mobile homes greater than fourteen feet (14') in width.
- C. Where adjacent to a residential zone the trailer park shall be screened by a sight-obscuring fence constructed of wood or masonry or other material as approved by the Zoning Board, not less than six feet (6') in height, beginning at a point thirty feet (30') from the front property line and extending along both side property lines and across the rear property line, or else a twenty foot (20') landscaped strip of lawn and shrubs shall be installed.



- D. Trees, shrubs, grass, or other forms of landscaping shall be provided for each trailer space.  
(Ord. 21, 12-1-1998)

### **8-8-5: MOBILE HOME PARKS:**

- A. Approval Required: The park shall require Board of County Commissioners' signatures on the plat map following recommendation of approval by the Planning and Zoning Commissioners.
- B. Mobile Home Space: Space requirements shall be a size not less than that required to provide for front, side and rear yard depths as provided by this Section.
1. Mobile Home Park And Space Yard Setbacks: Each mobile home park shall provide a twenty five foot (25') wide landscaped strip around the perimeter of the park with the screening to be placed within the twenty five foot (25') wide strip. Where a mobile home park is bounded by intersecting public street, no wall, fence or other structure shall be erected, and no hedge, shrub, tree or growth exceeding three feet (3') above the street grade shall be maintained with the triangular area formed by the intersecting property lines and a straight line joining said property line at points which are thirty feet (30') distant from the point of intersection, measured along said street lines.
  2. Setback For Mobile Home Spaces:  
  
Front Yard: Ten feet (10') from the mobile home park travel way.  
  
Side Yards: Shall not be less than twenty feet (20') between adjacent sides of mobile homes or permanent accessory buildings.  
  
Rear Yards: Five feet (5') (except no additional rear yard setback shall be required where adjacent to the 25 foot perimeter area).
- C. Off-Street Parking: Two (2) vehicular parking spaces shall be provided on each mobile home space.
- D. Identification: One mobile home park sign not exceeding eighteen (18) square feet in area. One nameplate or address sign for each mobile home space of not more than one square foot in area.
- E. Recreational Area: Each mobile home park shall provide a minimum of one hundred (100) square feet for each trailer space for developed and maintained recreational grounds for use by the occupants of said park.
- F. Tenant Storage Space: Each mobile home park shall provide not less than two hundred (200) square feet of substantially fenced storage space for each mobile home space in the park. Such storage accommodations shall be so designed that they can be closed and locked and each storage accommodation shall be made available for reasonably convenient access from the

mobile home space it is intended to serve.

- G. Service Building: There shall be located within two hundred feet (200') of every temporary trailer parking area and at least fifteen feet (15') from the nearest parking space, a service building containing these minimum facilities for each fifteen (15) spaces provided for occupancy by dependent travel trailers: two (2) flush type toilets for females, one flush type toilet for males, one flush type urinal; two (2) lavatories and one shower for each sex; one laundry tray and a wastewater sink. Toilet facilities for males and females located in the same building shall be separated by a sound-resistant wall.
- H. Heating And Ventilating Service Buildings, Hot Water: Service buildings shall have adequate heating facilities to maintain a temperature of seventy degrees Fahrenheit (70°F) during cold weather and to supply a minimum of three (3) gallons of hot water per hour per each temporary parking space during the time of peak demands. All rooms in service buildings shall be well-ventilated and openings shall be effectively screened.
- I. Permanent Structures: Including carports, storage buildings, service buildings and others shall be constructed in accordance with the requirements of the Uniform Building Code. No permanent additions of any kind shall be built onto, attached to or become a part of any mobile home. All mobile homes except those temporarily parked shall be skirted with a material that is compatible in appearance with the construction of the mobile home. The skirting may be in contact with the ground but shall not attach the mobile home thereto.
- J. General Layout, Utilities: Sufficient preliminary plans and specifications for the complete construction of the mobile home park shall be prepared by the developer and shall be presented to the Planning and Zoning Commission for approval and acceptance.
- K. Landscaping: Setbacks and recreational areas shall be landscaped with lawn and shrubs and properly tended and maintained. Screening of the boundary lines of the mobile home park shall consist of shrubs, which will within a reasonable time, grow to a height of at least six feet (6') or decorative fencing of wood or masonry at least six feet (6') in height. Screening shall be of such density that visibility through said screening is or will be, within a reasonable time, decreased by at least ninety percent (90%).
- L. Approval: All sanitary facilities and layout shall have the approval of the health department as a condition for submission to the Board.
- M. Time Table: A time table for development shall accompany the conditional use application.
- N. Lighting: All driveways and walkways will be hard surfaced and shall be lighted at night with adequate illumination.
- O. Performance Guarantee: The developer shall provide proof of one of the following:

1. Cash bond in the amount of the cost of paving the roads and any other improvements identified in the development agreement.
  2. Surety bond in the amount of the cost of paving the roads and other improvements identified in the development agreement.
  3. Letter of credit in the amount of the cost of paving the roads and other improvements identified in the development agreement.
  4. Escrow reserve account acceptable to Planning and Zoning Commission.
  5. Upon completion of thirty percent (30%) of the first phase of the project or within two (2) years from the start of construction, whichever occurs first, the roads must be paved for that phase of the project. Each phase thereafter must be completed in the same manner. If the developer fails to meet this condition, the bond or other security may be forfeited at the County's discretion.
- P. Development Agreement: A development agreement must be provided and approved by staff before the letter of approval is issued. (Ord. 21, 12-1-1998)

#### **8-8-6: TEMPORARY TRAVEL TRAILER PARKING:**

One occupied travel trailer may be placed on a lot in any zone for a period of time not to exceed ninety (90) days within any calendar year. Violation of the ninety (90) day limitation shall be deemed a misdemeanor and shall be punishable as provided in Chapter 16 of the Twin Falls County Zoning Ordinance. (Ord. 21, 12-1-1998)

## **Chapter 9 GENERAL PROVISIONS**

#### **8-9-1: NONCONFORMING USE:**

##### A. Definitions:

**NONCONFORMING BUILDING:** Any legally existing building which does not conform to the "location and zone" regulation of this Title for the district in which such "nonconforming building" is located, either at the effective date hereof or as a result of subsequent amendments which may be incorporated into this Title.

**NONCONFORMING USE:** Any legally existing use, whether within a building or other structure or on a tract of land, which does not conform to the "use" regulations of this Title for the zone in which such "nonconforming use" is located, either at the effective date hereof or as a result of subsequent amendments which may be incorporated into this Title.

##### B. Conditions For Nonconforming Uses:

1. Continuation Of Use: A nonconforming use may be continued and a nonconforming building may be continued to be occupied except as both of the foregoing or otherwise provided for in this Chapter.
2. Change Of Use: A nonconforming use may be changed to a conforming use by means of conditional use, it may be changed to another nonconforming use provided the new use will be a substantial benefit to the area. Landscaping, screening and architectural improvements may be made a condition of the conditional use permit as well as criteria for maintenance and overall appearance of the site.
3. Abandonment Of Use: If active and continuous operations are not carried on in a nonconforming use during a continuous period of six (6) months, the building, other structure or tract of land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operation shall not affect the foregoing.
4. Restoration: A nonconforming building or a building containing a nonconforming use which has been damaged by fire or other causes may be restored to its original condition provided such work is started within six (6) months of such calamity and completed within one year of the time the restoration is commenced.
5. Enlargement Of A Nonconforming Building Or A Nonconforming Use: A nonconforming use shall not be enlarged or extended and a nonconforming building shall not be enlarged or extended so as to increase the degree of nonconformity.
6. Alteration Of A Nonconforming Building: A nonconforming building may be structurally altered or repaired in any way permitted by this Chapter.
7. Structural Changes: Any building or other structure containing a nonconforming use or any nonconforming building or portion thereof declared unsafe by the Building Inspector may be strengthened or restored to a safe condition.
8. Nonconforming Signs: All nonconforming signs, billboards, commercial advertising structures shall be subject to the provisions of [Chapter 4](#) of this Title. (Ord. 21, 12-1-1998)

## **8-9-2: CONFORMITY REQUIRED:**

Except as otherwise provided herein, land, buildings and premises in any district shall hereafter be used only in accordance with the regulations herein established for that district and the following general provisions:

- A. Building Construction: No building shall hereafter be erected, constructed, relocated or structurally altered to have a greater height, proportion of coverage or smaller yards or open spaces about it than permissible under the limitations set forth herein for the district in which such buildings are located.
- B. Yards, Open Spaces And Off-Street Parking: No yards, open spaces or off-street parking space or loading space existing or provided hereafter about any building shall be reduced below the minimum requirements hereinafter set forth for such open space, parking space or loading

space, or further reduced if already less than said minimum requirements.

- C. Existing Spaces: No open space, yard or off-street parking space or loading space existing or hereafter provided for a building or use and necessary to meet or partially meet the requirements of this Title shall be considered as all or part of the yard, open space, off-street parking space or loading space required for any other building or upon any other lot.
- D. Dimension: No lot held under one ownership at the effective date hereof shall be reduced in dimension or area in relation to any building thereon so as to be smaller than required by this Title, and if already less, the dimension or area of such lot shall not be further reduced.
- E. Sewage Disposal: All domestic and commercial sewage disposal facilities must be approved by the health department.
- F. Roadways And Curbs; Access To Property: Access to all property and buildings shall be in accordance with the policies and regulations of the highway districts in which the property is located. (Ord. 21, 12-1-1998)

### **8-9-3: YARD REQUIREMENTS:**

- A. Yard Space For One Building Only: No required or other open space around the existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this Title shall be considered as providing a yard or open space for any other building nor shall any yard or any other required open space on an adjoining lot be considered as providing the yard or open space whereon a building is to be created or established.
- B. Yards To Be Unobstructed: Every part of a required yard shall be open to the sun and unobstructed, except for unenclosed porches, belt courses, cornices and flues, and accessory buildings.
- C. Salvage Yards: All salvage yards constructed after the effective date hereof shall be constructed with a sight-obscuring baked enamel metal fence at least eight feet (8') in height. It shall be constructed parallel to and at least ten feet (10') back of the right of way of any public street or highway for any auto wrecking yard and salvage yard. Said fence shall be constructed along the entire premises devoted to such auto wrecking or salvage yard.
- D. Clear View Of Intersecting Streets: In all zones which require a front yard, no obstruction to view in excess of three feet (3') in height from the road surface shall be placed on any corner lot within a triangular area formed by the highway right-of-way lines and the line connecting them at points forty five feet (45') from the intersection of the highway right-of-way lines.
- E. Effect Of Official Map: Wherever a front yard is required for a facing on a street for which no

official map has been recorded in the office of the County Recorder, the depth of such front yard shall be measured from the map street line as shown on the Official Map or from the existing street right-of-way line, whichever is the greater distance. (Ord. 21, 12-1-1998)

#### **8-9-4: SALE OR LEASE OF REQUIRED SPACE:**

No space needed to meet the width, yard, area, coverage, parking or other requirements of this Title for a lot or building may be sold or leased apart from such lot or building unless other space so complying is provided. (Ord. 21, 12-1-1998)

#### **8-9-5: SALE OF LOTS BELOW MINIMUM SPACE REQUIREMENTS:**

After the effective date hereof, no parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a larger parcel of land for the purpose, whether immediate or future, of building or development. (Ord. 21, 12-1-1998)

#### **8-9-6: SWIMMING POOLS:**

Swimming pools not completely enclosed within a building having solid walls, shall be set back at least five feet (5') from the property lines and shall be completely surrounded by a fence or wall having a height of at least five feet (5'). There shall be no opening larger than thirty six (36) square inches except for gates which shall be equipped with self-closing and self-latching devices. (Ord. 21, 12-1-1998)

#### **8-9-7: CONCESSIONS IN PUBLIC PARKS AND PLAYGROUNDS:**

Concessions including, but not limited to, amusement services, recreational buildings, and refreshment stands, shall be permitted on a public park or playground when approved by the County Commissioners. (Ord. 21, 12-1-1998)

#### **8-9-8: LAND PREVIOUSLY SUBDIVIDED:**

- A. Notwithstanding any other provision of this Title any lot or parcel of land which was on record at the effective date hereof may be used as a dwelling site in any zone in which dwellings are listed as a permitted use provided the front, side and rear yard requirements are complied with, and it is connected to a public sewer system or is approved by the health department for an individual sewage disposal system.
- B. The provisions of this Section apply to miscellaneous plats or records of survey, twenty (20) acres or less recorded, prior to November 8, 1979.

- C. The following conditions must be met before residential buildings will be allowed on these parcels:
1. Must meet one acre requirement per South Central District Health Department for a sewage disposal system.
  2. The owner must provide approved road access to all parcels.
  3. All roads which may be presented to the respective highway district in which the parcels are located, must conform to Highway Standards and Development Procedures for the highway districts of Twin Falls County, Idaho.
  4. Private driveways may service up to three (3) homes, after which it becomes a road and shall meet the standards of the respective highway district. Private roads provided by the owner must have a road maintenance agreement which runs with the land until the road is accepted by the respective highway district.
  5. If water shares are available to the land, then the owner must provide a written water use and maintenance agreement which shall run with the land and conform to the requirements of the respective canal company.
  6. All parcels must provide the necessary utility, road and irrigation easement.
  7. Plats must be recorded before any lots or parcels may be sold.
  8. Plats showing all easements and roads must be recorded within three (3) years of the effective date hereof or such lots or parcels will no longer be recognized and all zoning restrictions shall apply.
  9. Parcels which do not conform to the above requirements, shall require approval by the Planning and Zoning Commission for any plat changes. (Ord. 21, 12-1-1998)

### **8-9-9: DIVISION OF LAND:**

- A. Subdivision: The result of an act of dividing an original lot, tract or parcel of land into more than three (3) parts for the purpose of transfer of ownership or development; which shall also include the dedication of public streets and other rights of way and the addition to, or creation of, a cemetery. Any division must be in compliance with applicable water/canal companies. However, this title shall not apply to any of the following:
1. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements, and does not change the original number of lots in a block of the recorded plat.
  2. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property, foreclosures, or other legal actions.
  3. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code.

4. Widening of existing streets to conform to a comprehensive plan.
  5. The acquisition of street rights of way by a public agency in conformance with the comprehensive plan.
  6. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage.
  7. Land divided into parcels which meet applicable zone requirements.
  8. All other divisions which create parcels less than applicable zone requirements must file for a conditional use/land division.
- B. Administration: The administration can approve the proposal after receiving an application if it qualifies under the criteria as follows: (Ord. 21, 12-1-1998)

1. The division of property in order to secure long term financing for the purpose of constructing or refinancing a home where both lots will remain under one ownership. Bank verification will be required. Deeds recorded for financial land divisions shall bear the following statement:

*The Purpose of this deed is for a financial land division and cannot create another parcel for sale.*

Surveys recorded for financial land divisions shall bear the following statement:

*The Purpose of this survey is for a financial land division and cannot create another parcel for sale.*

(Ord. 227, 1-23-2012)

2. An agricultural property owner who is retiring or ceasing their operation and wanting to divide the home from the farm land. The owner must continue living in the home.
3. If not an existing home, the administration cannot approve the division.
4. The zoning administrator can require planning and zoning commission approval of any application if a question exists in regards to the request.
5. All requests for the division of property where there is an existing dwelling to be sold or exchanged must be accompanied with a well and septic survey.
6. In all cases of residential division the nuisance waiver will be required to be recorded with the deed.
7. In all cases of land divisions, equal water shares must be transferred to the land split off or the water must be in compliance with all canal companies/water agencies. Provided that water shares were previously available to the property.

- C. Residential Subdivisions: Residential subdivisions are permitted with a conditional use permit in



the rural residential zone. Residential subdivisions are permitted with a conditional use in the outdoor recreation overlay. Residential subdivisions are not permitted in the agricultural range preservation zone, agricultural zone, airport overlay district, commercial zone and industrial zone.

- D. Platted Subdivisions: In platted subdivisions one acre lot size may allow slight variation for inclusion of right of way easements at health department discretion.
- E. Minimum Lot Description: A minimum lot description shall recognize a plus or minus five percent ( $\pm 5\%$ ) variation. (Ord. 21, 12-1-1998)

### **8-9-10: PERMITTED LAND SPLITS:**

The following conditions must be met:

- A. One acre minimum or as required per South Central health district.
- B. All necessary utility, road and irrigation easements providing access for services to the parcel must be provided.
- C. Private roads provided by the owner must have a road maintenance agreement which runs with the land.
- D. If water shares are available to the land then the owner must provide a written water use and maintenance agreement which shall run with the land and conform to the requirements of the respective canal company or district.
- E. A copy of the deed must be submitted to the Planning and Zoning Department showing the above easements along with copies of any of the above agreements. (Ord. 21, 12-1-1998)

### **8-9-11: LOCATION OF GASOLINE PUMPS:**

Gasoline pumps shall be set back not less than twenty feet (20') from any street line to which the pump island is at right angles and fifteen feet (15') from any street line to which the pump island is parallel and not less than twenty feet (20') from any residential zone boundary line. If the pump island is set on an angle on the property with respect to the street, it shall be so located that automobiles stopped for service will not extend over the property line. In no case shall gasoline pumps be set closer than fifteen feet (15') from any street line. (Ord. 21, 12-1-1998)

### **8-9-12: GRAVEL PITS:**

Topsoil will be removed and stockpiled to recondition the area at the termination of operation as a gravel pit. All debris and waste material shall be removed from the premises of the gravel pit and the banks of said pit shall be recontoured so as to encourage revegetation of the premises by artificially introduced plants or with natural vegetation. (Ord. 21, 12-1-1998)

### **8-9-13: PUBLIC UTILITIES:**

Nothing contained in this Zoning Ordinance shall be deemed to specify or regulate the type or location of any pole, wires, aboveground cable or conduits, or any other similar aboveground distributing equipment of a public utility, except as would affect airport operations.

- A. Utility Provision: Utility companies shall be prohibited from providing any service to any structure until the utility has been provided with a building permit.
- B. Providing Service Without Building Permit Prohibited: It shall be unlawful for utility to provide any service to any building, mobile home, or other structure outside the limits of any incorporated city in Twin Falls County until such utility has been furnished with a copy of the building permit which has been issued for such building, mobile home or other structure.
- C. Issuance Of Copies: When a building permit is issued pursuant to the County Zoning Ordinance, the issuer shall furnish to the successful applicant copies in an amount sufficient for said successful applicant to furnish all utilities with a copy. (Ord. 21, 12-1-1998)

### **8-9-14: AIRCRAFT LANDING AREAS:**

In any zone classified as residential, Commercial or Industrial, and except for emergencies, the landing or taking off of aircraft shall be prohibited within the County at other than airports authorized by the State or the Federal Aviation Administration. (Ord. 21, 12-1-1998)

### **8-9-15: TIME LIMITATIONS:**

Where a project requiring Commission action has been authorized, such project or development including conditional use, PUDs, mobile home parks, or subdivisions shall commence within one year of authorization and shall be diligently prosecuted to completion. Failure to commence the project within this time limitation shall void the Commission authorization. In the event there shall be a suspension of activity on said project(s) for ninety (90) days, the Commission shall issue a "show cause" order to the developer, and may, as a result of evidence presented, void the previously issued permit, or may establish a new time limitation. Reinstatement of a permit for a project voided for failure to commence within one year, shall require a new application with the Commission. (Ord. 21, 12-1-1998)

### **8-9-16: NUISANCE:**

- A. **Definition Of Nuisance<sup>1</sup>**: That which is generally objectionable to the public and which may be considered a safety, fire, health or traffic hazard. Examples of situations which may be nuisances include, but are not limited to: excessive accumulation of trash in which insects (flies, mosquitoes, etc.) may breed or rodents may live; any condition or use of property which creates a safety, fire, health or traffic hazard. However, no act which is done or maintained under the express authority of a statute or ordinance can be deemed a nuisance, unless the statute or ordinance so allows.
- B. **Persons Responsible For Nuisance Defined**: Any person who creates, causes, maintains or knowingly allows to exist a nuisance on any premises or real property which the person owns, rents, leases, or has charge or possession of in Twin Falls County. Successive owners shall be responsible in the same manner as prior owners if the successive owner neglects to abate a continuing nuisance which was originally caused by a former owner.
- C. **Actions For Nuisance**: The Prosecutor for Twin Falls County, or a deputy prosecutor, may file an action to enjoin or abate a nuisance and may seek civil and/or criminal penalties for the nuisance.
- D. **Enforcement Procedure**: When a nuisance is suspected to exist within Twin Falls County:
1. A written notice that a nuisance exists shall be served upon the owner, if known, and the person responsible for the nuisance. If possible, service shall be by personal service or certified mail directed to the last known address. If such service is not possible, then the notice shall be posted on a building or other place on the premises where people can be reasonably expected to see it.
  2. The notice shall describe the nuisance, advise that the nuisance must be abated within fifteen (15) days of the notice, advise that civil proceedings and/or criminal proceedings may be initiated if the nuisance is not abated, advise that costs of the court proceedings and the nuisance abatement may be assessed against the owner and/or the persons responsible for the nuisance. An extension of time may be granted if due diligence and substantial progress has been made to abate the nuisance.
  3. In cases where irreparable injury may occur if the nuisance is allowed to continue, a temporary injunction may be issued notwithstanding the notice provision.
  4. In cases where a nuisance is occurring which constitutes an immediate and emergent threat to public health, safety, welfare or environment, the County may summarily and without notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the owner and person responsible for the nuisance as soon as reasonably possible after the abatement. Costs of the abatement shall be charged to the owner, or person responsible for the nuisance.
- E. **Abatement And Penalties**: If the owner, or person responsible for the nuisance does not abate the nuisance within the time allowed, they may be proceeded against either civilly or criminally.

The expenses of abatement and abatement proceedings, including any expenses arising from

contractors hired by the County to perform the abatement and any investigatory costs, shall be charged to the owner, or person responsible for the nuisance. The expenses and costs may attach as a lien upon the subject property, if unpaid. It shall be a separate offense for each date that a nuisance is maintained, kept or allowed to exist.

F. Interference With Enforcement Or Investigation: It shall be unlawful and shall be a misdemeanor to interfere with any law enforcement officer, health protection officer, zoning department employee, weed control personnel, fire district personnel, or any other person in the performance of their duties connected with the enforcement or investigation of any possible violation of this Chapter. Such interference shall include, but not be limited to, removal of notices posted on the property prior to the notices having been left in place for one hundred twenty (120) hours. (Ord. 21, 12-1-1998)

### **8-9-17: IMPACT STUDY:**

Each applicant, owner, or developer proposing a conditional use, variance, zone change, subdivision, planned unit development, or mobile home park shall prepare and present to the Administrator an impact study, which shall show the potential effects of the proposed development upon the County both in terms of economics and environment.

- A. It must be shown that the proposed development is not harmful to the environment, that adequate transportation, fire and police protection, pollution control, and other factors which may be of concern to the County and its residents are considered. If in the judgment of the Commission, the proposal would have little or no impact upon such factors, the Commission may waive the requirement of an impact study except in the case of such request for development within the outdoor recreation zone.
- B. The impact study shall include, but may not be limited to, a study of the potential impact upon:
1. Drainage.
  2. Grading of slopes.
  3. Utilities.
  4. Vegetation impact and influence.
  5. Air quality.
  6. Water quality.
  7. Public and wildlife easements.
  8. Geological impact.
  9. Water sources.
  10. Sewerage facilities.

11. Transportation.
  12. Fire protection and firebreaks.
  13. Police protection.
  14. Solid waste.
  15. Schools.
  16. Recreation.
  17. Aesthetic value.
- C. When the applicant owns or controls more contiguous or adjacent land that is not included in the proposal, the Commission or Board may require that he submit an overall plan for development of the entire tract, which plan shall show the manner in which the entire property is to be developed. If no further land is owned, nor any further plan of development, a written statement shall be made.

The Commission or Board may require the applicant supply the additional information on any of the factors or criteria of the study. (Ord. 21, 12-1-1998)

### **8-9-18: NEGOTIATION PROCEDURE:**

- A. The governing body of Twin Falls County and each city therein may adopt by ordinance following the notice and hearing procedures provided in section 67-6509, Idaho Code, a map identifying an area of city impact with the unincorporated area of the County. The ordinance identifying an area of city impact shall provide for one of the following:
1. Application of the city plan and ordinances adopted under this Chapter to the area of city impact; or
  2. Application of the County plan and ordinances adopted under this Chapter to the area of city impact; or
  3. Application of any mutually agreed upon plan and ordinances adopted under this Chapter to the area of city impact.
- B. If the respective advisory committee representing the County and the city concerned cannot agree upon all details of the area of impact, the County Commissioners for the County concerned, together with three (3) elected city officials designated by the mayor of the city and confirmed by the County, shall, within thirty (30) days, select three (3) city or County residents. These nine (9) persons shall, by majority vote, recommend to the city and County governing boards an area of city impact together with plan and ordinance requirements. The recommendations shall be acted upon by the governing boards within sixty (60) days of receipt. If the city or County fails to enact ordinances providing for any area of city impact, plan, and

ordinance requirements, the city or County may seek a declaratory judgment from the District Court identifying the area of city impact, the following factors shall be considered: 1) trade area; 2) geographic factors; and 3) areas that can reasonably be expected to be annexed to the city in the future.

- C. If areas of city impact overlap, the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. If the cities cannot reach agreement, the Board of County Commissioners shall, upon a request from either city, within thirty (30) days, recommend adjustments to the areas of city impact which shall be adopted by ordinance by the cities following the notice and hearing procedures provided in section 67-6509, Idaho Code. If any city objects to the recommendation of the Board of County Commissioners, the city shall, within sixty (60) days from receipt of the recommendation, seek a declaratory judgment from the District Court adjusting the areas of city impact.
- D. Areas of city impact, plan, and ordinance requirements shall remain fixed until both governing boards agree to renegotiate. In the event the city and County cannot agree, the judicial review process of subsection B of this Section shall apply. Renegotiations shall begin within thirty (30) days after written request by the city or county and shall follow the procedures for original negotiation provided in this section.
- E. Prior to negotiation or renegotiation of areas of city impact, plan, and ordinance requirements, the governing boards shall submit the questions to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by the governing board to make its recommendations to the governing board.
- F. This section shall not preclude growth and development in areas of the county which are not within the areas of city impact provided for herein. (Ord. 21, 12-1-1998)

## **8-9-19: AREA OF CITY IMPACT:**

### **A. Kimberly, Idaho:**

1. Integration Of Recitals: The recitals set forth in the ordinance codified herein are incorporated in this subsection and by this reference made a part hereof.
2. Geographic Area Of City Impact: The agreed upon area of city impact is established and set forth herein as the city of Kimberly, Idaho area of impact and described as: south half of Sections 16, 17, and 18 of Township 10 South, Range 18 East, along with Section 19, 20, 21, 28, 29, 30 of Township 10 South Range 18 East, B.M. Twin Falls County.
3. Governing Plan And Ordinance:
  - a. The city of Kimberly comprehensive plan, comprehensive plan land use map, zoning districts map, area of impact map, and Kimberly city code title 8, chapter 17 shall comprise the governing plan and ordinance.
  - b. Within the area of city impact, any parcel of land used solely for agricultural purposes may

continue said use until a change of use occurs.

#### 4. Administration:

- a. The board of commissioners of Twin Falls County hereby appoints and authorizes the city of Kimberly, its agents and employees to enforce and administer the provisions of title 8, chapter 17 of the Kimberly city code, to charge and collect fees for such administrative duties as adopted by reference herein for the area of city impact.
- b. The city of Kimberly accepts the appointment and authorization.
- c. The board of commissioners of Twin Falls County hereby appoints the Kimberly city planning and zoning commission as the area of city impact commission to administer title 8, chapter 17 of the Kimberly city code in the area of city impact. The city of Kimberly accepts the appointment. Two (2) of the area of city impact commission members shall serve as representatives of the area of impact. The two (2) area of impact members shall be appointed by the board of county commissioners with the concurrence of the Kimberly city council.
- d. The two (2) area of impact members so appointed shall serve a term of three (3) years and may succeed themselves for one full term. A county appointee appointed to fill a vacated, but unexpired term, shall serve the balance of the term of three (3) years. Members appointed by the county commissioners shall be residents within the area of impact, residing outside the city limits and shall vote on all issues coming before the commission. All applications for preliminary plats of subdivisions, vacations, rezones, special use permits, variances, and other such permits shall be submitted to the city in accordance with the provisions of Kimberly city code. All applications for final plats of subdivisions, for vacations and rezones shall be submitted to the city council for their recommendation and action, prior to submission to the board of county commissioners. The board of county commissioners may approve, deny or remand the application.
- e. Any person directly aggrieved and affected by the recommended approval, denial, or final decision made by the city of Kimberly planning and zoning commission or city council regarding property located within the area of city impact may appeal to the board of county commissioners.

#### 5. Enforcement:

- a. The board of commissioners of Twin Falls County appoints and authorizes the city of Kimberly and its employees and agents to enforce compliance with the provisions of this subsection and the regulations adopted herein, and to institute civil action in District Court on behalf of Twin Falls County, provided that the City pays all costs associated with such enforcement action initiated by the City.
- b. The City of Kimberly accepts the appointment and authorization.

6. Renegotiation: The area of City impact may be reviewed and renegotiated at any time upon written request of either party hereto. In any event, pursuant to Idaho Code 67-6526(e), the City and the County shall review the agreement every ten (10) years.
7. Repeal Of Conflicting Provisions: All ordinances and code sections or parts thereof in conflict with this subsection are hereby repealed.

8. Severability: This subsection is hereby declared to be severable. Should a court of competent jurisdiction declare any portion of this subsection invalid, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of this subsection before the declaration of partial invalidity. (Ord. 219, 7-19-2011)

#### B. Twin Falls, Idaho:

1. Integration Of Recitals: The recitals set forth in this subsection are incorporated in this chapter and by this reference made a part hereof.
2. Geographic Area Of City Impact: The agreed upon area of City impact is as shown on the City of Twin Falls, Idaho, area of impact and zoning districts map. (Ord. 169, 7-12-2004)
3. Governing Plan And Ordinance:
  - a. The City of Twin Falls comprehensive plan and Twin Falls, Idaho, revised area of impact and comprehensive plan land use map, together with the City of Twin Falls zoning and subdivision regulations contained in Twin Falls City Code title 10, and the City of Twin Falls, Idaho, area of impact and zoning districts map, are hereby adopted by reference by the County of Twin Falls to be in full force and effect in the area of City impact. (Ord. 249, 4-3-2018)
  - b. Within the area of City impact, no provision of this subsection shall apply to any parcel of land twenty (20) acres or larger used solely for agricultural purposes. Within the area of City impact, this subsection shall apply to any parcel of land proposed to be used for nonagricultural purposes.
4. Administration:
  - a. The Board of Commissioners for Twin Falls County hereby appoints the City Planning Administrator to administer the provisions of title 10 of the Twin Falls City Code, as adopted by reference herein for the area of City impact, to provide assistance and guidance to the Area of City Impact Commission, and to perform the same duties for the area of City impact that are performed for the City of Twin Falls.
  - b. The Board of Commissioners of Twin Falls County hereby appoints and authorizes the City of Twin Falls and its agents and employees to issue zoning and building permits required by the regulations adopted herein, and to charge and collect fees for such administrative duties. The City of Twin Falls accepts the appointment and authorization. The building permit fees for the area of impact shall be the same as established for the County. Any portion of the building permit fee in excess of the fee charged by the City shall be paid over to the County on a monthly basis. (Ord. 169, 7-12-2004)
  - c. The Board of Commissioners of Twin Falls County hereby appoints the Twin Falls City Planning and Zoning Commission as the Area of City Impact Commission to administer the area of City impact. The City of Twin Falls accepts the appointment. Two (2) of the Area of City Impact Commission members shall serve as representatives of the area of impact. The two (2) Area of Impact members shall be appointed by the County Commissioners with the concurrence of the Twin Falls City Council. The two (2) Area of Impact members so appointed shall serve a term of three (3) years and may succeed themselves for one full term. A County appointee appointed to fill a vacated but unexpired term shall serve the



balance of the term of three (3) years. Members appointed by the County Commissioners shall be residents within the area of impact, residing outside the City limits, and shall vote on all issues coming before the commission.

- d. All applications for preliminary plats of subdivisions, vacations, rezones, special use permits and variances shall be submitted to the City and Area of City Impact Planning and Zoning Commission. All applications for final and conveyance plats of subdivisions, for vacations and for the rezoning of property within the area of City impact shall be submitted to the City Council for their recommendation, prior to submission to the Board of County Commissioners. The board of county commissioners may approve the application as recommended by the city council, deny the application or remand the application to the city for further proceedings. (Ord. 204, 3-31-2008)
  - e. Any person directly aggrieved and affected by a final decision of the planning and zoning commission regarding property located within the area of city impact may appeal to the board of county commissioners. The board of county commissioners shall not make a decision on the appeal until it has received a recommendation from the city council. All appeal hearings shall be based upon the record established by the planning and zoning commission.
5. Enforcement: The board of commissioners of Twin Falls County appoints and authorizes the city of Twin Falls and its employees and agents to enforce compliance with the provisions of this subsection and the regulations adopted herein, and to institute civil action in district court on behalf of Twin Falls County, provided that the city pays all costs associated with such enforcement action and, further, the city agrees to indemnify Twin Falls County from all compliance enforcement actions. The city of Twin Falls accepts the appointment and authorization.
  6. Renegotiation: The area of city impact may be reviewed and renegotiated at any time upon the request of either party hereto. (Ord. 169, 7-12-2004)

#### C. Filer, Idaho:

1. Integration Of Recitals: The recitals set forth in this subsection are incorporated in this chapter and by this reference made a part hereof.
2. Geographic Area Of City Impact: The agreed upon area of city impact is established and set forth therein as the city of Filer, Idaho, area of impact and described as all the area bordered on the north by 4100 North, on the south by 3800 North, on the east by 2400 East, and on the west by Cedar Draw.
3. Governing Plan And Ordinance:
  - a. The city of Filer comprehensive plan, comprehensive plan land use map, zoning districts map, area of impact map, and Filer city code title 9 and 10 shall comprise the governing plan and ordinance.
  - b. Within the area of city impact, any parcel of land used solely for agricultural purposes, may continue said use until a change of use occurs.
4. Administration:

- a. The board of commissioners of Twin Falls County hereby appoints and authorizes the city of Filer, its agents and employees to enforce and administer the provisions of title 9 and 10 of the Filer city code, to charge and collect fees for such administrative duties as adopted by reference herein for the area of city impact.
- b. The city of Filer accepts the appointment and authorization.
- c. The board of commissioners of Twin Falls County hereby appoints the Filer city council as the area of city impact commission to administer title 9 and 10 of the Filer city code in the area of city impact. The city of Filer accepts the appointment. Two (2) of the area of city impact commission members shall serve as representatives of the area of impact. The two (2) area of impact members, as well as an area of impact alternate, shall be appointed by the board of county commissioners with the concurrence of the Filer city council.
- d. The two (2) area of impact members and the area of impact alternate so appointed shall serve a term of three (3) years and may succeed themselves for one full term. A county appointee appointed to fill a vacated, but unexpired term, shall serve the balance of the term of three (3) years. Members appointed by the county commissioners shall be residents within the area of impact, residing outside the city limits, and shall vote on all area of impact zoning and subdivision issues coming before the Filer city council.
- e. All applications for preliminary plats of subdivisions, vacations, rezones, special use permits, variances, and other such permits shall be submitted to the city in accordance with the provisions of Filer city code. All applications for final plats of subdivisions, for vacations and rezones shall be submitted to the city council for their recommendation and action, prior to submission to the board of county commissioners. The board of county commissioners may approve, deny or remand the application.
- f. Any person directly aggrieved and affected by a final decision of the city of Filer city council regarding property located within the area of city impact may appeal to the board of county commissioners.

#### 5. Enforcement:

- a. The board of commissioners of Twin Falls County appoints and authorizes the city of Filer and its employees and agents to enforce compliance with the provisions of this chapter and the regulations adopted herein, and to institute civil action in district court on behalf of Twin Falls County, provided that the city pays all costs associated with such enforcement action initiated by the city.
- b. The city of Filer accepts the appointment and authorization.

6. Renegotiation: The area of city impact may be reviewed and renegotiated at any time upon written request of either party hereto. In any event, pursuant to Idaho Code 67-6526(e), the city and the county shall review the agreement every ten (10) years. (Ord. 216, 6-1-2010)

D. Hollister, Idaho: The officially adopted and agreed upon "area of city impact for Hollister, Idaho", is established by ordinance 135, Hollister, Idaho, and by Twin Falls County, Idaho, and is set forth therein on the map on file in the office of the clerk of the county commissioners entitled "Area of City Impact for Hollister, Idaho", dated January 9, 1995, and marked exhibit A. Legal description is attached as exhibit B.

1. **Comprehensive Plan:** The comprehensive plan and subsequent amendments thereto as officially adopted by the county of Twin Falls, Idaho, shall apply to the area of city impact within the unincorporated area of Twin Falls County, Idaho. Both the city of Hollister and Twin Falls County shall amend their comprehensive plans to be consistent with this agreement, if required.
2. **Subdivision Ordinance:** The subdivision ordinance and subsequent amendments thereto as officially adopted by the city of Hollister, in accordance with Idaho Code 50-1306 shall apply within one mile of city limits including the area of city impact within the unincorporated area of Twin Falls County, Idaho. The subdivision ordinance of the city of Hollister shall also prevail over any county ordinances pertaining to the division of original parcels of record, plat amendments, lot line adjustments, minor subdivision, short plats, or administrative lot splits.
3. **Zoning Ordinance:** The zoning ordinance, zoning map and subsequent amendments thereto as officially adopted by the county shall apply to the area of city impact within the unincorporated area of Twin Falls County, Idaho.
4. **Code And Ordinance Administration And Enforcement:**
  - a. The county shall be responsible for the administration and enforcement of the county's ordinances listed in subsections A, B, and C of this section and shall receive all permit fees for inspection performed to recapture direct costs of inspections, administration, legal publications, and other costs arising from the process.
  - b. Amendments to the county of Twin Falls comprehensive plan, requests for preliminary and final plats or the vacation thereof, and requests for zone changes involving property located in the area of city impact within the unincorporated area of Twin Falls County or development applications being proposed for nonagricultural development which definition shall include residential development requiring subdivision, commercial or industrial development activity of any type shall be reviewed by the city council, who shall then make a recommendation to the county for approval, denial, or approval with the placement of special conditions in accordance with title 67, chapter 65, and title 50, Idaho Code. It shall be the applicant's responsibility to notify the city prior to the application process by the county. The city agrees to return a written recommendation within thirty (30) days of receipt of notice. The county agrees to consider such recommendation in its deliberation and decision making process.
  - c. Maintenance of public streets located in the area of city impact shall be the exclusive responsibility of the Twin Falls highway district unless otherwise stipulated by written agreement between the highway district and the city of Hollister.
  - d. Law enforcement and fire services in the area of city impact shall remain the responsibility of Twin Falls County and the Salmon Tract fire district unless otherwise stipulated by written agreement between the county and/or fire district and the city of Hollister.
5. **Renegotiation:** The area of city impact agreement shall be reviewed by the city of Hollister and Twin Falls County at least once every five (5) years and shall be renegotiated at any time upon the request of either party hereto. Renegotiation shall begin thirty (30) days after written request by either the city or county and shall follow procedures for the original negotiation, as set forth in Idaho Code, section 67-6526. (Ord. 135, 12-11-1995)

## E. Murtaugh, Idaho:

1. Geographic Area Of City Impact: The agreed upon area of Murtaugh city impact is established by this *CITY OF MURTAUGH IMPACT AREA AGREEMENT* ordinance of the county of Twin Falls, Idaho, and is set forth on the map on file in the office of the clerk of the county commissioners.
2. Governing Plan And Adoption Of City Of Murtaugh Ordinance:
  - a. The comprehensive plan, zoning ordinance, subdivision ordinance and building codes of the city of Murtaugh, is hereby adopted by the county as an "overlay" ordinance taking precedence and having full force and effect over the same types of county regulations for the period of time that the Murtaugh impact area is in effect over that portion of Twin Falls County designated on the Murtaugh area of impact map established herein. The city of Murtaugh shall file a copy of said ordinances herein referred to, with the county recorder for public inspection. By reference, the county hereby adopts the subject city of Murtaugh ordinances as "overlay" regulations within the area of impact.
  - b. Within the area of impact, no provision of the adopted ordinance shall apply to any parcel of land twenty (20) acres or larger used solely for agricultural purposes. Those lands shall remain in the jurisdiction of the underlying county ordinances.
  - c. In the event that any listed Murtaugh ordinance is repealed or is otherwise not in effect, the Twin Falls County ordinance dealing with the same subject matter shall be fully in effect within the city impact area.
3. Administration Of Area Of Impact:
  - a. The area of city impact shall be administered through the regular city of Murtaugh administrative processes, particularly those of the planning and zoning commission who shall serve terms in office according to the bylaws for the city planning and zoning commission. The commission shall consist of one additional member to be appointed by the county commissioners. That member so appointed shall serve a term of three (3) years and may succeed to a second consecutive full term. A county appointee appointed to fill a vacated but unexpired term shall serve the balance of the term remaining and may continue in office for one additional full term of three (3) years. A former member may again serve two (2) consecutive terms provided there is at least a full one year separation between appointments. Members appointed by the county commissioners shall be owner residents within or adjoining the area of impact, residing outside of the city limits.
  - b. Any person directly aggrieved and affected by a final decision of the city planning and zoning commission on land in the impact area, may appeal to a board of appeals consisting of five (5) persons. Two (2) of said persons shall be regularly appointed or elected members of the Murtaugh city council and appointed by said council; and two (2) members shall be duly elected or appointed by the county commissioners, and the fifth person may come from any area within the boundaries of the county and shall be agreed upon and jointly appointed by the county commissioners and the city council.
  - c. The appeals board shall hold a public hearing to consider the appeal of the aggrieved party and such hearing shall be held upon such terms and conditions and pursuant to such notice to affected persons as the appeals board shall deem just and appropriate. Upon hearing the matter, the appeals board shall decide the matter by majority vote, reduce its

decision to writing and shall provide a copy of the same to the appellant. The decision of the appeals board shall be final. In the event the appeals board is unable to decide the matter by a majority vote, and the board is deadlocked, the decision appealed from shall remain in full force and effect and all administrative remedies shall be deemed exhausted.

- d. The parties hereto shall review and renegotiate the area of impact at any time upon the request of either party hereto. Said reviews and renegotiations shall be in conformance with Idaho Code section 67-6526. This section and the agreed upon area of impact and rules governing the same shall be automatically amended to conform to any federal or state requirements and the respective governing boards shall take all action necessary to amend this agreement accordingly. (Ord. 146, 1-26-1998)

#### F. Buhl, Idaho:

1. Recitals: The recitals set forth in this subsection are incorporated in this chapter and by this reference made a part hereof.
2. Geographic Area Of City Impact: The agreed upon area of city impact is established and set forth therein as the city of Buhl, Idaho, area of impact and described as: Sections 25, 26, S  $\frac{1}{2}$  27, Section 34 and Section 35, Township 9 South, Range 14 East, of the Boise Meridian; Section 1 and 2, Township 10 South, Range 14 East, of the Boise Meridian; N  $\frac{1}{2}$  Section 5 and Section 6, Township 10 South, Range 15 East, of the Boise Meridian; Section 30, 31 and 32, Township 9 South, Range 15 East, of the Boise Meridian, all within Twin Falls County, State of Idaho.  
(Ord. 200, 11-13-2007)
3. Governing Plan And Ordinance:
  - a. The city of Buhl comprehensive plan, comprehensive plan land use map, zoning districts map, area of impact map, and Buhl city code titles 8 and 9 shall comprise the governing plan and ordinance. (Ord. 200, 11-13-2007; amd. Ord. 230, 4-6-2012)
  - b. Within the area of city impact, any parcel of land used solely for agricultural purposes, may continue said use until a change of use occurs. (Ord. 200, 11-13-2007)
  - c. Buhl city ordinance 970, amending Buhl city code 9-2-3 and 9-8-1, is hereby adopted as applicable in the Buhl city area of impact. (Ord. 234, 5-23-2013)
4. Administration:
  - a. The board of commissioners of Twin Falls County hereby appoints and authorizes the city of Buhl, its agents and employees to enforce and administer the provisions of titles 8 and 9 of the Buhl city code, to charge and collect fees for such administrative duties as adopted by reference herein for the area of city impact. (Ord. 200, 11-13-2007; amd. Ord. 230, 4-6-2012)
  - b. The city of Buhl accepts the appointment and authorization. (Ord. 200, 11-13-2007)
  - c. The board of commissioners of Twin Falls County hereby appoints the Buhl city planning and zoning commission as the area of city impact commission to administer titles 8 and 9 of the Buhl city code in the area of city impact. The city of Buhl accepts the appointment. Two

(2) of the area of city impact commission members shall serve as representatives of the area of impact. The two (2) area of impact members, as well as an area of impact alternate, shall be appointed by the board of county commissioners with the concurrence of the Buhl city council. (Ord. 200, 11-13-2007; amd. Ord. 230, 4-6-2012)

- d. The two (2) area of impact members and the area of impact alternate so appointed shall serve a term of three (3) years and may succeed themselves for one full term. A county appointee appointed to fill a vacated, but unexpired term, shall serve the balance of the term of three (3) years. Members appointed by the county commissioners shall be residents within the area of impact, residing outside the city limits, and shall vote on all issues coming before the commission. The area of impact alternate shall attend all meetings of the commission, including both regular and special meetings, and shall actively participate in all discussions had on any matter before the commission. The area of impact alternate shall not vote on any matter except as herein provided. The area of impact alternate shall have full voting privileges whenever an area of impact member is absent, unable to act due to conflict of interest, and whenever a vacancy among the area of impact members occurs on the commission for any reason. The area of impact alternate member shall so act, with full voting privileges, until the disability of the area of impact member has been removed.
- e. All applications for preliminary plats of subdivisions, vacations, rezones, special use permits, variances, and other such permits shall be submitted to the city in accordance with the provisions of Buhl city code. All applications for final plats of subdivisions, for vacations and rezones shall be submitted to the city council for their recommendation and action, prior to submission to the board of county commissioners. The board of county commissioners may approve, deny or remand the application.
- f. Any person directly aggrieved and affected by a final decision of the city of Buhl planning and zoning commission regarding property located within the area of city impact may appeal to the board of county commissioners.

#### 5. Enforcement:

- a. The board of commissioners of Twin Falls County appoints and authorizes the city of Buhl and its employees and agents to enforce compliance with the provisions of this chapter and the regulations adopted herein, and to institute civil action in district court on behalf of Twin Falls County, provided that the city pays all costs associated with such enforcement action initiated by the city.
- b. The city of Buhl accepts the appointment and authorization.

6. Renegotiation: The area of city impact may be reviewed and renegotiated at any time upon written request of either party hereto. In any event, pursuant to Idaho Code 67-6526(e), the city and the county shall review the agreement every ten (10) years.

7. Repeal Of Conflicting Provisions: All ordinances and code sections or parts thereof in conflict with this subsection are hereby repealed. (Ord. 200, 11-13-2007)

#### G. Hansen, Idaho:

1. Geographical Area Of City Impact: There is hereby established and adopted a geographical

area of city impact as shown on the map, attached to the ordinance codified herein, entitled "area of city impact for the city of Hansen, Idaho", which map is attached to the ordinance codified herein, and incorporated herein as if the same were set out in full and is hereby adopted as the official area of impact map. (Ord. 72, 10-5-1981)

## **Chapter 10**

# **HOME OCCUPATIONS**

### **8-10-1: APPROVAL:**

Home occupations may be approved by the Zoning Administrator or may be scheduled for public hearing if the nature of the home occupation is deemed to be of a sensitive nature, i.e., gun shops, daycare, auto repair or parts, or other similar business ventures. (Ord. 21, 12-1-1998)

### **8-10-2: DEFINITION:**

A "home occupation" is any operation, profession or craft, which is incidental to or conducted in a dwelling place and the use is clearly incidental and secondary to the use of the dwelling, and the operation is conducted only by immediate members of the family residing within the dwelling. (Ord. 21, 12-1-1998)

### **8-10-3: REQUIREMENTS:**

- A. No external alterations or construction features not customarily in dwellings is involved and no external indication of said home occupations except for signs as provided in this Title.
- B. Articles manufactured and/or sold or offered for sale must be kept within a structure or other enclosure so as not to be visible.
- C. The use does not change the character of the dwelling or adversely affect other uses in the zone.
- D. Adequate off-street parking must be provided.
- E. No excessive traffic noise or odors shall be created by the use.
- F. Sign placement shall be as specified for residential use.
- G. Adequate disposal of waste and salvage materials. "Adequate disposal" shall mean no

unsanitary accumulation of any type and shall also mean no visible evidence of the collection of wastes or salvage parts or materials, or more than three (3) vehicles being worked upon.

H. The accessory building or the enclosure used shall not exceed one thousand six hundred (1,600) square feet in size. (Ord. 21, 12-1-1998)

## Chapter 11 OFF-STREET PARKING AND LOADING

### 8-11-1: PARKING AND LOADING:

The intent of this Chapter is to encourage the parking of vehicles off the public streets and highways so as to improve safety, reduce congestion and facilitate street maintenance and traffic circulation. (Ord. 21, 12-1-1998)

### 8-11-2: OFF-STREET PARKING REQUIRED:

In all zones there shall be constructed at the time of the erection of any building, or at the time any main building is enlarged or increased in capacity, minimum off-street parking space of nine feet by twenty feet (9' x 20') with adequate provision for ingress and egress from the street to each parking space by standard size automobiles as follows:

Type Of Use	Minimum Number Of Off-Street Parking Spaces For Employees	Minimum Number Of Off-Street Parking Spaces For Customers
Grocery stores, drugstores, bakeries and similar retail establishments	1 for each 2 employees	3 square feet of parking lot area for each square foot of building
Barbershops	1 for each employee	2 for each chair
Beauty shops	1 for each employee	2 for each chair
Pickup stations	1 for each employee	2 spaces
Collection offices	1 for each employee	2 spaces
Gift and flower shops	1 for each employee	1 for each 125 square feet of sales area
Professional offices	1 for each employee	2 for each professional person located in the building



Real estate offices	1 for each employee	2 for each professional person located in the building
Restaurants	1 for each employee	1 for each 4 seats or 30" of seating capacity
Drive-ins	1 for each employee	12 spaces
Plant nurseries where goods are sold on-premises	1 for each employee	10 spaces
Mortuaries		1 space for each 4 seats or each 80" of benches in the chapel or auditorium, plus 1 space for each employee resident on the premises, plus 1 space for each 2 employees not resident on the premises
Dwellings		2 spaces for each dwelling unit
Motels and tourist courts		1 space for each rental unit
Hotels		Not less than the number of spaces equaling 60% of the number of rooms to be occupied by tenants or guests
Lodge halls, clubhouses, institutions for philanthropic and eleemosynary purposes		Not less than 20% of the total membership
Churches		1 space for each 4 seats or each 80" of benches, plus 1 space for each church official resident of the premises, plus spaces equal in number to 50% of the number of employees
Industrial		A minimum of 1 off-street parking space for each 2 employees

- A. Other Uses: Off-street parking space for uses not mentioned shall be determined by the Zoning Commission under authority delegated to it as set forth in this Title.
- B. Collection Provision: Parking space for two (2) or more buildings as required in this Chapter may be combined into one lot and may be located on a lot adjacent to the building, provided the number of parking spaces is at least equal to the number required when computed separately. (Ord. 21, 12-1-1998)

### **8-11-3: OFF-STREET TRUCK LOADING SPACE:**

Off-street loading and unloading space shall be provided on the same lot for every building used for manufacturing, storage, warehousing, goods display, department store, grocery, hotel, hospital, mortuary, laundry, dry-cleaning or other use similarly involving the receipt or distribution of vehicle

or material or merchandise. Such space, unless otherwise adequately provided, shall include a minimum ten feet by twenty five feet (10' x 25') loading space with a minimum fourteen feet (14') height clearance, for every twenty thousand (20,000) square feet of floor space in the building or fraction thereof. (Ord. 21, 12-1-1998)

## **Chapter 12**

# **SPECIAL PROVISIONS AND EXCEPTIONS**

### **8-12-1: SPECIAL PROVISIONS:**

#### **A. Accessory Uses And Buildings:**

1. Definition: An "accessory building and use" is a subordinate use of a building, other structure or tract of land, or a subordinate to the use of the principal building, other structure, or use of land; which is customary in connection with the principal building, other structure or use of land; which is ordinarily located on the same lot with the principal building, other structure or use of land in zones where not a principal use.
2. Use Included: "Accessory buildings and uses" include, but are not limited to, the following:
  - a. Signs;
  - b. Off-street loading areas;
  - c. Off-street parking space;
  - d. Fences, hedges and walls;
  - e. Private greenhouse in residential zone;
  - f. Private swimming pool;
  - g. Enclosed storage of merchandise in Commercial Zones and outdoor storage in Industrial Zone;
  - h. Fallout shelters;
  - i. Cultivation, storage and sale of crops, vegetables, plants, and flowers produced on the premises in agricultural and residential zones;
  - j. Private shops;
  - k. Private storage buildings.

#### **B. Accessory Building In Agricultural And Residential Zones:**

1. Accessory Buildings: An accessory building may be erected detached from the principal building, or may be erected as an integral part of the principal building, or it may be connected thereto by a breezeway or similar structure.

2. **Yard And Courts:** An accessory building shall be placed as to meet all yard and court requirements for a principal building including height and other dimensions.
3. **Requirements:** If located in a rear yard, both detached and integral or connected accessory structures shall be subject to the requirements set forth in the following subsections:
  - a. The height of such accessory buildings shall not exceed one story and the distance of such buildings from other separate buildings or structures on the same lot shall be at least six feet (6') except that a breezeway, at least six feet (6') in length, may connect an accessory with a principal building.
4. **Prohibited:** No building accessory to a main building shall occupy the portion of any lot in front of the main building except for a residential garage which is integral with the dwelling by architectural design.
5. **Acceptance:** Commercial variations may request planning and zoning commission acceptance. The area of underground shelters shall not be computed in maximum coverage requirements.
6. **Depth Requirement:** Where a corner lot adjoins in the rear, either directly or across the alley, a lot located in any residential zone, no part of an accessory building located in a rear yard within twenty five feet (25') of the common lot line or center of the alley shall be nearer the side lot line than the least depth of the front yard existing or required along such side street for a building on such accessory building project into the side or front yard required for the principal building to which it is accessory.
7. **Coverage:** Combined coverage of the property by the primary and accessory buildings shall not exceed thirty five percent (35%). (Ord. 21, 12-1-1998)
8. **Size Limitations:**
  - a. **Agricultural Range Preservation Zone:** On parcels containing less than applicable zone acreage requirements, the building square footage is restricted to a maximum size of three thousand two hundred (3,200) square feet. On parcels meeting zoning requirements, the building square footage is restricted to a maximum size of five thousand (5,000) square feet. A conditional use permit shall be required for any construction proposed over the maximum square footage.
  - b. **Agricultural Zone:** On parcels containing less than applicable zone acreage requirements, the building square footage is restricted to a maximum size of two thousand four hundred (2,400) square feet. On parcels meeting zoning requirements, the building square footage is restricted to a maximum size of three thousand two hundred (3,200) square feet. A conditional use permit shall be required for any construction proposed over the maximum square footage.
  - c. **Residential Zone:** The building square footage is restricted to a maximum size of two thousand (2,000) square feet. A conditional use permit shall be required for any construction proposed over the maximum square footage.
  - d. **Enforcement:** Violation of any of the provisions of this subsection B8 or failure to comply with any of its requirements constitute a misdemeanor and is punishable by up to six (6) months in jail and up to a three hundred dollar (\$300.00) fine or both. Each day such violation continues shall be considered a separate offense.

- e. Severability: Irrespective of the basis of the invalidity, if any term or condition of this subsection B8 is invalid, the remaining terms and conditions of this subsection B8 are severable. (Ord. 155, 3-14-2001)

## 8-12-2: TEMPORARY USES:

- A. General: The board of county commissioners or the planning and zoning commission may issue permits for lawful temporary uses of property. Approval will be contingent upon such conditions and time limitations as are reasonable and necessary to secure public health, safety and community welfare. Violation of any such conditions shall be grounds for revocation of the certificate and of any permit or license issued. The board of county commissioners or the planning and zoning commission may require guarantees to assure removal of the temporary use and of any debris or refuse resultant therefrom, so as to restore the premises to its prior condition and may establish the date of such removal.
- B. Hardship: Provides for the temporary placement of a manufactured or mobile home on the property when a hardship exists which makes it necessary to have someone living in close proximity for providing care for: elderly person(s), person(s) with mental or physical disability or a person(s) with a medical condition which requires assisted living.
1. The approval will be subject to the following stipulations:
    - a. Sewer System Approval: Approval for manufactured or mobile home to be connected to the sanitary sewer system currently available on the property in accordance with the South Central district health department.
    - b. Highway Approval: Approval from applicable highway district.
    - c. Fire Department Approval: Approval from the fire department.
    - d. Site Plan: All applications require a site plan, inclusive of property lines, road names and locations, location of all buildings, distance to all property lines, roads, buildings, wells, septic systems, etc., by scale. Show north orientation.
    - e. Proof Of Hardship: The planning and zoning department may require a doctor's certificate or other proof.
    - f. Minimum Square Footage: The minimum square footage for a manufactured or mobile home is five hundred thirty three feet (533').
    - g. Standards: Manufactured or mobile homes shall meet HUD standards.
    - h. Application Required: A completed application must be filed with the planning and zoning department before any request will be considered.
    - i. Annual Report: The applicant will report annually to the planning and zoning department on the condition of the hardship.
    - j. Removal Of Use: The manufactured or mobile home will be removed from the property upon termination of the hardship condition and disconnected from the sanitary sewer

system in accordance with the regulations of the South Central district health department.

2. Upon receiving a completed application the zoning administrator will review the application and either approve, approve with conditions or deny the application. The zoning administrator will inform the applicant within ten (10) working days of the decision in writing.
  3. The decision of the zoning administrator may be appealed to the board of county commissioners within ten (10) days of the zoning administrator's decision.
- C. Enforcement: Violation of any of the provisions of this section or failure to comply with any of its requirements shall constitute a misdemeanor and is punishable by up to six (6) months in jail and up to a three hundred dollar (\$300.00) fine or both. Each day such violation continues shall be considered a separate offense.
- D. Severability: Irrespective of the basis of the invalidity, if any term or condition of this section is invalid the remaining terms and conditions of this section are severable. (Ord. 156, 3-14-2001)

### **8-12-3: TRACT SALES OFFICES:**

A temporary permit may be issued upon application, for a tract and sales office in a residential zone during the period of construction or sale of homes in a new subdivision, located either in a dwelling or in a temporary structure located not less than twenty feet (20') from any other structure. Such office or temporary structure shall be removed, and the entire premises shall be restored to conform to the district regulations within ten (10) days after the expiration of the period of time specified in the permit. (Ord. 21, 12-1-1998)

### **8-12-4: USES INCIDENTAL TO CONSTRUCTION:**

The zoning administrator may issue permits for temporary buildings and uses incidental to the construction of a building or group of buildings on the same or adjacent premises. (Ord. 21, 12-1-1998)

### **8-12-5: DWELLINGS:**

- A. Conversion Of Dwelling To Multi-Family Use: The conversion of any building into a dwelling, or the conversion of any dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a zone in which a new building or similar occupancy would be permitted under this title, and only when the resulting occupancy will comply with the requirements governing new construction in such zones, after proper application of a building permit.
- B. Rear Dwellings: No building in the rear of a principal building on the same lot shall be built or converted to be used for residential purposes.

- C. Dwelling Sanitation: All residential dwelling units shall have provided sewage disposal facilities and domestic facilities which meet the approval of the health department or district sanitarian. (Ord. 21, 12-1-1998)

### **8-12-6: HEAVY INDUSTRIAL SITE EXEMPTION:**

Nothing in this title shall be interpreted to prohibit or restrict the continuance or expansion of the industrial use on any heavy industry site as proved in Idaho Code 67-6502. (Ord. 21, 12-1-1998)

### **8-12-7: YARD MODIFICATION:**

- A. Double Frontage Lots: Buildings on lots having frontage at intersecting streets need not have a rear yard greater than the required side yard of the zone if an equivalent open space is provided on the lot in lieu of such required rear yard; applicable front yards must be provided, however, on both streets. No structure may extend beyond the building line established by the front yard requirements of the area. Locations of lots with frontage on more than two (2) streets shall require decision of the planning and zoning commission.
- B. Modification: No modification will be permitted without approval of the highway district in which the property is located. (Ord. 21, 12-1-1998)

### **8-12-8: CONDITIONAL USE/LAND DIVISION IN AGRICULTURAL ZONE:**

Divisions of land less than forty (40) acres in the agricultural zone may be allowed as a conditional use provided that the parcel under consideration meets the "infill" definition: areas consisting of outcrops and poor ground that cannot be farmed. (Ord. 21, 12-1-1998)

## **Chapter 13 RECLASSIFICATION OF DISTRICT OR ZONE CHANGE**

### **8-13-1: RECLASSIFICATION:**

Any change, modification, or reclassification of zoning districts and land use classifications may be initiated by a resolution of the Board, or by the Commission, or by application of one or more property owners or holders of valid options to purchase property. When the application for change, modification or reclassification is initiated by a property owner or holders of valid options to purchase property, the procedure set forth herein shall be followed, except that the Commission may, subject to the provisions for notice and publication of hearing, enlarge, expand and amplify a petition for change in reclassification of a zoning district or a land use classification. (Ord. 21, 12-1-1998)

### **8-13-2: APPLICATION REQUIRED:**

Every person seeking a reclassification of any land regulated by this Chapter shall file with the Zoning Administrator an application therefor, upon a form prescribed by the Commission, accompanied by a filing fee as specified herein.

- A. Form And Scope: The Commission shall prescribe the form, scope, and content of such application, and the data required to be furnished in connection therewith. Each such application shall include a map showing the lots and parcels of land within three hundred feet (300') of the exterior boundaries thereof, or as required by this Title, together with the list of the names and addresses of the last known owners of each lot or parcel, insofar as they are of public record.
- B. Content: Every application shall contain or be accompanied by all information, plans, and maps to scale and other data necessary to assure full presentation of pertinent facts for the records and to assist in making a determination in harmony with the objectives of this Title. No application shall be accepted by the Zoning Administrator unless it is complete and in compliance with all such requirements. (Ord. 21, 12-1-1998)

### **8-13-3: FEES:**

The applicant shall upon filing the application with the Zoning Administrator pay an application fee as determined by the Board of County Commissioners, and posted in the office of the Zoning Administrator. (Ord. 21, 12-1-1998)

### **8-13-4: HEARING:**

The Commission may hold at least one public hearing and give public notice on every application, and the enlargement, expansion and amplification thereof by the Commission, for a change, modification or reclassification of property, zoning district or land use classification. The date for such public hearing shall be fixed by the Commission within a reasonable time. If in the opinion of the Commission, and after hearing the facts from the applicant, the decision is made that the request should not be carried to a public hearing, the Commission may reject the application at that point. (Ord. 21, 12-1-1998)

### **8-13-5: NOTICE AND PUBLICATION OF HEARINGS:**

Notice of time, place and purpose of each public hearing held by the Commission shall be published in a newspaper of general circulation in the County at least fifteen (15) days prior to such hearing. When the public hearing is before the Commission on a proposed change, modification, or reclassification and the enlargement, expansion and amplification thereof, notice shall be given by the applicant by certified U.S. mail to each property owner whose name and address appears on the list accompanying such application. When notice is required to two hundred (200) or more

property owners or residents, alternate forms of procedures which would provide adequate notice may be provided in lieu of mailed notice. In the event the Commission originates, enlarges, extends and amplifies the application for the change, modification or reclassification of property, zoning district or land use classification, the Zoning Administrator shall be required to ascertain the names and addresses of the last known owners of each latter parcel of land within three hundred feet (300'), or as required by this Title, of the exterior boundaries of the land area sought to be enlarged, extended or amplified. The notice shall give the date, time and place of hearing, the name of the applicant, the relief sought, and identification of the property, and such other facts as may be prescribed by the Commission. The Zoning Administrator may, in lieu of notice by mail, order three (3) additional publications, the last publication of such notice must be at least ten (10) days before the date set for such hearings. In any public hearing the presiding officer may order the hearing to be continued by publicly announcing the time and place of continuance, and no further notice thereof shall be required. Time limit for a continuance shall be up to six (6) months. (Ord. 21, 12-1-1998)

### **8-13-6: ACTION BY COMMISSION:**

At every hearing before the Commission, the Commission shall hear all persons interested in the subject matter. No later than ten (10) working days after the conclusion of the hearing, the Commission shall file a report stating the action taken by the Commission at such hearing and its recommendation to the Board. (Ord. 21, 12-1-1998)

### **8-13-7: ACTION BY BOARD:**

The Board shall either approve, disapprove, remand back to or modify the recommendation of the Commission. The Board may for good cause issue a stay upon a decision made by the Commission upon request by the appellant. (Ord. 21, 12-1-1998)

### **8-13-8: ORDINANCE REQUIRED:**

In the event the Board shall have approved or modified the recommendation of the Commission, the Board shall cause to be prepared the appropriate ordinance of amendment. However, no ordinance amending this Zoning Ordinance shall become effective until a public hearing has been held for which fifteen (15) days' notice of the time and place of such hearing shall be published in the newspapers of the County. (Ord. 21, 12-1-1998)

### **8-13-9: RESUBMITTAL:**

No application for the change or reclassification of any property, zoning district or land use classification, which has been denied by the Board shall be resubmitted in either the same or substantially the same form, with reference to substantially the same premises or the same purpose, within one year from the date of final action thereon. (Ord. 21, 12-1-1998)



# Chapter 14

## VARIANCES

### 8-14-1: DEFINITION:

A "variance" is a modification of the bulk and placement requirements of this code as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure, or the placement of the structure on lots, or the size of lots. (Ord. 229, 3-28-2012)

### 8-14-2: AUTHORITY<sup>1</sup>:

The commission may authorize such variance from the terms of the zoning ordinance only if it meets all requirements of subsections [8-14-5A](#) and B of this chapter. (Ord. 229, 3-28-2012)

### 8-14-3: APPLICATION:

Applications shall be filed with the planning and zoning department on an application form with the required documentation and fees. After the administrator has determined an application is complete, a public hearing before the commission will be scheduled. The application, at a minimum, shall include the following:

- A. Name and address of the applicant. If the applicant is not the owner of the property, the name and address of the owner shall be supplied along with proof of authorization from the owner to apply for the variance. Proof of ownership must accompany the application.
- B. A statement describing the reason for the variance request, including the nature of the special conditions on the property, and the hardship the applicant will experience if the variance is not granted.
- C. Any additional information or plans which may be required by the administrator and/or the commission. (Ord. 229, 3-28-2012)

### 8-14-4: PUBLIC HEARING AND NOTICE:

- A. The commission shall hold at least one public hearing on the application. Prior to the public hearing, notice shall be provided by the applicant in accordance with the requirements of this code and Idaho Code. (Ord. 229, 3-28-2012)

### 8-14-5: ACTION BY THE COMMISSION:

- A. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of the characteristics of the site and that the variance is not in conflict with the public interest. No variance in use from the allowed uses on the property or variance based upon self-imposed hardship shall be granted.
- B. A variance may be granted only if the commission finds that:
1. Not granting the variance creates an undue hardship on the applicant because of the characteristics of the site; and
  2. The hardship is not self-imposed; and
  3. Granting the variance is not in conflict with the purpose and intent of the Twin Falls County zoning ordinances or the public interest.
- C. A variance, if granted, is issued to the property and shall be required to be recorded with the county assessor and recorder on the property deed within one year. Failure to properly record the variance renders the approval of the variance void.
- D. When granting or denying an application, the governing board or commission, shall specify the ordinance standards used in evaluating the application, the reasons for approval or denial, and the actions, if any, that the applicant could take to obtain approval.
- E. Every final decision rendered shall be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to Idaho Code section 67-8003. (Ord. 229, 3-28-2012)

#### **8-14-6: APPEALS TO THE BOARD:**

Appeals to the board of county commissioners shall be in accordance with the provisions of this code. (Ord. 229, 3-28-2012)

#### **8-14-7: REAPPLICATION:**

Where a variance or appeal has been denied, no application for a variance or appeal for the same or substantially the same issue on the same or substantially the same site shall be filed within one hundred eighty (180) days from the date of denial. (Ord. 229, 3-28-2012)

## **Chapter 15 ENFORCEMENT, VIOLATION AND PENALTY**

(Rep. by Ord. 231, 4-20-2012)

## **Chapter 16**

# **TELECOMMUNICATIONS TOWERS, ANTENNAS AND RELATED FACILITIES**

### **8-16-1: PURPOSE:**

The purpose of this chapter is to provide a set of standards for the development and installation of telecommunication towers, antennas and related facilities. The regulations contained herein are designed to protect and promote public health, safety and the community welfare of Twin Falls County, and to encourage managed development of telecommunications infrastructure, while not unduly restricting the development of needed telecommunications facilities.

The county shall apply these regulations to accomplish the following:

- A. Minimize adverse visual effects of telecommunication towers, antennas and related facilities through design and siting standards.
- B. Maintain and ensure that a nondiscriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the federal telecommunications act of 1996 are provided to serve the community.
- C. Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of the Twin Falls County citizens.
- D. Protect environmentally sensitive areas of Twin Falls County by regulating the location, design and operation of telecommunication facilities.
- E. Encourage the use of alternative support structures, colocation of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to locate more than one provider.

Furthermore, this chapter is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additionally it is not intended to regulate satellite dishes/antennas whose regulation is prohibited by Idaho statutes or as preempted by federal law.

(Ord. 161, 6-9-2003)

## **8-16-2: DEFINITIONS:**

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

**ALTERNATIVE SUPPORT STRUCTURE:** Clock towers, steeples, silos, light poles, water towers, buildings or similar structures that may support telecommunication facilities.

**ANTENNA:** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.

**ANTENNA, BUILDING MOUNTED:** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.

**ANTENNA, GROUND MOUNTED:** Any antenna with its base placed directly on the ground.

**BUILDING:** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

**CAMOUFLAGED TOWER:** Any telecommunication tower that due to design or appearance entirely hides, obscures, or conceals the presence of the tower and antennas.

**CARRIER:** Any company, corporation, firm or individual who provides or supplies wireless telecommunication service. For the purpose of this chapter, provider shall have the same meaning as carrier.

**GUYED TOWER:** A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

**HEIGHT, TELECOMMUNICATIONS TOWER:** The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, protection devices (e.g., lightning rods) and lighting.

**LATTICE TOWER:** A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

**MONOPOLE:** A telecommunication tower of a single pole design.

**NAVIGABLE STREAM OR LAKE:** As designated on the United States geological survey (USGS) map and/or the Twin Falls County zoning map.

**NONCONFORMING:** Any preexisting telecommunications facility that was in existence prior to the adoption of this chapter and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date hereof.

**OPERATION:** Other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications it shall be deemed in operation.

**PLATFORM:** A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

**SATELLITE DISH:** A device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs (satellite television receive only) and satellite microwave antennas.

**TELECOMMUNICATION FACILITY:** A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment, which is used for transmitting, receiving, or relaying telecommunications signals.

**TELECOMMUNICATION FACILITY COLOCATED:** A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

**TELECOMMUNICATION SUPPORT FACILITY:** The telecommunication equipment buildings and equipment cabinets.

**TELECOMMUNICATIONS TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guyed towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common carrier towers.

**UTILITY POLE MOUNTED ANTENNA:** An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, streetlight, traffic signal, athletic field light, utility support structure or other similar structure approved by the Twin Falls County planning and zoning department.

**ZONING ADMINISTRATOR:** The official appointed by the board of county commissioners to administer the Twin Falls County zoning ordinance. (Ord. 161, 6-9-2003)

### **8-16-3: EXEMPT FROM COUNTY REVIEW:**

The following shall be permitted without county approvals:

- A. Accessory Use Antennas: The use of all television antennas, satellite dishes and receive only antennas, provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property.

- B. Amateur Radio: This chapter shall not govern the installation of any antenna and its supporting towers, poles and masts that is owned and/or operated by a federally licensed amateur radio operator, or is used exclusively for receive only antennas.
- C. Temporary Mobile Services: Mobile services providing public information coverage of new events of a temporary or emergency nature.
- D. Freestanding Antennas: Freestanding (ground mounted antenna) antennas (not supported on or attached to a building) and their supporting towers, poles or masts and their equipment buildings one hundred twenty (120) square feet or less in size, may be installed without a zoning permit when the overall height of the antennas and their supporting structures do not exceed a height of twenty feet (20') above the original grade at the site of the installation.
- E. Building, Tower Or Structure Mounted Antennas: Antennas installed on, or attached to, any existing building (building mounted antenna), an existing telecommunication tower, or alternative support structure and their equipment buildings one hundred twenty (120) square feet or less in size, when the height of the antenna and its supporting tower, pole or mast is twenty feet (20') or less above the highest part of the building or alternative support structure to which it is attached. Antennas installed on, or attached to, any existing building, an existing telecommunication tower, or alternative support structure and their equipment buildings.
- F. Utility Pole Mounted Antennas: Utility pole mounted antennas if the height of the antenna is twenty feet (20') or less above the highest part of the utility pole. (Ord. 161, 6-9-2003)

#### **8-16-4: AREAS PERMITTING TELECOMMUNICATION FACILITY LOCATION BY CONDITIONAL USE OR ADMINISTRATIVE APPROVAL:**

Telecommunications facilities may be permitted in the following zones, subject to the provisions of this chapter:

- A. Agricultural range preservation zone.
- B. Agricultural zone.
- C. Rural residential zone.
- D. Commercial zone.
- E. Industrial zone. (Ord. 161, 6-9-2003)

**8-16-5: AREAS LIMITING TELECOMMUNICATION FACILITY LOCATION:**

Telecommunication facilities may be permitted in the following areas, subject to the provisions of this chapter and are subject to review and approval of the federal aviation administration (FAA) and other appropriate agencies, if applicable:

- A. Two (2) mile radius from heliports.
- B. One mile radius from private airport runway(s).
- C. Three (3) mile radius from public use airport runway(s). (Ord. 161, 6-9-2003)

**8-16-6: AREAS PROHIBITING TELECOMMUNICATION FACILITY LOCATION:**

No telecommunications facilities will be allowed in the following areas:

- A. Historic sites, as defined by state and/or federal regulation.
- B. Critical species habitats, as defined by state and/or federal regulation.
- C. Wetlands, as defined by state and/or federal regulation.
- D. Floodplains, as defined by state and/or federal regulation. (Ord. 161, 6-9-2003)

**8-16-7: TELECOMMUNICATIONS FACILITIES ONE HUNDRED TWENTY FIVE FEET OR LESS IN HEIGHT:**

Locating and constructing telecommunication facilities or a new alternative support structure, including the buildings or other supporting equipment used in connection with said facilities, one hundred twenty five feet (125') or less in height shall require, except for exempt facilities, approval by the planning and zoning department. The zoning administrator shall have the authority to approve or deny permits for telecommunications facilities in this category.

- A. Application Review And Processing: The applicant shall submit an application to the planning and zoning department for review on a form prescribed by the county and shall include the information required in section [8-16-8](#) of this chapter. The zoning administrator shall review the application for completeness. Upon determination the application is complete, the process will proceed as follows:
  - 1. The planning and zoning department will notify the applicant to proceed with notification as

required by this chapter.

2. The applicant shall notify any property owner(s) within three hundred feet (300') of the proposed location by first class mail and provided proof of mailing to the planning and zoning department within five (5) days of mailing.
3. The planning and zoning department shall accept written comment for fifteen (15) days after date of mailing.
4. The zoning administrator shall then produce a report, which includes a summary of such comment or evidence submitted, a reasoned explanation of the grounds for his decision and a final order granting or denying the permit, setting forth any conditions that the zoning administrator might deem appropriate. Such report shall be filed at the planning and zoning department within twenty eight (28) calendar days after the closing date for accepting written comment, unless additional time for filing such report is granted by the board of county commissioners upon request of the zoning administrator. Notice of such filing shall be provided in writing to the applicant and to all parties entitled to notice by this chapter.
5. The decision of the zoning administrator may be appealed to the board of county commissioners in accordance with the provisions of Twin Falls County ordinance. (Ord. 161, 6-9-2003)

### **8-16-8: CONDITIONAL USE:**

Locating and constructing telecommunication facilities or a new alternative support structure, including the buildings or other supporting equipment used in connection with said facilities shall require a conditional use permit for telecommunications facilities over one hundred twenty five feet (125') in height.

- A. Submittal Information: For all telecommunication facilities, the planning and zoning department shall require the following information to accompany every application. Said information shall include, but may not be limited to:
1. Completed conditional use application.
  2. Original signature of applicant and landowner (if the telecommunication facility is located in an easement or pursuant to a ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application).
  3. The identity of the carrier, provider, applicant, landowner and service provider and their legal status.
  4. The name, address and telephone number of the officer, agent and/or employee responsible for the accuracy of the application.
  5. A plat of survey, showing the parcel boundaries, tower, facilities, location, access, landscaping and fencing.
  6. A written legal description of the site.



7. In the case of a leased site, a lease agreement or binding lease memorandum, which shows on its face that it does not preclude the tower owner from entering into leases on the tower with other provider(s) and the legal description and amount of property leased.
8. A description of the telecommunications services that the applicant offers or provides, to persons, firms, businesses or institutions.
9. Federal communication commission (FCC) license numbers and registration numbers, if applicable.
10. Copies of finds of no significant impacts (FONSI) statement from the federal communication commission (FCC) or environmental impact study (EIS), if applicable.
11. An alternatives analysis prepared by the applicant or on behalf of the applicant by its designated technical representative, subject to the review and approval of the planning and zoning commission, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the county. The analysis shall address justification for proposed height, alternative sites, potential for colocation and potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the review and approval of the planning and zoning commission. The county may require independent verification of this analysis at the applicant's expense; the consultant will be chosen by the planning and zoning department from a list mutually agreed upon by the county and the applicant.
12. Plans indicating security measures (e.g., access, fencing, lighting, etc.).
13. A tabular and map inventory of all of the applicant's existing telecommunications towers that are located within Twin Falls County and including all of the applicant's existing towers within one thousand five hundred feet (1,500') of the county boundary; this information need not be resubmitted if already on file with the Twin Falls County planning and zoning department. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunication towers, and the ability of the tower or antenna structure to accommodate additional colocation antennas.
14. A report prepared by an engineer licensed by the state of Idaho certifying the structural design of the tower and its ability to accommodate additional antennas.
15. Proof of liability coverage.
16. Such other information as the planning and zoning commission may require.
17. Proof of notification indicating that the airport operator and airport property owner(s) within the areas limiting telecommunication facility locations have been notified.
18. Speculative tower builders shall provide proof of a carrier to locate on the proposed facility before consideration shall be given to the application.

B. Colocation: All tower owners shall make available unused space for colocation of other

telecommunication facilities, including space for those entities providing similar, competing services. Colocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service. All colocated and multiple user telecommunication support facilities shall be designed for compatible joining to facilitate site sharing.

- C. **Technical Review:** The planning and zoning department, upon direction of the Twin Falls County planning and zoning commission, shall employ on behalf of the county an independent technical expert to review materials submitted. The consultant will be chosen from a list mutually agreed upon by the county and the applicant. The applicant shall pay all the costs of said review. The payment to the planning and zoning department shall be due upon receipt of the invoice. All fees and charges accumulated for the technical review must be paid in full prior to the issuance of the conditional use permit.
- D. **Submittals Required Following The Conditional Use Approval:** For each conditional use permit approved by the Twin Falls County planning and zoning commission the applicant shall submit the following before the conditional use permit will be issued:
1. Copies of the determination of no hazard from the federal aviation administration (FAA) including any aeronautical study determination or other findings and other agencies, if applicable.
  2. Copies of any environmental assessment (EA) reports on form 600 or form 854 submitted to the federal communication commission (FCC), if applicable.
  3. Copies of any filings submitted to the federal communication commission (FCC) shall be submitted within thirty (30) days of filing, subject to the review of the zoning administrator.
  4. Proof of bond as security for removal.
- E. **Notices And Hearing Process:**
1. **Application Review:** The applicant shall submit the application to the zoning administrator for review; upon determination by the zoning administrator that the application is complete it will be scheduled for public hearing before the planning and zoning commission.
  2. **Hearing Notice:** Notice of time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county at least fifteen (15) days prior to such hearing. Notice shall also be posted on the property not less than one week prior to the public hearing. The applicant shall notify any property owner(s) within one mile of the proposed location by first class mail at least fifteen (15) days prior to such hearing. The applicant shall provide proof of mailing ten (10) days prior to the public hearing. The proof of mailing shall be either copies of registered mail receipts or an affidavit that the notice was mailed. When notice is required to two hundred (200) or more property owners, the applicant may request that the following alternate form of notice be followed: The board of county commissioners may order that the notice be published three (3) times in a newspaper of general circulation in the county, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing. The notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by Twin Falls

County ordinance(s).

- F. Planning And Zoning Commission: The planning and zoning commission will hear the application in accordance with the provisions of Twin Falls county ordinance(s) and may give consideration to all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed service. The planning and zoning commission after hearing the application, will approve, approve with conditions or deny the application after giving consideration to the requirements of the ordinance and any such evidence that may be presented at the hearing. (Ord. 161, 6-9-2003)

### **8-16-9: ANNUAL INFORMATION REPORT:**

The purpose of the annual review report is to provide the county with accurate and current information concerning the telecommunications tower owners and providers who offer or provide telecommunications services within the county, to assist the county in enforcement of this chapter, and to assist the county in monitoring compliance with the conditional use permit.

- A. Owner's Annual Report: All telecommunications tower owners of any new or existing telecommunication tower shall submit annually on or before January 31 of each year, to the planning and zoning department a telecommunications facility annual information report. The annual report shall include the tower owner name(s), address(es), phone number(s), contact person(s), location(s) of facilities, annual review fee, and proof of bond as security for removal. The tower owner shall supply the tower height and current occupancy (if applicable). This information shall be submitted to the county and shall become evidence of compliance.
- B. Provider's Annual Report: All telecommunications providers shall submit annually on or before January 31 of each year, to the planning and zoning department a telecommunications facility annual information report. The annual report shall include the providers' name(s), address(es), phone number(s), contact person(s), location(s) of facilities and annual report fee.
- C. Annual Report Fee: Following the conditional use approval, every year thereafter the tower owner shall submit, on or before January 31 of each year, to the planning and zoning department an annual report fee of one hundred fifty dollars (\$150.00) for each tower site. The fee submittal is the responsibility of each tower owner. Failure to provide this information shall be a violation of this chapter and shall be dealt in accordance with section [8-16-16](#), "Violations", of this chapter. (Ord. 161, 6-9-2003)

### **8-16-10: REMOVAL/SECURITY FOR REMOVAL:**

- A. Removal Required: It is the express policy of Twin Falls County that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications tower owner's responsibility to remove such facilities and restore the site to its original condition or a condition approved by the Twin Falls County planning and zoning department. This restoration shall include removal of

any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to five feet (5') below the surface. After a telecommunications facility is no longer in operation, the tower owner shall have ninety (90) days to effect removal and restoration unless weather prohibits such efforts.

- B. Security For Removal: The telecommunications tower owner shall provide to Twin Falls County, prior to the issuance of the conditional use permit or the issuance of a zoning permit, a performance bond in the amount of twenty thousand dollars (\$20,000.00) or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the telecommunications facility will be removed when no longer in operation. Twin Falls County will be named as obligee in the bond and must approve the bonding company. (Ord. 161, 6-9-2003)

### **8-16-11: PREEXISTING TELECOMMUNICATION TOWERS:**

- A. Nonconforming And Conforming: Telecommunication towers and facilities may add to, move or replace the tower and facilities upon approval of the Twin Falls County planning and zoning department. An existing tower may be increased in height a maximum of fifty feet (50'), relocated or reconstructed within fifty feet (50') of its existing location to accommodate colocation subject to meeting all the other sections of this chapter except sections [8-16-7](#) and [8-16-8](#) of this chapter. Routine maintenance and repair on telecommunications facilities is permitted.

B. Existing Use Review:

1. Existing Use Review For Those Towers Structurally Capable To Colocate: Beginning July 1, 2000, all telecommunications tower owners, applicable to the requirements of this chapter operating in Twin Falls County prior to the adoption of this chapter, shall provide the information required under section [8-16-9](#) of this chapter (except proof of bond and proof of insurance), and pay an annual fee of one hundred fifty dollars (\$150.00) per tower site on or before January 31 of each year. Failure to provide this information shall be a violation of this chapter and shall be dealt in accordance with section [8-16-16](#), "Violations", of this chapter.
2. Existing Use Review For Those Towers Structurally Incapable For Colocation: Beginning July 1, 2000, all telecommunications tower owners, applicable to the requirements of this chapter operating in Twin Falls County prior to the adoption of this chapter, shall provide the information required under section [8-16-9](#) of this chapter (except proof of bond and proof of insurance), and submit documents that the tower is structurally incapable of colocation, and pay a one time fee of one hundred fifty dollars (\$150.00) per tower site on or before January 31. Failure to provide this information shall be a violation of this chapter and shall be dealt in accordance with section [8-16-16](#), "Violations", of this chapter. (Ord. 161, 6-9-2003)

### **8-16-12: COMPLIANCE:**

- A. Revocation: Grounds for revocation of the conditional use permit shall be limited to one of the following findings:

1. The owner of such site, service provider and/or tower owner fails to comply with the requirements of this chapter.
2. The permittee has failed to comply with the conditions of approval imposed.
3. The facility has not been properly maintained.

#### B. Revocation Process:

1. The owner of such site, service provider and/or tower owner shall be notified by certified mail of noncompliance by the Twin Falls County planning and zoning department.
2. The owner shall comply with such notice within thirty (30) days to the satisfaction of the Twin Falls County planning and zoning department.
3. If compliance is not obtained within thirty (30) days, the Twin Falls County planning and zoning department shall notify the Twin Falls County prosecutor of the noncompliance and proceed with the revocation process. (This time period may be extended by staff to adjust for seasonal limitations.)

#### C. Abandonment: Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Time may be extended upon review and approval of the Twin Falls County planning and zoning department, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:

1. The owner of such antenna or tower shall remove said antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the planning and zoning department notifying the owner of such abandonment. If removal to the satisfaction of the planning and zoning department does not occur within said ninety (90) days, the Twin Falls County board may order removal utilizing the established bond and salvage said antenna or tower and all supporting equipment and building(s). If there are two (2) or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.
2. The recipient of a conditional use permit for a telecommunications facility under this chapter shall notify the planning and zoning department when the facility is no longer in operation. (Ord. 161, 6-9-2003)

### **8-16-13: STRUCTURAL, DESIGN AND ENVIRONMENTAL STANDARDS:**

#### A. Tower, Antenna And Facilities Requirements: All telecommunication facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:

1. All telecommunication facilities shall comply at all times with all federal communication commission (FCC) rules, regulations, and standards. To that end no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the federal communication commission (FCC) adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the

federal government. All telecommunication towers and antennas shall meet or exceed the standards and regulations, in place at the time of the issuance of the conditional use permit, of the federal aviation administration (FAA), the Idaho state bureau of aeronautics, Occupational Safety And Health Association (OSHA), the federal communication commission (FCC) and authority to regulate towers and antennas.

2. Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted.
  3. All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted to the planning and zoning commission that a guyed tower is required.
  4. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.
  5. Telecommunication support facilities (e.g., equipment rooms, utilities, and equipment enclosures) shall be constructed out of nonreflective materials (visible exterior surfaces only). Telecommunication support facilities shall be no taller than one story, fifteen feet (15') in height, measured from the original grade at the base of the facility to the top of the structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility.
  6. Telecommunications towers, facilities and antennas shall be designed and constructed in accordance with the international building code, other applicable state and federal requirements.
  7. The maximum height of an antenna platform located on a rooftop shall be twenty feet (20') above the roof.
  8. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection or supervisory controlled automated data acquisition (SCADA) operation telecommunication facilities. The applicant at no cost to the county shall correct any actual interference and/or obstruction.
- B. Height: The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crankup" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.
- C. Lighting: Telecommunication towers shall not be artificially lighted unless required by the federal aviation administration (FAA) or other applicable regulatory authority.
- D. Site Development, Roads And Parking:
1. A leased parcel intended for the location of new telecommunication tower(s) and equipment building(s) shall maintain a minimum parcel size of two thousand five hundred (2,500) square feet. The Twin Falls County planning and zoning commission may modify the leased parcel size requirement after public hearing and review.

2. A parcel owned by the telecommunication carrier and/or provider and intended for the location of new telecommunication tower(s) and equipment building(s) shall meet the minimum size requirement of this chapter.
3. All sites must be served by a minimum twenty five foot (25') wide easement with a turnaround. The Twin Falls County planning and zoning commission may modify the easement and turnaround requirement after public hearing and review. All sites shall use existing access points and roads whenever possible. The respective county highway district or the applicable road jurisdiction shall approve the access point to the site.

#### E. Vegetation Protection And Facility Screening:

1. All telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation.
2. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping.
3. Facility structures and equipment, including supporting structures, shall be located, designed and screened to blend with the existing natural or built surroundings, so as to reduce visual impacts.

F. Fire Prevention: All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.

G. Noise And Traffic: All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end all the following measures shall be implemented for telecommunication facilities:

1. Noise producing construction activities shall only take place Monday through Saturday, (nonholidays) between the hours of six o'clock (6:00) A.M. and six o'clock (6:00) P.M., except in times of emergency repair.
2. Backup generators shall only be operated during power outages and for testing and maintenance purposes. (Ord. 161, 6-9-2003)

### 8-16-14: SEPARATIONS AND SETBACK REQUIREMENTS:

A. Minimum Separation: Minimum separation between telecommunication towers (by tower type):

Proposed Tower Types	Lattice	Guyed	Monopole - 85 Feet In Height Or Greater
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Lattice	1,500 feet	1,500 feet	750 feet
Guyed	1,500 feet	1,500 feet	750 feet
Monopole - 85 feet in height or greater	750 feet	750 feet	750 feet

#### B. Exceptions:

1. Two (2) towers may be permitted to be located within one hundred feet (100') of each other subject to approval of the Twin Falls County planning and zoning commission.
2. Three (3) towers may be located within one hundred feet (100') of each other permitted subject to approval of the Twin Falls County planning and zoning commission.
3. Camouflaged towers are exempt from separation between tower requirements listed above.

#### C. Setbacks: All setbacks shall be measured from the base of the tower or structure.

1. Setbacks From All Habitable Residential Buildings, Except Buildings Located On The Subject Parcel: All new towers shall be set back a distance equal to one hundred twenty five percent (125%) of the height of the tower.
2. Setbacks From All Historic Sites And Districts: All new towers shall be set back a distance equal to one hundred twenty five percent (125%) of the height of the tower from historic sites and districts.
3. Setbacks From Property Lines: All new towers shall be set back a minimum of fifty feet (50') from all property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.) The Twin Falls County planning and zoning commission may modify this setback requirement after public hearing and review.
4. Setback From The Ordinary High Water Mark (OHWM): All new towers shall be set back a minimum of seventy five feet (75') from the ordinary high water mark (OHWM) of a navigable stream and a minimum one hundred twenty five percent (125%) of the tower height from the ordinary high water mark (OHWM) of a navigable lake.
5. Guy Wire Anchor Setback: All guy wire anchors shall be at least twenty five feet (25') from all property lines. The Twin Falls County planning and zoning commission may modify this setback requirement after public hearing and review.
6. Power Poles Exempt: Power pole change outs are exempt from setback requirements. (Ord. 161, 6-9-2003)

### 8-16-15: PERMITS:

A conditional use permit is required for the location of all telecommunication facilities in Twin Falls County. Proposed colocation on facilities previously approved by Twin Falls County planning and zoning commission shall be approved administratively by the Twin Falls County planning and



zoning department, provided that the applicant complies with the provisions of this chapter and provides a completed application and permit fee. (Ord. 161, 6-9-2003)

### **8-16-16: VIOLATIONS:**

Violations of any of the provisions of this chapter or failure to comply with any of its requirements may be dealt with in the following manner: Each day such violation continues shall be considered a separate offense, and shall constitute a misdemeanor as defined by Idaho Code and is punishable by up to six (6) months in jail and up to a three hundred dollar (\$300.00) fine, or both; the county may seek civil penalties and forfeitures to the maximum extent allowed by law. (Ord. 161, 6-9-2003)

## **Chapter 17**

# **SMALL ANIMAL FEEDING OPERATIONS**

### **8-17-1: PURPOSE:**

The purpose of this chapter is to provide regulations and standards for the siting of new and expanding animal feeding operations in Twin Falls County. The regulations and standards contained herein are designed to protect and promote the public health, safety and community welfare of Twin Falls County and to encourage and promote proper location of development of new and expansion of existing small animal feeding operations.

The purposes of the zoning requirements established hereby are intended to accomplish the following:

- A. Minimize the effects of animal feeding operations through design and siting standards.
- B. Provide a process for applicants to obtain necessary permits for animal feeding operations, which also protects the interests of the Twin Falls County citizens.
- C. Protect environmentally sensitive areas of Twin Falls County by regulating the location of animal feeding operations.
- D. Encourage the use of effective technologies concerning the design and operation of animal feeding operations. (Ord. 157, 1-24-2002)

### **8-17-2: DEFINITIONS:**

The following definitions shall govern application and interpretation of this chapter:

**ADMINISTRATOR:** The official appointed by the board of county commissioners to administer the

Twin Falls County zoning ordinance.

**AFFECTED PERSON:** As used herein, an affected person shall mean one having an interest in real property, which may be materially affected by the issuance or denial of a permit authorized by this chapter.

**ANIMAL FEEDING OPERATION (AFO), SMALL:** A small animal feeding operation means a lot or facility (other than an aquatic animal production facility) to which the following descriptive conditions apply:

- A. Consists of one hundred (100) to nine hundred ninety nine (999) animal units (other than aquatic animals) that have been, are, or will be stabled or confined and fed or maintained for a total of one hundred eighty (180) days or more in any twelve (12) month period excluding any portion thereof upon which crops, vegetation, forage growth, or postharvest residues are sustained during the normal growing season, or
- B. Two (2) or more animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. Components of a single lot or facility area shall be considered contiguous when separated by county roads or if they are not adjacent, but have any of the above referenced facilities located on the property that are used as part of a consolidated operation.
- C. Included as part of an animal feeding operation are all barns, stalls, corrals, feed stalls, feed storage areas, waste lagoons, storm runoff containment, waste storage areas and truck/motor vehicle parking areas used in conjunction with the operation.

**APPLICANT:** A person or legal entity seeking approvals or permits pursuant to this chapter which has an ownership interest in real property of a nature sufficient to require the use to which real property will be put as proposed in the applications for approvals or permits.

**BOARD:** The board of county commissioners.

**SITE ADVISORY TEAM:** The "CAFO site advisory team" as defined in the local land use planning act.

**ZONING OFFICIAL:** The zoning administrator or his authorized representative. (Ord. 157, 1-24-2002)

### **8-17-3: ANIMAL UNIT EQUIVALENCY:**

To determine applicability of this chapter, the following standards shall be applied to determine if any facility(ies) or parcel(s) constitute an AFO.

Multiply the number of animals by the animal equivalency factor to determine animal units:

<u>Animal Types</u>		<u>Animal Equivalency Factor</u>	
Dairy cattle			
Holsteins:	Milking and dry cows	1.4	animal units
Jerseys:	Milking and dry cows	1.0	animal units
Others:	1,000 pounds of live body weight	1.0	animal units
Heifers:	100 pounds to 300 pounds	0.2	animal units
	300 pounds to 500 pounds	0.4	animal units
	500 pounds to 700 pounds	0.6	animal units
	700 pounds to 900 pounds	0.8	animal units
	900 pounds to 1,000 pounds	1.0	animal units
Beef cattle			
Slaughter/feeder:			
	100 pounds to 300 pounds	0.2	animal units
	300 pounds to 500 pounds	0.4	animal units
	500 pounds to 700 pounds	0.6	animal units
	700 pounds to 900 pounds	0.8	animal units
	900 pounds to 1,000 pounds	1.0	animal units
Swine			
Boars:		0.5	animal units
Sows:		0.5	animal units
Pigs:	55 pounds to market	0.4	animal units
Pigs:	Up to 55 pounds	0.10	animal units

Sheep/lambs	Each	0.1	animal units
Horse	Each	2.0	animal units
Chickens			
Layers	Each	0.033	animal units
Broilers	Each	0.033	animal units
Turkeys	Each	0.18	animal units
Ducks	Each	0.02	animal units
For species not specifically identified:			
1,000 pounds of live body weight = 1.0 animal units			

(Ord. 157, 1-24-2002)

#### **8-17-4: ZONING OF AREAS ALLOWING ANIMAL FEEDING OPERATIONS:**

Small animal feeding operations are permitted only in the following zones, subject to the provisions of this chapter:

A. Agricultural zone.

B. Agriculture range preservation zone. (Ord. 157, 1-24-2002)

#### **8-17-5: SITING PERMITS:**

A permit for small AFOs shall also address the following characteristics or conditions:

- A. Full compliance with any state regulations, recommendations and guidelines.
- B. Full compliance with any state or local regulations concerning animal or human health.
- C. Site recognizes prevailing climatic conditions to minimize potential adverse effects on residential or agricultural environment.
- D. Facility design and location will not adversely affect the use and peaceful enjoyment of nearby lands for lawful purposes.
- E. Evidence certified by a qualified or licensed professional that all outdoor lighting will be fully shielded and maintained to eliminate direct glare from properties outside the AFO and to keep direct lighting within the property boundaries. Direct glare is caused when the lamp can be seen in the fixture as opposed to being able to see the light from the fixture. The lighting system shall be designed using full cutoff - fully shielded fixtures which are designed to control the light distribution to eliminate direct glare and no light is emitted above an angle of eighty five degrees (85°) from a point directly below the fixture. No lighting fixtures shall be installed higher than thirty five feet (35').
- F. Effective buffers against material adverse environmental conditions on nearby lands must be installed and maintained. (Ord. 157, 1-24-2002)

### **8-17-6: PERMIT REQUIRED:**

A permit for a small AFO is required prior to:

- A. Commencing construction of a new small AFO.
- B. Increasing animal units above authorized numbers for an existing permitted confined animal feeding facility such that it would become a small AFO.
- C. Commencing construction of improvements to expand the capacity of an existing operation such that it would become an AFO.
- D. Constructing or modifying a significant component of an AFO, such as a waste treatment system change of location or capacity.
- E. Changing an AFO from one species to another: example from cows to pigs.

- F. Repairing an existing AFO, which repair would result in a change of location, capacity or increased loading of a significant component of an AFO. (Ord. 157, 1-24-2002)

### **8-17-7: PERMIT APPLICATION REQUIREMENTS:**

- A. Application: An application for a permit to establish an AFO shall not be deemed complete and shall not be scheduled for further processing unless it contains the following information:
1. Name, address, and telephone number of applicant.
  2. Legal description and address of proposed operation.
  3. Total acreage and zoning district in which the operation will be located.
  4. The animal unit capacity of the operation.
  5. The type of animals to be confined.
  6. Evidence that a valid water right exists or a copy of an application to appropriate water or an application to change the point of diversion, place, and/or nature of use of an existing water right that has been filed with the Idaho department of water resources, which, if approved, would provide an adequate supply for the operation. (Ord. 157, 1-24-2002)
  7. Vicinity map a minimum size of twenty four inches by thirty six inches (24" x 36") with a minimum scale of one inch equals one thousand feet (1" = 1,000') showing the following information which occurs within a one mile radius of the proposed operation: (Ord. 244, 1-21-2016)
    - a. Building locations and uses.
    - b. Waste storage facilities.
    - c. Areas for land application of solid and liquid waste.
    - d. Flood zones or flood data for site and land application sites.
    - e. Private domestic wells.
    - f. Public water supply wells.
    - g. Irrigation wells.
    - h. Existing monitoring or injection wells.
    - i. Irrigation canals and laterals.
    - j. Rivers, streams, springs, reservoirs and wetlands.
    - k. Animal feeding operations.
    - l. Sinkholes of record.

- m. Seep tunnels of record.
  - n. Topography at intervals of twenty feet (20').
8. It is the responsibility of the applicant to show compliance with any state regulations, recommendations and guidelines.
- B. Site Plan: A registered surveyor or a civil engineer licensed in the state of Idaho shall be required to prepare and certify the site plan as accurate. The site plan will be a minimum size of eighteen inches by twenty four inches (18" x 24") with a minimum scale of one inch equals one hundred feet (1" = 100') showing the following:
1. Topography at intervals of twenty feet (20').
  2. Dimensions, size and location of existing improvements, if any, including setbacks.
  3. Dimensions, size and location of proposed improvements, including, but not limited to, feed storage areas, confinement areas, waste storage areas, lagoons, treatment systems, truck/motor vehicle parking areas, etc.
  4. Show compliance with setback requirements in section [8-17-8](#) of this chapter.
  5. Existing and proposed wells.
  6. Spring(s) and surface watercourse(s).
  7. Traffic access: Ingress, egress, and road widths to conform to uniform fire code twenty feet (20') minimum for emergency access.
  8. Public thoroughfares.
  9. Outdoor lighting.
  10. Surveyor's or engineer's stamp and signature.
  11. Sound, sight, odor and other environmental buffers between the site and nearby lands.
  12. A written description of the waste treatment system, including site criteria for land where the wastewater will be stored and/or applied, submitted by a registered professional engineer.
  13. Letter from canal company or water district relative to the proposed operation.
  14. Letter from local fire protection district addressing its ability to provide fire protection services.
  15. Letter from local highway district approving ingress and egress points on site plan and addressing the adequacy of public roads to serve the proposed facility.
  16. Preliminary nutrient management plan.
  17. Any additional information required for the siting advisory team review.
  18. A characterization of proposed operation including estimated amount of water per animal

unit required and any land application site(s) owned, leased, operated or contracted by the applicant, which land is part of the nutrient management plan and includes the following information:

- a. Annual precipitation as contained in the Idaho waste management guidelines.
- b. Soil characteristics from natural resources conservation service.
- c. Hydrogeological factors from Idaho department of water resources, Idaho state department of agriculture and U.S. geological survey including:
  - (1) Depth to first water yielding zone and first encountered water;
  - (2) Direction of ground water movement and gradient;
  - (3) Sources and estimates of recharge;
  - (4) Seasonal variations in water level and recharge characteristics;
  - (5) Susceptibility to contamination; and
  - (6) Ground water/surface water relationships.
- d. Water quality data from Idaho department of environmental quality, Idaho state department of agriculture, and U.S. geological survey including:
  - (1) Microorganisms (bacteria or single cell);
  - (2) Nutrients, including, but not limited to, nitrates and phosphorous;
  - (3) Pharmaceuticals and organic compounds.

19. Monthly prevailing winds information for a minimum of twelve (12) months.

20. The applicant shall submit with the application a fee in the amount set by resolution of the Twin Falls board of county commissioners.

C. Application Review And Processing: The zoning official shall review the small AFO application for completeness. Upon determining that the application is complete, the zoning official shall submit the application to the siting advisory team. The siting advisory team will be asked to review the application and submit a report to the county in accordance with state statutes or other applicable agreements or standards. Upon receiving a fully completed application and any review of the site advisory team, the application process will proceed as follows:

1. The zoning official will notify the applicant that the application is complete, that the site advisory team report has been received and to proceed with notification as required by this chapter.
2. The applicant shall notify any property owner(s) within one mile of the proposed location by first class mail and provide proof of mailing to the zoning official within five (5) days of mailing.
3. The zoning official shall accept written comment for fifteen (15) days after date of mailing.



4. The zoning official shall then produce a report, which includes a summary of such comment or evidence submitted, a reasoned explanation of the grounds for his decision and a final order granting or denying the permit, setting forth any conditions that the zoning official might deem appropriate. Such report shall be filed at the planning and zoning department office within twenty eight (28) calendar days after the closing date for accepting written comment, unless additional time for filing such report is granted by the board of county commissioners upon request of the zoning official. Notice of such filing shall be provided in writing to the applicant and to all parties entitled to notice by this chapter. (Ord. 157, 1-24-2002)

## **8-17-8: SETBACK REQUIREMENTS FOR AFOs:**

### **A. Setback Requirements For Expanding AFOs:**

1. For AFOs expanding to between one hundred (100) and nine hundred ninety nine (999) animal units:
  - a. Existing operations can be expanded in their current location up to nine hundred ninety nine (999) animal units so long as setbacks are not reduced from the operator's existing setbacks at the time of the application.
  - b. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile.
2. For AFOs expanding to one thousand (1,000) animal units or more:
  - a. General setbacks for lagoons, waste treatment, and land application of waste are one-fourth ( $\frac{1}{4}$ ) mile from residences and three hundred feet (300') from property lines and wells. Other facilities setbacks are three hundred feet (300') from residences and property lines. Land application setbacks, except near streams, can be reduced through the use of drop hose irrigation, nonaerosol or other odor control technology methods. Additional setbacks for more than one thousand (1,000) animal unit operations is 0.5 feet from any residence for each animal unit.
  - b. AFO separation is two (2) miles. This separation may be reduced if the applicant can demonstrate synergy with other operations through a common digester or other joint operations.
  - c. Setbacks from streams shall be one-half ( $\frac{1}{2}$ ) mile. Except, setbacks for facilities and land application of waste from streams shall be one-fourth ( $\frac{1}{4}$ ) mile.
  - d. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile.

### **B. Setback Requirements For New AFOs:**

1. For new AFOs between one hundred (100) and nine hundred ninety nine (999) animal units:
  - a. General setbacks for lagoons, waste treatment, and land application of waste are one-fourth ( $\frac{1}{4}$ ) mile from residences and three hundred feet (300') from property lines and

wells. Other facilities setbacks are three hundred feet (300') from residences and property lines. Land application setbacks, except near streams, can be reduced through the use of drop hose irrigation, nonaerosol or other odor control technology methods.

- b. AFO separation is one mile.
  - c. Setbacks from streams shall be one-fourth ( $\frac{1}{4}$ ) mile.
  - d. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile.
2. For new AFOs one thousand (1,000) animal units or more:
- a. General setbacks for lagoons, waste treatment, and land application of waste are one-fourth ( $\frac{1}{4}$ ) mile from residences and three hundred feet (300') from property lines and wells. Other facilities setbacks are three hundred feet (300') from residences and property lines. Land application setbacks, except near streams, can be reduced through the use of drop hose irrigation, nonaerosol or other odor control technology methods. Additional setbacks for more than one thousand (1,000) animal unit operations is 0.5 feet from any residence for each animal unit.
  - b. AFO separation is two (2) miles. This separation may be reduced if the applicant can demonstrate synergy with other operations through a common digester or other joint operations.
  - c. Setbacks from streams shall be one-half ( $\frac{1}{2}$ ) mile. Except, setbacks for facilities and land application of waste from streams shall be one-fourth ( $\frac{1}{4}$ ) mile.
  - d. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile. (Ord. 157, 1-24-2002)

### **8-17-9: APPEALS:**

Appeals will be conducted in accordance with chapter 20 of this title. (Ord. 157, 1-24-2002)

### **8-17-10: EXISTING ANIMAL FEEDING OPERATIONS:**

- A. Nonconforming Operations: Nonconforming (grandfathered) small animal feeding operations shall be allowed to remain and operate under the following conditions:
1. For the purpose of this chapter, an existing, nonconforming small animal feeding operation shall be one that does not conform to the regulations of this chapter in its entirety, but which was lawfully in existence at the time that this chapter went into effect. Such existing nonconforming small animal feeding operations that are operating under their current permitted number of animal units on file with the county may operate up to their permitted numbers, provided they are in compliance with the provisions of the previous county ordinances 21 and 153.

2. A nonconforming animal feeding operation may be changed to a conforming use by meeting the requirements of this chapter.
  3. An existing nonconforming animal feeding operation may make improvements to corral(s), lagoon(s), storm runoff containment(s), barns, etc., provided that the general location of specific facilities is not changed, that setbacks will not be reduced and that the number of animal units will not increase above those permitted by the prior ordinance requirements.
  4. Any animal feeding operation existing as of the effective date of this chapter, which has not previously registered with the county, shall have one hundred eighty (180) days after the effective date hereof to obtain an operating permit from the county. The owner must provide proof that the operation has been active in the last two (2) years, has a valid water right for the number of animal units at the facility and is in compliance with the requirements of the appropriate state and federal agencies. Any existing animal feeding operation which has not complied with this provision within the time provided shall not be recognized as an authorized or permitted animal feeding operation, and shall not be recognized as having vested rights that would be transferable to a subsequent owner or operator.
- B. Expansion Of Existing Animal Feeding Operations: Existing, nonconforming animal feeding operations shall not increase in size or capacity beyond permitted numbers without first conforming to the requirements of this chapter and obtaining a permit as provided by this chapter. In areas prohibiting animal feeding operations, existing operations shall not be eligible for expansion. A permit is required before any increase in animal units and/or construction takes place. (Ord. 157, 1-24-2002)
- C. Milking Facilities: An existing cow milking AFO approved in accordance with the requirements of this chapter, may convert from milking cows to milking goats by making application to the planning and zoning administration.
1. The application will include the name and address of the AFO, the contact information of the owner/operator, the total number of goats, the average weight and conversion ratio, the written description of any proposed improvements, and the site plan showing proposed improvements imposed on the approved site plan.
  2. Approval criteria: The existing AFO must be a milking facility, currently in operation, approved after January 2002, and in compliance with the requirements of this chapter. Improvements to items including, but not limited to, corral(s), lagoon(s), and stormwater runoff containment(s) and barn(s) may be made, provided, however that the general location of specific facilities is not changed and setbacks are not reduced and stay within the approved footprint of the facility. Animal units shall not increase above those permitted.
  3. Upon receipt of the application the planning and zoning administration review the application for compliance with requirements of this chapter, and issue a written decision on the application. The administration either may approve or deny the permit.
  4. Any appeal of the decision will be in accordance with the requirements of this code. (Ord. 244, 1-21-2016)

## 8-17-11: VARIANCES:

An applicant may request a variance concerning any applicable bulk or placement requirement in accordance with [chapter 14](#), "Variances", of this title. A variance is not considered a right or special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site not created by any actions of the applicant and that the variance is not in conflict with the public interest. (Ord. 157, 1-24-2002)

### **8-17-12: BUILDING PERMITS AND CERTIFICATE OF OCCUPANCY:**

- A. Building permit(s) are required before construction may commence on new or expanding AFO facilities. Prior to the occupancy and/or use of expanded or new facilities by livestock, swine, poultry or other animals the owner shall obtain a certificate of occupancy. The owner shall document compliance with all provisions of this chapter, compliance with conditions of approval established by the county and other public agencies, compliance with terms of the submitted application and compliance with the representations of the submitted application, as modified. Upon completion and final inspection of the facilities authorized by the permit(s) and upon compliance with the provisions of this chapter, the zoning official or building inspector shall issue a certificate of occupancy to the owner. The certificate shall certify that all facilities have been inspected and conform to the terms of the permit(s), are in compliance with the provisions of Twin Falls County ordinances and the owner is fully authorized to occupy and operate the AFO.
- B. Construction of an AFO pursuant to a building permit issued by the county must be commenced within two (2) years of the date of the final decision approving a permit. Construction will be governed by applicable building regulations and the terms of the issued permit. Failure to commence construction as required under this subsection shall void the AFO permit. (Ord. 157, 1-24-2002)

### **8-17-13: VIOLATIONS:**

Violations of any of the provisions of this chapter or failure to comply with any of its requirements may be dealt with in the following manner: Each day such violation continues shall be considered a separate offense, and shall constitute a misdemeanor as defined by Idaho Code and is punishable by up to six (6) months in jail and up to a three hundred dollar (\$300.00) fine, or both; the county may seek civil penalties and forfeitures to the maximum extent allowed by law. Additionally, the county may seek an injunction to restrain violation and/or the county may revoke the permit. In the event that a violation threatens the public health, safety and/or general welfare of the citizens of Twin Falls County, the board of county commissioners may take any lawful action it deems necessary to abate such violation. (Ord. 157, 1-24-2002)

## **Chapter 18**

# **LARGE ANIMAL FEEDING OPERATIONS**

### **8-18-1: PURPOSE:**

The purpose of this chapter is to provide regulations and standards for the siting of animal feeding operations one thousand (1,000) animal units and over in Twin Falls County. The regulations and standards contained herein are designed to protect and promote public health, safety and community welfare of Twin Falls County and to encourage and promote proper location of development of new and expansion of existing animal feeding operations.

The purposes of the zoning requirements established hereby are intended to accomplish the following:

- A. Minimize the effects of animal feeding operations through design and siting standards.
- B. Provide a process for applicants to obtain necessary permits for animal feeding operations, which also protects the interests of the Twin Falls County citizens.
- C. Protect environmentally sensitive areas of Twin Falls County by regulating the location of animal feeding operations.
- D. Encourage the use of effective technologies concerning the design and operation of animal feeding operations. (Ord. 158, 1-24-2002)

## **8-18-2: DEFINITIONS:**

The following definitions shall govern application and interpretation of this chapter:

**ADMINISTRATOR:** The official appointed by the board of county commissioners to administer the Twin Falls County zoning ordinance.

**AFFECTED PERSON:** As used herein, an affected person shall mean one having an interest in real property, which may be materially affected by the issuance or denial of a permit authorized by this ordinance.

**ANIMAL FEEDING OPERATION (AFO):** Animal feeding operation means a lot or facility (other than an aquatic animal production facility) to which the following descriptive conditions apply:

- A. Consists of one hundred (100) to nine hundred ninety nine (999) animal units (other than aquatic animals) that have been, are, or will be stabled or confined and fed or maintained for a total of one hundred eighty (180) days or more in any twelve (12) month period excluding any portion thereof upon which crops, vegetation forage growth, or postharvest residues are sustained during the normal growing season, or
- B. Consists of one thousand (1,000) animal units (other than aquatic animals) or more that have been, are, or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twelve (12) month period excluding any portion thereof upon which crops, vegetation forage growth, or postharvest residues are sustained during the normal growing

season.

- C. Two (2) or more animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. Components of a single lot or facility area shall be considered contiguous when separated by county roads or if they are not adjacent, but have any of the above referenced facilities located on the property that are used as part of a consolidated operation.
- D. Included as part of an animal feeding operation are all barns, stalls, corrals, feed stalls, feed storage areas, waste lagoons, storm runoff containment, waste storage areas and truck/motor vehicle parking areas used in conjunction with the operation.

**APPLICANT:** A person or legal entity seeking approvals or permits pursuant to this chapter which has an ownership interest in real property of a nature sufficient to require the use to which real property will be put as proposed in the applications for approvals or permits.

**BOARD:** The board of county commissioners.

**LARGE AFO:** Any AFO which consists of one thousand (1,000) or more animal units.

**SITE ADVISORY TEAM:** The "CAFO site advisory team" as defined in the local land use planning act.

**ZONING OFFICIAL:** The zoning administrator or his authorized representative. (Ord. 158, 1-24-2002)

### **8-18-3: ANIMAL UNIT EQUIVALENCY:**

To determine applicability of this chapter, the following standards shall be applied to determine if any facility(ies) or parcel(s) constitute an AFO:

Multiply the number of animals by the animal equivalency factor to determine animal units:

<u>Animal Types</u>		<u>Animal Equivalency Factor</u>	
Dairy cattle			
Holsteins:	Milking and dry cows	1.4	animal units
Jerseys:	Milking and dry cows	1.0	animal units
Others:	1,000 pounds of live body weight	1.0	animal units

Heifers:	100 pounds to 300 pounds	0.2	animal units
	300 pounds to 500 pounds	0.4	animal units
	500 pounds to 700 pounds	0.6	animal units
	700 pounds to 900 pounds	0.8	animal units
	900 pounds to 1,000 pounds	1.0	animal units
Beef cattle			
Slaughter/feeder:			
	100 pounds to 300 pounds	0.2	animal units
	300 pounds to 500 pounds	0.4	animal units
	500 pounds to 700 pounds	0.6	animal units
	700 pounds to 900 pounds	0.8	animal units
	900 pounds to 1,000 pounds	1.0	animal units
Swine			
Boars:		0.5	animal units
Sows:		0.5	animal units
Pigs:	55 pounds to market	0.4	animal units
Pigs:	Up to 55 pounds	0.10	animal units
Sheep/lambs	Each	0.1	animal units
Horse	Each	2.0	animal units
Chickens			

Layers	Each	0.033	animal units
Broilers	Each	0.033	animal units
Turkeys	Each	0.18	animal units
Ducks	Each	0.02	animal units
For species not specifically identified:			
1,000 pounds of live body weight = 1.0 animal units			

(Ord. 158, 1-24-2002)

#### **8-18-4: ZONING OF AREAS ALLOWING ANIMAL FEEDING OPERATIONS:**

Animal feeding operations are permitted by special use permit only in the following zones, subject to the provisions of this chapter:

Agricultural zone.

Agriculture range preservation zone. (Ord. 158, 1-24-2002)

#### **8-18-5: SPECIAL USE PERMIT:**

The intention of the special use permit is to consider a usage, which may be suitable for the respective zone, but possessing such characteristics as to require review and appraisal to mitigate potential impacts. The review and appraisal is to determine whether or not the proposed use can be made compatible for the particular area in which it is intended or whether or not it possesses characteristics for which special treatment may not satisfactorily prevent damage, devaluation, hazard, nuisance, or other detriment to persons or property in the vicinity. The special use permit is issued to the AFO on the land it is to be sited and can only be used on the land for which the permit was originally issued and is not transferable to another property. In the event that the property is sold or transferred, the conditions of the special use permit still apply to the property.

A. The special use permits shall address the following characteristics or conditions:

1. Full compliance with any state or local regulations, recommendations and guidelines.
2. Full compliance with any state or local regulations concerning animal or human health.
3. Site recognizes prevailing climatic conditions to minimize potential adverse effects on



residential or agricultural environment.

4. Facility design and location will not adversely affect the use and peaceful enjoyment of nearby lands for lawful purposes.
  5. Evidence certified by a qualified or licensed professional that all outdoor lighting will be fully shielded and maintained to eliminate direct glare from properties outside the AFO and to keep direct lighting within the property boundaries. Direct glare is caused when the lamp can be seen in the fixture as opposed to being able to see the light from the fixture. The lighting system shall be designed using full cutoff \_ fully shielded fixtures which are designed to control the light distribution to eliminate direct glare and no light is emitted above an angle of eighty five degrees (85°) from a point directly below the fixture. No lighting fixtures shall be installed higher than thirty five feet (35').
  6. Effective buffers against material adverse environmental conditions on nearby lands must be installed and maintained.
  7. The site will be served by roads of capacity sufficient to carry the traffic generated by the AFO and does not place an undue burden on existing transportation and service facilities in the area.
  8. The site is of sufficient size to accommodate the AFO, including, but not limited to, vehicular and equipment movement within the site, parking, feeding, storage areas, corrals, etc.
- B. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those items listed in Idaho Code sections 67-6512(d)(1\_8) and (e). (Ord. 158, 1-24-2002)

### **8-18-6: SPECIAL USE PERMIT REQUIRED:**

A special use permit for an AFO is required prior to:

- A. Commencing construction of a new AFO.
- B. Increasing animal units above authorized numbers for an existing permitted confined animal facility such that it would become an AFO.
- C. Commencing construction of improvements to expand the capacity of an existing operation such that it would become an AFO.
- D. Constructing or modifying a significant component of an AFO, such as a waste treatment system change of location or capacity.
- E. Changing an AFO from one species to another, such as from cows to pigs.

- F. Repairing an existing AFO, which repair would result in a change of location, capacity or increased loading of a significant component of an AFO. (Ord. 158, 1-24-2002)

### **8-18-7: PERMIT APPLICATION REQUIREMENTS:**

- A. Application: An application for a special use permit to establish an AFO shall not be deemed complete and shall not be scheduled for further processing unless it contains the following information:
1. Name, address, and telephone number of applicant.
  2. Legal description and address of proposed operation.
  3. Total acreage and zoning district in which the operation will be located.
  4. The animal unit capacity of the operation.
  5. The type of animals to be confined.
  6. Evidence that a valid water right exists or a copy of an application to appropriate water or an application to change the point of diversion, place, and/or nature of use of an existing water right that has been filed with the Idaho department of water resources, which, if approved, would provide an adequate supply for the operation. (Ord. 158, 1-24-2002)
  7. Vicinity map a minimum size of twenty four inches by thirty six inches (24" x 36") with a minimum scale of one inch equals one thousand feet (1" = 1,000') showing the following information which occurs within a one mile radius of the proposed operation: (Ord. 245, 1-21-2016)
    - a. Building locations and uses.
    - b. Waste storage facilities.
    - c. Areas for land application of solid and liquid waste.
    - d. Flood zones or flood data for site and land application sites.
    - e. Private domestic wells.
    - f. Public water supply wells.
    - g. Irrigation wells.
    - h. Existing monitoring or injection wells.
    - i. Irrigation canals and laterals.
    - j. Rivers, streams, springs, reservoirs and wetlands.
    - k. Animal feeding operations.

- I. Sinkholes of record.
  - m. Seep tunnels of record.
  - n. Topography at intervals of twenty feet (20').
- B. Site Plan: A registered surveyor or a civil engineer licensed in the state of Idaho shall be required to prepare and certify the site plan as accurate. The site plan will be a minimum size of eighteen inches by twenty four inches (18" x 24") with a minimum scale of one inch equals one hundred feet (1" = 100') showing the following:
1. Topography at intervals of twenty feet (20').
  2. Dimensions, size and location of existing improvements, if any, including setbacks.
  3. Dimensions, size and location of proposed improvements, including, but not limited to, feed storage areas, confinement areas, waste storage areas, lagoons, treatment systems, truck/motor vehicle parking areas, etc.
  4. Show compliance with setback requirements in section [8-18-8](#) of this chapter.
  5. Existing and proposed wells.
  6. Spring(s) and surface watercourse(s).
  7. Traffic access: Ingress, egress, and road widths to conform to uniform fire code twenty feet (20') minimum for emergency access.
  8. Public thoroughfares.
  9. Outdoor lighting.
  10. Surveyor's or engineer's stamp and signature.
  11. Sound, sight, odor and other environmental buffers between the site and nearby lands.
  12. A written description of the waste treatment system, including site criteria for land where the wastewater will be stored and/or applied, submitted by a registered professional engineer.
  13. Letter from canal company or water district relative to the proposed operation.
  14. Letter from local fire protection district addressing its ability to provide fire protection services.
  15. Letter from local highway district approving ingress and egress points on site plan and addressing the adequacy of public roads to serve the proposed facility.
  16. Preliminary nutrient management plan.
  17. Any additional information required for the siting advisory team review.
  18. A characterization of proposed operation including estimated amount of water per animal unit required and any land application site(s) owned, leased, operated or contracted by the

applicant, which land is part of the nutrient management plan and includes the following information:

- a. Annual precipitation as contained in the Idaho waste management guidelines.
- b. Soil characteristics from natural resources conservation service.
- c. Hydrogeological factors from Idaho department of water resources, Idaho state department of agriculture and U.S. geological survey including:
  - (1) Depth to first water yielding zone and first encountered water;
  - (2) Direction of ground water movement and gradient;
  - (3) Sources and estimates of recharge;
  - (4) Seasonal variations in water level and recharge characteristics;
  - (5) Susceptibility to contamination; and
  - (6) Ground water/surface water relationships.
- d. Water quality data from Idaho department of environmental quality, Idaho state department of agriculture, and U.S. geological survey including:
  - (1) Microorganisms (bacteria or single cell);
  - (2) Nutrients, including, but not limited to, nitrates and phosphorous;
  - (3) Pharmaceuticals and organic compounds.

19. Monthly prevailing winds information for a minimum of twelve (12) months.

20. Such other information as might be required by state law, federal law or specifically requested by the siting review team of the state of Idaho.

21. The applicant shall submit with the application a fee in the amount set by resolution of the Twin Falls board of county commissioners.

C. Application Review And Processing: The zoning official shall review the AFO application for completeness. Upon determining that the application is complete, the zoning official shall submit the application to the siting advisory team. The siting advisory team will review the application and submit a report to the county in accordance with state statutes or other applicable agreements or standards. Upon receiving a fully completed application and the review of the site advisory team, the zoning official shall schedule the AFO request for a public hearing before the Twin Falls County planning and zoning commission or as otherwise required by state law and the Twin Falls County zoning ordinance.

D. Hearing Notice: Notice of time, place and purpose of the public hearing shall be published in a newspaper of general circulation in the county at least fifteen (15) days prior to such hearing. Notice shall also be posted on the property not less than one week prior to the hearing. The applicant shall notify any property owner(s) within one mile of the proposed location by first

class mail. The applicant shall provide proof of mailing ten (10) days prior to the public hearing. The proof of mailing shall be either copies of registered mail receipts or an affidavit that the notice was mailed. When notice is required to two hundred (200) or more property owners, the applicant may request that the following alternate form of notice be followed: The board of county commissioners may order that the notice be published three (3) times in a newspaper of general circulation in the county, the last publication of such notice shall be at least ten (10) days before the date set for the public hearing. The notice shall give the date, time and place of hearing, the name of the applicant, identification of the property and such other facts as required by Twin Falls County ordinance(s).

- E. Report Of Hearing: The hearing shall be conducted in accordance with the provisions of this title or other appropriate county ordinance(s). At the completion of the hearing, the planning and zoning commission shall produce a report, which includes a summary of such testimony or evidence as presented, a reasoned explanation of the grounds for his decision and a final order granting or denying the permit, setting forth any conditions that the planning and zoning commission might deem appropriate. Such report shall be filed at the planning and zoning department within twenty eight (28) calendar days after the close of the hearing, unless additional time for filing such report is granted by the board of county commissioners upon request of the planning and zoning commission. Notice of such filing shall be provided in writing to the applicant and to all parties entitled to notice by this chapter. (Ord. 158, 1-24-2002)

## **8-18-8: SETBACK REQUIREMENTS FOR AFOs:**

### **A. Setback Requirements For Expanding AFOs:**

1. For AFOs expanding to between one hundred (100) and nine hundred ninety nine (999) animal units:
  - a. Existing operations can be expanded in their current location up to nine hundred ninety nine (999) animal units so long as setbacks are not reduced from the operator's existing setbacks at the time of the application.
  - b. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile.
2. For AFOs expanding to one thousand (1,000) animal units or more:
  - a. General setbacks for lagoons, waste treatment, and land application of waste are one-fourth ( $1/4$ ) mile from residences and three hundred feet (300') from property lines and wells. Other facilities setbacks are three hundred feet (300') from residences and property lines. Land application setbacks, except near streams, can be reduced through the use of drop hose irrigation, nonaerosol or other odor control technology methods. Additional setbacks for more than one thousand (1,000) animal unit operations is 0.5 feet from any residence for each animal unit.
  - b. AFO separation is two (2) miles. This separation may be reduced if the applicant can demonstrate synergy with other operations through a common digester or other joint operations.

- c. Setbacks from streams shall be one-half ( $1/2$ ) mile. Except, setbacks for facilities and land application of waste from streams shall be one-fourth ( $1/4$ ) mile.
- d. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile.

#### B. Setback Requirements For New AFOs:

1. For new AFOs between one hundred (100) and nine hundred ninety nine (999) animal units:
  - a. General setbacks for lagoons, waste treatment, and land application of waste are one-fourth ( $1/4$ ) mile from residences and three hundred feet (300') from property lines and wells. Other facilities setbacks are three hundred feet (300') from residences and property lines. Land application setbacks, except near streams, can be reduced through the use of drop hose irrigation, nonaerosol or other odor control technology methods.
  - b. AFO separation is one mile.
  - c. Setbacks from streams shall be one-fourth ( $1/4$ ) mile.
  - d. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile.
2. For new AFOs one thousand (1,000) animal units or more:
  - a. General setbacks for lagoons, waste treatment, and land application of waste are one-fourth ( $1/4$ ) mile from residences and three hundred feet (300') from property lines and wells. Other facilities setbacks are three hundred feet (300') from residences and property lines. Land application setbacks, except near streams, can be reduced through the use of drop hose irrigation, nonaerosol or other odor control technology methods. Additional setbacks for more than one thousand (1,000) animal unit operations is 0.5 feet from any residence for each animal unit.
  - b. AFO separation is two (2) miles. This separation may be reduced if the applicant can demonstrate synergy with other operations through a common digester or other joint operations.
  - c. Setbacks from streams shall be one-half ( $1/2$ ) mile. Except, setbacks for facilities and land application of waste from streams shall be one-fourth ( $1/4$ ) mile.
  - d. Setbacks from the Snake River Canyon Rim and Salmon Falls Canyon Rim shall be one mile. (Ord. 158, 1-24-2002)

#### **8-18-9: APPEALS:**

Appeals will be conducted in accordance with chapter 20 of this title. (Ord. 158, 1-24-2002)

## 8-18-10: EXISTING ANIMAL FEEDING OPERATIONS:

- A. Nonconforming Operations: Nonconforming (grandfathered) animal feeding operations shall be allowed to remain and operate under the following conditions:
1. For the purpose of this chapter an existing, nonconforming animal feeding operation shall be one that does not conform to the regulations of this chapter in its entirety, but which was lawfully in existence at the time that this chapter went into effect. Such existing nonconforming animal feeding operations that are operating under their current permitted number of animal units on file with the county may operate up to their permitted numbers, provided they are in compliance with the provisions of the previous county ordinances 21 and 153.
  2. A nonconforming animal feeding operation may be changed to a conforming use by meeting the requirements of this chapter.
  3. An existing nonconforming animal feeding operation may make improvements to corral(s), lagoon(s), storm runoff containment(s), barn(s), etc., provided that the general location of specific facilities is not changed, that setbacks will not be reduced and that the number of animal units will not increase above those permitted by the prior ordinance requirements.
  4. Any animal feeding operation existing as of the effective date of this chapter, which has not previously registered with the county, shall have one hundred eighty (180) days after the effective date hereof to obtain a siting permit from the county. The owner must provide proof that the operation has been active in the last two (2) years, has a valid water right for the number of animal units at the facility and is in compliance with the requirements of the appropriate state and federal agencies. Any existing animal feeding operation which has not obtained a siting permit within the time provided shall not be recognized as an authorized or permitted animal feeding operation, and shall not be recognized as having vested rights that would be transferable to a subsequent owner or operator.
- B. Expansion Of Existing Animal Feeding Operations: Existing, nonconforming animal feeding operations shall not increase in size or capacity beyond the permitted numbers without first conforming to the requirements of this chapter and obtaining a special use permit as provided by this chapter. In areas prohibiting animal feeding operations, existing operations shall not be eligible for expansion. A special use permit is required before any increase in animal units and/or construction takes place. (Ord. 158, 1-24-2002)
- C. Milking Facilities: An existing cow milking AFO approved in accordance with the requirements of this chapter, may convert from milking cows to milking goats by making application to the planning and zoning administration.
1. The application will include the name and address of the AFO, the contact information of the owner/operator, the total number of goats, the average weight and conversion ratio, the written description of any proposed improvements, and the site plan showing proposed improvements imposed on the approved site plan.
  2. Approval criteria: The existing AFO must be a milking facility, currently in operation, approved after January 2002, and in compliance with the requirements of this chapter. Improvements to

items including, but not limited to, corral(s), lagoon(s), and stormwater runoff containment(s) and barn(s) may be made, provided, however that the general location of specific facilities is not changed and setbacks are not reduced and stay within the approved footprint of the facility. Animal units shall not increase above those permitted.

3. Upon receipt of the application the planning and zoning administration review the application for compliance with requirements of this chapter, and issue a written decision on the application. The administration either may approve or deny the permit.
4. Any appeal of the decision will be in accordance with the requirements of this code. (Ord. 245, 1-21-2016)

### **8-18-11: VARIANCES:**

An applicant may request a variance concerning any applicable bulk or placement requirement in accordance with [chapter 14](#), "Variances", of this title. A variance is not considered a right or special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site not created by any actions of the applicant and that the variance is not in conflict with the public interest. (Ord. 158, 1-24-2002)

### **8-18-12: BUILDING PERMITS AND CERTIFICATE OF OCCUPANCY:**

- A. Building permit(s) are required before construction may commence on new or expanding AFO facilities. Prior to the occupancy and/or use of expanded or new facilities by livestock, swine, poultry or other animals, the owner shall obtain a certificate of occupancy. The owner shall document compliance with all provisions of this chapter, compliance with conditions of approval established by the county and other public agencies, compliance with terms of the submitted application and compliance with the representations of the submitted application, as modified. Upon completion and final inspection of the facilities authorized by the permit(s), and upon compliance with the provisions of this chapter, the zoning official or building inspector shall issue a certificate of occupancy to the owner. The certificate shall certify that all facilities have been inspected and conform to the terms of the permit(s), are in compliance with the provisions of Twin Falls County ordinances and the owner is fully authorized to occupy and operate the AFO.
- B. Construction of an AFO pursuant to a building permit issued by the county must be commenced within two (2) years of the date of the final decision approving a special use permit. Construction will be governed by applicable building regulations and the terms of the issued special use permit. Failure to commence construction as required under this subsection shall void the special use permit. (Ord. 158, 1-24-2002)

### **8-18-13: VIOLATIONS:**

Violations of any of the provisions of this chapter or failure to comply with any of its requirements may be dealt with in the following manner: Each day such violation continues shall be considered a separate offense, and shall constitute a misdemeanor as defined by Idaho Code and is punishable



by up to six (6) months in jail and up to a three hundred dollar (\$300.00) fine, or both; the county may seek civil penalties and forfeitures to the maximum extent allowed by law. Additionally, the county may seek an injunction to restrain violation and/or the county may revoke the special use permit. In the event that a violation threatens the public health, safety and/or general welfare of the citizens of Twin Falls County, the board of county commissioners may take any lawful action it deems necessary to abate such violation. (Ord. 158, 1-24-2002)

## **Chapter 19**

# **FLOODPLAIN REGULATIONS**

### **8-19-1: FINDINGS OF FACT:**

- A. The flood hazard areas of Twin Falls County are subject to periodic inundation, which results in loss of life and property, health, and hazards, disruption of commerce and governmental services, extraordinary public safety expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused in part by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
- C. Local government units have the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management. (Ord. 233, 11-2-2012)

### **8-19-2: PURPOSE:**

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

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;

- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 233, 11-2-2012)

### **8-19-3: METHODS OF REDUCING FLOOD LOSSES:**

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

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas. (Ord. 233, 11-2-2012)

### **8-19-4: DEFINITIONS:**

**ACCESSORY STRUCTURE:** A structure on the same lot or parcel as a principal structure, the use of which is incidental and subordinate to the principal structure. An insurable building should not be classified as an accessory or appurtenant structure.

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

**AREA OF SHALLOW FLOODING:** Designated as AO or AH zone on the flood insurance rate map

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

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

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

**BASE FLOOD ELEVATION (BFE):** The water surface elevation during the base flood in relation to a specified datum. The base flood elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

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

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

**DEVELOPMENT:** Any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

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

**ELEVATION CERTIFICATE:** The official FEMA form used to track development, provide elevation information necessary to ensure compliance with community floodplain management, and determine the proper insurance premium rate.

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

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed including the installation of utilities, the construction of

streets, and either final site grading or the pouring of concrete pads.

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

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

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

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

**FLOOD PROTECTION ELEVATION (FPE):** An elevation that corresponds to the elevation of the one percent (1%) chance annual flood (base flood), plus any increase in flood elevation due to floodway encroachment, plus one foot (1') of freeboard. Therefore the flood protection elevation for Twin Falls County is equal to BFE plus allowed floodway elevation plus one foot (1') freeboard.

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

**INCREASED COST OF COMPLIANCE:** A flood insurance claim payment up to thirty thousand dollars (\$30,000.00) directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of "substantial damage" or as a result of a "cumulative substantial damage" (FEMA ICC manual 301).

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

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

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

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

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

**RECREATIONAL VEHICLE:** A vehicle:

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

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

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

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

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to the before damaged condition would equal or exceed fifty percent (50%) of the market value (as established by the county assessor's records) of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value (as established by the county assessor's records) of the structure either:

- A. Before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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

**WATER DEPENDENT:** A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 233, 11-2-2012)

### **8-19-5: GENERAL PROVISIONS:**

- A. **Application Of Chapter:** This chapter shall apply to all areas of special flood hazards within the jurisdiction of Twin Falls County.
- B. **Areas Of Special Flood Hazard:** The areas of special flood hazard identified by the federal insurance administration in a scientific and engineering report entitled "The Flood Insurance Study For Twin Falls County And Incorporated Areas", dated September 28, 1984, and September 26, 2008, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file at the planning and zoning office for Twin Falls County. The best available information for flood hazard area identification shall be the basis for regulation until a new FIRM is issued.
- C. **Penalties For Noncompliance:** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be subject to civil or criminal penalties as set forth in this code. Nothing herein contained shall prevent Twin Falls County from taking such other lawful action as is necessary, whether administratively, through the court system or any other lawful action, to prevent or remedy any violation.
- D. **Abrogation And Greater Restrictions:** This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. **Interpretation:** In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. **Warning And Disclaimer Of Liability:** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Twin Falls County, any officer or employee thereof, or the federal insurance administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 233, 11-2-2012)

### **8-19-6: DEVELOPMENT PERMIT:**

A. **Development Permit Required:** A development permit shall be obtained from Twin Falls County planning and zoning administrator before construction or development begins within any area of special flood hazard. The permit shall be for all structures including manufactured homes, as set forth in the definitions section of this chapter, and for all development including fill and other activities, also as set forth in the definitions section of this chapter.

#### 1. Construction Stage:

- a. For all new construction and substantial improvements, the permit holder shall provide to the floodplain administrator an as built certification of the floor elevation or floodproofing level, using appropriate FEMA elevation or floodproofing certificate, immediately after the lowest floor or floodproofing is completed. When floodproofing is utilized for nonresidential structures, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- b. Certificate deficiencies identified by the floodplain administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the floodplain administrator to issue a stop work order for the project.

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

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate.
2. Elevation in relation to mean sea level to which any structure has been floodproofed.

3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria.
  4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- C. Designation Of The Local Administrator: The planning and zoning administrator is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.
- D. Duties And Responsibilities: Duties and responsibilities of the local administrator shall include, but not be limited to:
1. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
  2. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
  3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions are met.
- E. Use Of Other Base Flood Data: When base flood elevation data or floodway data has not been provided in accordance with the provisions of this chapter; the planning and zoning administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer this chapter.
- F. Information To Be Obtained And Maintained:
1. Where base flood elevation data is provided through the flood insurance study, FIRM, or as required in this chapter, information shall be obtained and recorded for the actual (as built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. This information shall be recorded on a current FEMA elevation certificate.
  2. For all new or substantially improved floodproofed nonresidential structures, where base flood elevation data is provided, information is provided through the FIS, FIRM, or as required in this chapter.
    - a. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed.
    - b. Maintain the floodproofing certifications.
    - c. Maintain for public inspection all records pertaining to the provisions of this chapter.
- G. Alteration Of Watercourses:



1. Notify adjacent communities and the department of water resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal insurance administration.
  2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- H. Interpretation Of FIRM Boundaries: The floodplain administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of section 60.6 of the rules and regulations of the national flood insurance program. (Ord. 233, 11-2-2012)

### **8-19-7: VARIANCE PROCEDURE:**

- A. Requests For Variances: The Twin Falls County planning and zoning commission shall hear and decide requests for variances from the requirements of this chapter.
- B. Alleged Errors In Requirements: The Twin Falls County planning and zoning commission shall hear and decide variance requests when it is alleged there is an error in any requirement, decision, or determination made by the county in the enforcement or administration of this chapter.
- C. Appeals: Those aggrieved by the decision of the Twin Falls County planning and zoning commission, may appeal such decision to the Twin Falls County board of commissioners.
- D. Consideration Of Applications: In passing upon such applications, the Twin Falls County planning and zoning commission shall consider all technical evaluations, all relevant factors, standards specified in this chapter, and the danger that materials may be swept onto other lands to the injury of others, the danger to life and property due to flooding or erosion damage and the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, the importance of the services provided by the proposed facility to the community, the necessity to the facility of a waterfront location, where applicable, the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage, the compatibility of the proposed use with existing and anticipated development. The commission shall also consider the relationship of the proposed use to the comprehensive plan and floodplain management program for that area, the safety of access to the property in times of flood for ordinary and emergency vehicles, the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

#### E. Conditions For Variances:

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
2. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

F. Variances From Flood Elevations: Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations shall be quite rare.

G. Variances For Nonresidential Buildings: Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing, rather than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria, and otherwise complies with the requirements of this chapter.

H. Written Notice: Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk. (Ord. 233, 11-2-2012)

### **8-19-8: PROVISIONS FOR FLOOD HAZARD REDUCTION:**

General standards in all areas of special flood hazards, the following standards are required:

A. Anchoring:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors. For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation In Flood Hazard Areas".
- B. AH Zone Drainage: Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- C. Construction Materials And Methods:
1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  3. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.
- D. Utilities:
1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
  2. Water wells shall be located on high ground that is not in the floodway;
  3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
  4. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- E. Subdivision Proposals:
1. All subdivision proposals shall be consistent with the need to minimize flood damage;
  2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
  3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

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

F. Review Of Building Permits: Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet (2') above the highest adjacent grade in these zones may result in higher insurance rates.

G. Specific Standards: In all areas of special flood hazards where the base flood elevation data has been provided as set forth in section [8-19-5](#), "General Provisions", or subsection [8-19-6E](#), "Use Of Other Base Flood Data", of this chapter, the following provisions are required. Additional standards were clarified in FEMA technical bulletin 11-01 to allow crawl space construction for buildings located in the special flood hazard areas.

1. Residential Construction:

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot (1') or more above the base flood elevation (BFE).
- b. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by an Idaho registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - (1) Crawl spaces in special flood hazard areas shall have openings that equalize the hydrostatic pressures by allowing the automatic entry and exit of floodwaters.
  - (2) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (3) The bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Foundation vent standards required by the IBC/IRC outside the floodplain may not meet this standard.
  - (4) Below grade, crawl spaces are prohibited at sites where the velocity of floodwaters exceeds five feet (5') per second.
  - (5) All building utility systems within the crawl space shall be elevated above base flood elevation or be designed so that floodwaters cannot enter or accumulate within the system component during flood.
  - (6) The interior of a crawl space below the base flood elevation must not be more than two feet (2') below the lowest adjacent exterior grade (LAG) and the height of the below grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation must not exceed four feet (4') at any point.

- (7) Below grade, crawl spaces constructed in accordance with the requirements listed in this subsection shall not be considered basements. However, applicants who construct buildings that have below grade crawl spaces are hereby advised that such buildings will have higher flood insurance premiums than buildings that have crawl spaces with interior elevations at or above the lowest adjacent grade.
      - (8) An adequate drainage system shall be provided that removes floodwaters from the crawl space.
    - c. Portions of the building below the BFE shall be constructed with materials resistant to flood damage including, but not limited to: foundation walls, joist, insulation, etc., that extend below the BFE.
    - d. Any building utility systems shall be elevated one foot (1') above the BFE.
  2. Nonresidential Construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot (1') or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - a. Be floodproofed one foot (1') above the BFE;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
    - c. Be certified by an Idaho registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official;
    - d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in this chapter.
  3. Manufactured Homes: In all areas of special flood hazard where the flood protection elevation is established, these standards for manufactured homes and recreational vehicles that are an allowed use under the zoning ordinance shall apply:
    - a. Manufactured homes placed or substantially improved:
      - (1) On individual lots or parcels,
      - (2) In new or substantially improved manufactured home parks or subdivisions,
      - (3) In expansions to existing manufactured home parks or subdivisions, or on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor, including basement, elevated to the flood protection elevation.
    - b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
      - (1) The lowest floor of the manufactured home is elevated to the flood protection elevation or one foot (1') above the level of the base flood elevation, whichever is higher.

- (2) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than thirty six inches (36") above the highest adjacent grade.
  - c. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This standard shall be in addition to, and consistent with, applicable state requirements.
  - d. Manufactured homes placed on solid perimeter walls shall meet the flood vent requirements in subsection G1b of this section.
4. Recreational Vehicles: Recreational vehicles placed on sites are required to either:
- a. Be on the site for fewer than one hundred eighty (180) consecutive days; (or)
  - b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - c. Meet the elevation and anchoring requirements for manufactured homes.
5. Areas With Base Flood Elevations: In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community.
6. Floodways: Located within areas of special flood hazard established in this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:
- a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
  - b. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.
7. Critical Facility: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet (3') above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord.

233, 11-2-2012)

### **8-19-9: SEVERABILITY:**

This chapter is hereby declared severable. Should a court of competent jurisdiction declare any portion of this chapter invalid, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of this chapter before the declaration of partial invalidity. (Ord. 233, 11-2-2012)

### **8-19-10: EFFECTIVE DATE:**

This chapter shall be effective upon passage and publication as provided by law. (Ord. 233, 11-2-2012)

## **Chapter 20 APPEALS**

### **8-20-1: PURPOSE:**

The purpose of this chapter is to establish standards and procedures for appeals of the decisions of the planning and zoning commission and planning and zoning administrator including, but not limited to, conditional or special use permits, animal feeding operations, variances, subdivisions, and home occupations. "Commission" herein refers to the planning and zoning commission and "board" herein refers to the board of county commissioners. (Ord. 221, 8-25-2011)

### **8-20-2: DECISIONS THAT MAY BE APPEALED:**

- A. Administrator Decisions: A final determination or decision by the administrator on the issuance of a permit or certificate, or on the interpretation of any provision of this chapter may be appealed to the board. Upon request of an applicant, the administrator will make the final decision in writing, providing the date of, and reasons for, the final decision.
- B. Commission Decisions: A final decision of the commission, including, but not limited to, an animal feeding operation, variance, preliminary subdivision plat, conditional or special use permit may be appealed to the board. (Ord. 221, 8-25-2011)

### **8-20-3: WHO MAY FILE APPEALS:**

- A. A determination or decision of the administrator may be appealed by the applicant or by any other affected person(s). An "affected person" as used herein shall mean one having an interest

in real property which may be adversely affected by the decision or determination made<sup>1</sup>.

- B. A final decision of the commission may be appealed by the applicant or any other affected person.
- C. Appeals based on allegations or grounds not regulated by this code shall not be considered. (Ord. 221, 8-25-2011)

#### **8-20-4: NOTICE OF APPEAL:**

- A. Notice of appeal must be filed with the planning and zoning department on a form provided by that office, along with the required fees, within fourteen (14) calendar days after the date of the administrator's final determination or written decision; or within fourteen (14) calendar days after the commission's final written decision. Failure to file a notice of appeal within the time allowed shall result in dismissal of the appeal.
- B. Upon the filing of the notice of appeal, the planning and zoning department shall send a copy of the notice of appeal to the board.
- C. The filing of a notice of appeal shall automatically suspend the effect of the decision appealed, pending the final decision on the appeal.
- D. No activity shall take place or any permit for construction or use be issued until after the fourteen (14) calendar day period for filing a notice of appeal has lapsed. (Ord. 221, 8-25-2011)

#### **8-20-5: PROCEDURE FOR APPEAL OF THE PLANNING AND ZONING ADMINISTRATOR'S DECISION:**

- A. Within fourteen (14) days of filing the notice of appeal, the appellant shall file a written statement with the planning and zoning department explaining the basis for the appeal and reasons for the board to reverse or remand the decision of the administrator. Upon receipt of the written statement, the planning and zoning department will forward the statement of reasons for the appeal and the project file to the board for review.
- B. The board will review the appellant's statement of reasons, and may uphold, reverse, or amend the decision, or may remand the decision to the administrator with instructions for further consideration. No public hearing is required for an appeal of the decision of the administrator, but the board must make its decision at a regularly noticed meeting of the board, at which the appellant and the administrator may make presentations to the board. (Ord. 221, 8-25-2011)



## **8-20-6: PROCEDURE FOR AN APPEAL OF THE PLANNING AND ZONING COMMISSION'S DECISION:**

- A. A transcript of the commission proceedings on the appealed decision is required. The planning and zoning department shall copy the media of the commission proceedings, arrange to have the media transcribed and submit these items to the board. The appellant shall pay the cost of preparing the commission meeting transcript. Payment for the transcript must be made before the board schedules a hearing on the appeal.
- B. Within fourteen (14) calendar days of filing the notice of appeal, the appellant shall file a written statement with the board explaining the basis for the appeal and reasons for the board to reverse or remand the decision of the commission. The statement may be formal or in letter form. If the appellant requests an extension of time due to a delay in the transcript preparation, that request must be in writing, and in no case shall be granted to extend beyond fourteen (14) calendar days from the time the transcript is completed.
- C. Also within fourteen (14) calendar days after filing the notice of appeal, the appellant shall file with the board proof of personal or mailed service of the notice of appeal on the applicant (if applicable), all property owners who received mailed notice of the commission hearing at which the decision was made, and all persons who personally appeared or filed a written comment at the commission hearing at which the decision was made. Failure to comply with this requirement may result in dismissal with prejudice of the appeal by the board.
- D. The appellant shall pay a transcript deposit at the time of filing the statement of reasons for the appeal. The transcript shall be paid for by the appellant at the current rate as established by resolution by the board. If the cost for preparation of the transcript exceeds the deposit, the appellant shall pay the difference before the appeal is heard by the board. If the transcript cost is less than the deposit, the county will reimburse the appellant the difference within thirty (30) calendar days.
- E. The completed transcript will be provided to the board, and the administrator. The appellant and respondents, if any, may obtain a copy of the transcript from the administrator when the transcript fee is paid in full by the appellant.
- F. Any person entitled to receive service of the notice of appeal who wishes to contest the appeal (referred to as "respondent(s)"), must file with the board a written request to participate in the appeal within fourteen (14) days of service of the notice of appeal. Failure to timely file a written request to participate in the appeal may result in being barred from further participation in the appeal. The respondents, if any, may file a written statement within fourteen (14) calendar days after filing the written request to participate in the appeal, or within fourteen (14) calendar days after appellant's written statement, whichever is later.
- G. The appellant, respondent or county may submit a written request for a hearing before the board on the appeal. No new evidence or factual information may be introduced at the appeal hearing. If neither party submits a written request for a hearing on appeal within forty five (45) days after

the filing of the notice of appeal, the board may issue a decision based on the record at a regularly scheduled board meeting without a hearing. (Ord. 221, 8-25-2011)

### **8-20-7: BOARD REVIEW ON APPEAL:**

- A. If a hearing on the appeal is timely requested, board consideration of the administrator's decision or a decision of the commission shall be made at a regularly noticed meeting of the board. Only affected persons, as defined herein, may present information and/or argument on the appeal hearing.
- B. Upon hearing the appeal, the board shall consider only the transcript record and arguments of affected persons who appear at the hearing. The board will give respectful consideration to, and may yield to the decision of the administrator or commission, unless it finds an error in interpretation or application of the terms of this code, or finds other mistake in the process or factual conclusions on which the decision is based. No new evidence or factual information may be introduced at the appeal hearing.
- C. The board shall issue a written decision explaining its action concerning the appeal. The board may affirm, reverse or modify, in whole or in part, the order, requirement, permit, decision, or determinations appealed or make any additional conditions which in its deliberations it may find warranted under the provisions of this code; or may remand the decision to the commission or administrator for further consideration.
- D. Unless the board remands the decision to the commission or administrator, the decision of the board shall constitute a final decision concerning such matter, and will constitute an exhaustion of administrative remedies. The decision of the board may be appealed to district court for judicial review as provided by chapter 52, title 67 of the Idaho Code.
- E. Every final decision concerning a site specific land use request shall be accompanied by a notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003 of the Idaho Code.
- F. Any action to grant a conditional or special use permit, either through affirmation, modification, or reversal of the planning and zoning commission's decision, must include required findings for a conditional or special use permit as provided in this code. (Ord. 221, 8-25-2011)