

HAUSER DEVELOPMENT CODE - TITLE 8

CHAPTER 1

GENERAL ZONING PROVISIONS

SECTION:

- 8-1-1: Purpose
- 8-1-2: Authority
- 8-1-3: Definitions
- 8-1-4: Transition From Previous Regulations
- 8-1-5: Interpretations !2R!

8-1-1: PURPOSE:

The purpose of this title shall be to promote the health, safety and general welfare of the people of the city and the surrounding area of city impact by fulfilling the purposes and requirements of the local planning act of 1975¹ and implementing the Hauser Lake comprehensive plan. Specific statements of purpose accompany selected provisions of this title, but the policy basis for its requirements is found in the comprehensive plan. (Ord. 97, 7-26-1993)

8-1-2: AUTHORITY:

This title is adopted pursuant to the authority granted by the local planning act of 1975, as subsequently amended. It includes the zoning ordinance required by Idaho Code 67-6511 and the subdivision ordinance required by Idaho Code 67-6513. It also fulfills other requirements of the local planning act, including the provision for variances required by Idaho Code 67-6516, the adoption of procedures for processing permits required by Idaho Code 67-6519, and the adoption of a hearing procedure required by Idaho Code 67-6534. (Ord. 97, 7-26-1993)

8-1-3: DEFINITIONS:

Words in the present tense include the future tense; words in the singular number include the plural, and words in the plural number include the singular; the word "shall" is mandatory and not discretionary, and the word "may" is permissive.

In interpreting the words contained in this title, terms include both singular and plural forms; i.e., building includes

1. IC title 67, chapter 65.

buildings. Except where otherwise indicated, terms include their derivatives; i.e., adjacent includes adjoining. Any dispute about the meaning of a term shall be resolved using the appeals procedure found in subsection 8-10-5A of this title.

!DEF! ACCESSORY: Accessory buildings and uses are those customarily associated with, and clearly subordinate to, a principal building or use. One single-family dwelling located on a commercial or industrial property, and occupied by the owner, a manager or a guard, shall be considered a customary accessory use.

ADJACENT: Includes all lots or parcels that directly border the lot or parcel on which a development is proposed, and all lots or parcels separated from that lot or parcel by only a public or private easement or right of way, including roads, railroads and irrigation canals.

ADMINISTRATOR: The city employee or contractor responsible for the administration of this title.

BOCC: The Kootenai County board of commissioners, the county's chief elected officials.

BUFFER: Two (2) different kinds of buffers are required by this title: Subsection 8-3A-4B of this title requires stream and lakeshore buffers, which are minimally disturbed areas of a specified width (see subsection 8-3A-4B, table 1, of this title) along streams or the lakeshore. Section 8-3B-6 of this title requires landscaped buffers, which are landscaped areas of a specified width (see subsection 8-3B-6B, table 3, of this title) surrounding certain uses.

BUILDING: As used in this title, refers to any structure.

BUILDING BULK: The bulk of buildings may be measured and compared in terms of floor area ratio (the ratio of the total area of floors on all levels in the building to the total area of the lot or parcel on which it is located) and/or total volume enclosed within the building.

BUILDING HEIGHT: See definition of Height.

CERCLA: The comprehensive environmental response, compensation and liability act, the federal superfund legislation: 42 USC 9601-9675, as amended, and as it may be amended (includes SARA, the superfund amendment and reauthorization act of 1986).

CERTIFICATE OF COMPLIANCE: A certificate of compliance is issued upon the completion of a use or building and any accompanying improvements required by this title. See subsection 8-10-9B of

this title.

CITY COUNCIL: The elected governing board of the city of Hauser.

CLEAN WATER ACT: 33 USC 1251-1387, as amended, and as it may be amended.

CLEAR VISION TRIANGLE: A triangular area in which objects that would block the vision of drivers at an intersection or driveway are prohibited. For dimensions, see subsections 8-3D-6C and 8-8-6E of this title.

CLUSTER: A pattern of development designed to concentrate building on the most suitable sites and preserve open space. Buildings concentrated together in specific areas to minimize infrastructure and development costs while achieving the allowable density. Allows the preservation of natural open space for recreation, common open space and preservation of environmentally sensitive features. See section 8-3E-4 of this title.

COMMERCIAL: The "general commercial zone" is a land use classification for a district suitable for wholesale and retail sales and services. Any use that includes an outdoor or only partially enclosed work and/or materials handling and/or storage yard shall be considered industrial.

COMMISSION: The Hauser planning and zoning commission established by section 8-10-1 of this title.

COMPATIBILITY: Land uses need not be identical to be compatible, but must be sited, designed, constructed and used in such a way that the normal functions and operation of neighboring uses do not seriously conflict, and so that their appearance is harmonious.

COMPLIANCE: For the purposes of this title, "compliance" means that a development: a) complies with all of the performance standards of chapter 3 of this title; b) where applicable, meets all conditions imposed on its approval, or the approval of a larger project of which it was a part; and c) where applicable, meets all conditions of a development agreement executed as provided in subsection 8-4-4B of this title.

COMPREHENSIVE PLAN: The Hauser Lake comprehensive plan, as amended, and as it may be amended.

COVERAGE: This title refers to two (2) types of coverage: impervious coverage is the percent of a lot or parcel that is covered by rooftops, paved roads and other surfaces that prevent the direct infiltration of precipitation or runoff into the soil

(see section 8-3E-5, table 5, of this title); lot coverage is the percent of a lot or parcel covered by structures.

CURRENT DESIGN STANDARDS: For the purposes of this title, the most recent standards promulgated by the Panhandle district health department and DEQ.

DEQ: The department of environmental quality, Idaho department of health and welfare.

DEVELOPMENT: Used as a generic term covering any and all activities for which a permit is required by this title. The "developer" is, by definition, the owner of the parcel on which a development is proposed, but owners may appoint a representative for all proceedings required by this title.

DWELLING: A building whose primary use is for residential purposes, including single-family, two-family, and multi-family structures, but not including hotels, motels, and boarding houses.

DWELLING, MULTIPLE-FAMILY: A building, or a portion thereof, containing at least three (3), but not more than four (4), dwelling units.

DWELLING, SINGLE-FAMILY: See definition of Single-Family Dwelling.

DWELLING, TWO-FAMILY, OR DUPLEX: A site built structure containing two (2) dwelling units which have either: a) a common interior wall or b) a common roofline with a common exterior wall.

DWELLING UNIT: One or more rooms physically arranged so as to create a habitable housekeeping unit that includes sleeping, eating, and sanitary facilities for occupancy by one family.

FINISHED GRADE (FINAL GRADE): The finished surface of the ground after grading for development is completed.

FLOODPLAIN: This term is synonymous with "special flood hazard area", as defined in section 8-6-2 of this title.

GROUP HOMES: For the purpose of any zoning law, ordinance or code, the classification "single-family dwelling" shall include any group residence in which eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons reside and who are supervised at the group residence in connection with their handicap or age related infirmity. Resident staff, if employed, need not be related to each other or to any of the mentally and/or physically handicapped or elderly persons

residing in the group residence. No more than two (2) of such staff shall reside in the dwelling at any one time.

HAZARDOUS MATERIALS: As defined in section 8-3A-3 of this title.

HEIGHT: The vertical distance measured from the average finish grade of the building site, as determined from the highest and lowest point of that portion of the lot covered by the building, to the highest point of the roof, and subject to all provisions of subsections 8-3C-1C and 8-3C-3B of this title.

HOME OCCUPATION: A commercial activity conducted in a dwelling or a building accessory to a dwelling. Home occupations, by definition, comply with the performance standards of section 8-3B-4 of this title.

IBC: The international building codes, published by the International Conference of Building Officials².

IDAHO LAKE PROTECTION ACT: Idaho Code 58-1301 et seq.

IDAHO STREAM CHANNEL PROTECTION ACT: Idaho Code 42-3801 et seq.

INDUSTRIAL: The "light industrial zone" is a land use classification for a district suitable for manufacturing and processing of a nonnuisance character. The purpose of the light industrial zone is to encourage the development of manufacturing and wholesale business that is clean, quiet, and free of noise, odor, dust, and smoke. Any use that includes an outdoor or only partially enclosed work and/or materials handling and/or storage yard shall be considered industrial.

LARGE SCALE DEVELOPMENT: A project that will contain thirty (30) or more residential lots or units.

LIVESTOCK: Large livestock are cows, horses, pigs, sheep, goats or other animals in excess of fifty (50) pounds, with the exception of dogs not bred for commercial purposes. Small livestock are rabbits, birds and other animals less than fifteen (15) pounds, with the exception of dogs not bred or boarded for commercial purposes.

LOT: Used as both a generic term for a development site, and to refer to any parcel of land created and described by a record of survey or plat.

LOT SPLIT: The creation of any parcel of land of less than one hundred sixty (160) acres but more than ten (10) acres for the purpose of sale, lease, rental or development. Incremental and

2. See section 7-1-1 of this code.

multiple lot splits to avoid subdivision regulations as defined in subsections 8-3C-6B and C of this title are prohibited.

MANUFACTURED HOME: A manufactured single-family dwelling that shall meet the criteria delineated below:

- A. The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet;
- B. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve inches (12") above grade, except when placed on a basement foundation;
- C. The manufactured home shall have a pitched roof, except that no standards shall require a slope of greater than a nominal three feet (3') in height for each twelve feet (12') in width;
- D. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the local permit approval authority;
- E. The manufactured home shall have a garage or carport constructed of like materials if zoning development codes would require a newly constructed nonmanufactured home to have a garage or carport.

MINIMIZE: To demonstrate that no alternative plan for the proposed development will result in a smaller impact.

MINOR UTILITY INSTALLATION: Includes cable television, electric power and telephone cables and transmission lines, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to those transmission lines or pipelines. Other utility installations are industrial uses.

NONCONFORMING: A nonconforming use or building in compliance with the regulations that existed at the time of its development, but would not comply with this title, if submitted for approval after its effective date. The degree of nonconformity is the measured extent to which an existing building or use fails to comply with

the requirements of this title. For example, the degree of nonconformity of a parking lot that has four (4) spaces, but serves a use requiring nine (9), is five (5) parking spaces. No change in the nonconforming building could be permitted that would reduce the number of parking spaces, because that would increase the degree of nonconformity.

OCCUPANCY: The use of a building or lot.

OPEN SPACE: Undeveloped land left in its natural state with passive recreational uses as a secondary objective. Open space may be maintained under the authority of a municipality, nonprofit conservation organization, land trust, homeowners' association or an individual. Open space shall contain the following features:

- A. Areas free from structures.
- B. Areas that limit the amount of impervious surfaces.
- C. Areas that incorporate native vegetation to encourage wildlife habitat.
- D. Areas prohibiting motorized activity.

OUTDOOR MATERIAL HANDLING OR STORAGE: Stockpiling, storage, processing or packaging of materials for any reason (it need not be for commercial use), including the long term storage of construction materials and inoperative machinery or vehicles, that is not enclosed in a building and that is visible from a public street.

PLAT: The legal map describing a subdivision.

PUBLIC SERVICE PROVIDER: A "potentially affected public service provider" is any local agency, including special districts, that provides any public facility or service that may possibly be affected by a proposed development. State law specifically states that school districts are potentially affected public service providers.

RECREATIONAL VEHICLE³: A motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for recreational or emergency occupancy.

RUNOFF, EROSION AND SEDIMENTATION CONTROL PLAN: A runoff, erosion and sedimentation control plan is prepared by a qualified person or firm with experience in runoff, erosion and sedimentation control, such as a civil engineer, landscape architects or

3. IC § 49-119.

certified professional erosion and sediment control specialists (SEEP). These plans show how the performance standards of section 8-3A-5 of this title will be met. Specifically, a runoff, erosion and sedimentation control plan uses maps, plans, drawings and narrative to:

- A. Identify runoff and erosion hazard areas (slopes, highly erodible soils, etc.) on the site, and wetlands, watercourses and facilities, both on the site and downstream, that are vulnerable to damage from accelerated runoff, erosion and sedimentation;
- B. Show how the site will be graded, including the timing and sequence or phasing of the grading;
- C. Show which vegetative and/or structural techniques for runoff, erosion and sedimentation control will be used; and
- D. Show how runoff, erosion and sedimentation control measures will be maintained.
- E. A runoff, erosion and sedimentation plan may also be required to include a monitoring program.
- F. All maps, plans and drawings included in the runoff, erosion and sedimentation plan must be coordinated with the site plan⁴ for the development and generally comply with the provisions of impervious coverage delineated in section 8-3E-5, table 5, of this title, and with the best management plan criteria and engineering standards of the department of environmental quality.

SENSITIVE AREAS: Includes wetlands, lakeshore and stream corridors, slopes greater than fifteen percent (15%), and the critical open space areas identified on the future acquisitions map adopted in subsection 8-2-4A of this title.

SETBACK: The distance between the property line and the outer wall, at grade, of the principal building on the same lot. The space within that distance is called a yard.

- A. The front setback is measured from the lot line paralleling a public street to the principal building. Corner lots have two (2) front yards.
- B. The rear setback is measured from the rear lot line to the principal building. The rear lot line is parallel,

4. See definition of Site Plan in this section.

or more or less parallel, to the street. Corner lots have two (2) rear yards, but may treat either as a side yard for the purposes of this title.

C. The side setback is measured from the side lot line to the principal building.

SEWERAGE: The entire system (mains, treatment plant, etc.) used to treat sewage wastes.

SIGN: Any object or structure used to identify, advertise or in any way attract or direct attention to any use, building, person or product by any means, including, but not limited to, the use of lettering, words, pictures and other graphic depictions or symbols. Specific types of signs are defined in chapter 5 of this title.

SINGLE-FAMILY DWELLING: A detached building designed for occupancy by one family. Also includes group homes, as required by Idaho Code 67-6530 et seq. (See definition of Group Homes.) Includes both conventional dwellings and manufactured homes that:

- A. Comply with Idaho Code title 67, the national manufactured home construction and safety standards act (40 USC 5401) and the international building code;
- B. Have all hitches, wheels, chassis and other running gear removed and are attached to a permanent foundation; and
- C. Where available, are permanently connected to central utilities. Recreational vehicles and travel trailers are not single-family dwellings, and shall not be used as such.

SITE PLAN: A scaled drawing, or a series of such drawings, that illustrates all those details of a proposed development needed to demonstrate compliance with this title, including the location of prominent natural features on and adjacent to the site; existing and proposed property lines; existing and proposed easements; existing and proposed utilities; the location and exterior dimensions of existing and proposed buildings; the location, size and circulation pattern in existing and proposed parking areas; existing and proposed roads and trails; proposed buffers, including a grading and planting plan for any proposed landscaping; and all other features of the site and proposed development that are relevant to compliance with this title. Where an erosion and stormwater runoff control plan is required, the site plan must be prepared on a detailed topographic base.

SKYLINING: A building is "skylined" if it is constructed on a

ridgeline or hilltop where it is visible, from the critical perspective (i.e., from Hauser Lake or a public road) against a background of only the sky.

STREAM: Any watercourse with a defined channel, perennial or intermittent. First order streams are those which are unbranched, i.e., which are not downstream from any other tributary stream. Second order streams are the combination of two (2) or more first order streams, and third order streams are the combination of two (2) or more second order streams, and so on.

STREAM CORRIDOR: Area to be left undeveloped on either side of a stream. See subsection 8-3A-4B of this title for dimensions and exceptions. This title also establishes lakeshore corridors.

STRUCTURE: Any object, including mobile objects, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formations, liquid storage tanks, fences and overhead transmission lines. For the purposes of this title, this definition is synonymous with "building".

SUBDIVISION: Division of a parcel into two (2) or more lots, parcels or development sites for the purpose of sale, lease, rent or development for which a permit is required by this title. Lot splits, as defined by this section, are allowed for properties over ten (10) acres.

USE: See definition of Occupancy.

VARIANCE: According to Idaho Code 67-6516, a variance is a modification of the requirements of the development code as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other development code provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. Land use cannot, by definition, be varied.

VEGETATIVE FILTER STRIP: A densely vegetated area that lies between a source of runoff and a drainageway (artificial or natural), stream, or lake, and that has, due to its slope, vegetative cover and width, the capacity to serve as a "sink" for sediment and other potential pollutants.

VIEW: The range of vision from a residence whose loss or curtailment would result in the reduction of economic value of a residence according to generally accepted real estate appraisal practices.

WELLHEAD PROTECTION: An area surrounding wells, springs and wetted recharge areas, as defined by the department of environmental quality.

WETLANDS: As defined in the current federal manual for identifying and delineating jurisdictional wetlands.

WETTED RECHARGE AREAS: An area where a stream, like the Hauser Lake outfall, debouches onto the Rathdrum Prairie and its flow is infiltrated into the Rathdrum Prairie aquifer. (IDAPA 58.01.11.200.1, as amended.) (Ord. 149, 10-22-2008) !DEFEND!

8-1-4: TRANSITION FROM PREVIOUS REGULATIONS:

A. Conflicting Ordinances: All prior ordinances are repealed to the full extent of their inconsistency with this title.

B. Vested Rights: Vested rights insulate developments from the potentially adverse impacts of changing regulations.

1. A vested right to proceed with development initiated prior to the adoption of this title may be established by:

a. Having obtained a building permit in compliance with all provisions of the previous regulations (such vested rights expire with the permit or, where construction has not been diligently pursued, 2 years after the effective date hereof); or

b. Having recorded a final plat or obtained final approval of a preliminary plat in compliance with all provisions of the previous regulations. Prior recording of a final plat establishes a vested right to develop and sell lots precisely as they are described on that plat. The development or subsequent division of the lots must comply with this title. Prior approval of a preliminary plat establishes a vested right to proceed with final platting and development of the subdivision precisely as it was approved. Such vested rights expire with the preliminary plat approval or, if a final plat has not been recorded, two (2) years after the effective date hereof. The development or subsequent division of the lots must comply with this title.

2. Vested rights to proceed with development initiated in compliance with this title (which may, of course, be amended) may be established only by obtaining a class I or class II permit in compliance with its requirements. Such vested rights expire with the permit or, where such an agreement is approved, the development agreement. Vested rights are established for a development precisely as it was approved. Any change from the approved plans must be in compliance with the current version of this title.

C. Private Agreements: Adoption of this title does not nullify easements, covenants, and similar private agreements, but where

any such agreement imposes requirements less restrictive than those adopted herein, the requirements of this title shall apply. (Ord. 97, 7-26-1993)

8-1-5: INTERPRETATIONS:

A. Most Restrictive Standards: If future ordinances, or state or federal law, impose additional requirements on activities governed by this title, the most restrictive shall apply.

B. Burden Of Proof: The burden of demonstrating compliance with this title rests with the developer.

C. Minimum Requirements: All requirements of this title shall be interpreted as the minimum necessary to protect the public health, safety and general welfare, and implement the local planning act and the Hauser Lake comprehensive plan. This title is designed for consistency with the comprehensive plan and should be liberally construed to achieve the purposes and intent of that plan. (Ord. 97, 7-26-1993)

CHAPTER 2

ZONING DISTRICTS AND MAP

SECTION:

8-2-1: Zoning Districts Established

8-2-2: Zoning Map

8-2-3: Interpretation Of District Boundaries

8-2-4: Future Acquisitions Map !2R!

8-2-1: ZONING DISTRICTS ESTABLISHED:

The following zoning districts and their boundaries, as shown on the zoning map of the Hauser Lake planning area, are hereby established:

Upper watershed zoning district
 Lake Village zoning district
 Hauser Hills zoning district
 Highway corridor zoning district
 Rathdrum prairie zoning district

(Ord. 97, 7-26-1993)

8-2-2: ZONING MAP:

The zoning map of the Hauser Lake planning area is hereby adopted, by reference, as part of this title. A copy of that map shall be maintained for public inspection at the office of the administrator. (Ord. 97, 7-26-1993)

8-2-3: INTERPRETATION OF DISTRICT BOUNDARIES:

Any person who disputes the location of a zoning district boundary, as interpreted by the administrator, may appeal the administrator's decision using the procedure set out in subsection 8-10-5A of this title. (Ord. 97, 7-26-1993)

8-2-4: FUTURE ACQUISITIONS MAP:

A. Future Acquisitions Map Adopted: Idaho Code 67-6517 authorizes cities and counties to adopt a future acquisitions map and specifically authorizes the use of such a map to facilitate acquisition of proposed parks or other open spaces. Given that authority, the future acquisitions map of the Hauser Lake planning area is hereby adopted, by reference, as part of this title. A copy of that map shall be maintained for public inspection at the office of the administrator. (Ord. 97, 7-26-1993)

B. Effect Of Future Acquisitions Map: Before an application for a permit to develop a parcel included on the future acquisitions map of the Hauser Lake planning area is processed, the city shall have sixty (60) days (from the date of the filing of the application) to negotiate with the owner for the purchase of an option on the property or the property itself. If the city is unable to reach an agreement with the owner within sixty (60) days, the application shall be processed as provided by this title. (Ord. 97, 7-26-1993; amd. Ord. 149, 10-22-2008)

CHAPTER 3

PERFORMANCE STANDARDS

SECTION:

- 8-3-1: Compliance Required; Exceptions
- 8-3-2: Applicability To Zoning Districts
- 8-3-3: Continual Compliance Required !2R!

8-3-1: COMPLIANCE REQUIRED; EXCEPTIONS:

A. Compliance Required: Performance standards require or prohibit

certain kinds of performance in developments. Failure to comply with any one performance standard shall result in rejection of the application for a permit, except as provided in subsection B of this section.

B. Exceptions: The only exceptions to the requirement for compliance with all performance standards shall be those specifically provided in this title and those allowed by variance. The variance procedure is explained in subsection 8-10-5B of this title. (Ord. 149, 10-22-2008)

8-3-2: APPLICABILITY TO ZONING DISTRICTS:

Some of the performance standards adopted in this chapter apply in all zoning districts, while others apply only in one or more zoning districts. (Ord. 149, 10-22-2008)

8-3-3: CONTINUAL COMPLIANCE REQUIRED:

A development must continue to comply with the applicable performance standards throughout its existence. All permit applications shall be reviewed for compliance with these standards, the nature of which is explained in this chapter. (Ord. 149, 10-22-2008)

CHAPTER 3

PERFORMANCE STANDARDS

ARTICLE A. NATURAL ASSETS AND NATURAL HAZARDS

SECTION:

- 8-3A-1: Air Quality Standards
- 8-3A-2: Water Quality Standards
- 8-3A-3: Critical And Hazardous Materials
- 8-3A-4: Sensitive Areas
- 8-3A-5: Runoff, Erosion And Sedimentation Control
- 8-3A-6: Rathdrum Prairie Aquifer
- 8-3A-7: Wildfire Hazards !2R!

8-3A-1: AIR QUALITY STANDARDS:

All developments shall comply with state and federal air quality standards. Developments for which a state or federal air quality permit is required shall: a) demonstrate compliance with this performance standard by submitting the approved permit with the application for a permit required by this title; or b) show that

a complete application for the permit has been filed, and accept its approval as a condition of compliance with this title. (Ord. 149, 10-22-2008)

8-3A-2: WATER QUALITY STANDARDS:

All developments shall comply with state and federal water quality standards. Developments for which a state or federal permit to discharge is required shall: a) demonstrate compliance with this performance standard by submitting the approved permit with the application for a permit required by this title; or b) show that a complete application for the permit has been filed, and accept its approval as a condition of compliance with this title. (Ord. 149, 10-22-2008)

8-3A-3: CRITICAL AND HAZARDOUS MATERIALS:

For the purposes of these performance standards, the terms "critical" and "hazardous" materials are defined by the Idaho department of environmental quality and the Panhandle health district.

A. No development that handles, stores, generates or disposes of critical and/or hazardous materials in the quantities regulated by DEQ or the Panhandle health district, or state or federal law or regulation, or that may reasonably be expected to do so, shall be located in the city limits or the area of impact, except motor vehicles in quantities no greater than five hundred (500) gallons per development.

B. No motor vehicle fuel shall be allowed:

1. Within any lakeshore or stream corridor established by this title;

2. Surrounding any well, spring or wetted recharge area. Manufacture of critical and/or hazardous materials and hazardous waste disposal are prohibited in the city and its area of impact. (Ord. 149, 10-22-2008)

8-3A-4: SENSITIVE AREAS:

A. Wetlands: All developments shall comply with state and federal wetlands protection standards. Developments for which a permit is required by the Idaho lake or stream channel protection acts and/or the clean water act (404 permits) shall:

1. Demonstrate compliance with this performance standard by

submitting the approved permit with the application for a permit required by this title; or

2. Show that a complete application for the permit has been filed, and accept approval of that permit as a condition of compliance with this title.

B. Lakeshore And Stream Corridors: The lakeshore or stream corridor includes the 100-year floodplain or special flood hazard area, all wetlands adjacent to the lake or stream, and the additional buffer area required by table 1 of this subsection as follows:

**TABLE 1
STREAM AND LAKESHORE BUFFER WIDTH REQUIREMENTS
REQUIRED BUFFER WIDTH (IN FEET)**

Slope To <u>Stream</u>	Vegetative Cover			
	Dense Forest, <u>Wet Meadow</u>	Other Ground <u>Cover</u>	Dense Forest, <u>Wet Meadow</u>	Other Ground <u>Cover</u>
1.0%	100	200	50	100
2.0%	141	282	71	141
3.0%	173	346	87	173
4.0%	200	400	100	200
5.0%	224	447	112	224
6.0%	245	490	122	245
7.0%	265	529	132	265
8.0%	285	566	141	283
9.0%	300	600	150	300
10.0%	316	632	158	316
11.0%	332	663	166	332
12.0%	346	693	173	346
13.0%	361	721	180	361
14.0%	374	748	187	374
15.0%	387	775	194	387

Required buffer widths for wetted recharge areas are 300 feet.

Notes:

1. The buffers required by this table begin at: a) the outer boundary of the special flood hazard area, where one is delineated; b) the outer edge of any wetlands associated with the lake or stream; c) the high water mark; or d) the outer boundary of the

wetted recharge area. The beginning point of the buffer must be whichever of these points provides the widest buffer.

- 2.No slope greater than 15 percent may be included in a buffer required by the table. No impervious surface may be included in a buffer required by this table. For example, if a buffer is interrupted by a 24 foot wide paved road, the required buffer width will be increased by 24 feet.
- 3.A buffer of dense forest cover has heavy ground litter and numerous interruptions to overland flow (exposed roots, cradle knolls, etc.). A wet meadow has a dense cover of tall grasses and forbs that are cut infrequently, if at all, and an uneven surface.
- 4.The calculation of the required buffer width in areas where there is not a relatively uniform slope and/or vegetative cover is illustrated by the following example: Imagine a situation in the upper watershed where an indirect tributary to the lake has a narrow floodplain (but no special flood hazard area) of 30 feet, with a dense vegetative cover, and a slope of 2 percent. It would take 70 feet of this land type to comprise the required buffer, so 43 percent of the required buffer is provided there. Above the floodplain, imagine a thinly wooded slope of 12 percent. It would take 346 feet of that land type alone to provide the required buffer, but 43 percent of the buffer was provided in narrow floodplain. Only the remaining 57 percent, or 197 feet, needs to be provided on the slope. The total required buffer width would be 227 feet.
- 5.Any developer who wishes to dispute the administrator's or commission's determination of the required buffer width may use the appeal procedure of subsection 8-10-5A of this title.

!SETLRM!!SETFNT!!SETTAB!

1. Lakeshore and stream corridors shall be left in, or restored to, wetlands, riparian or forest vegetation capable of serving as an effective vegetative filter strip, or left as or planted to meadow grasses capable of serving as an effective vegetative filter strip. The only exceptions to this requirement shall be:

a. Clearing and grading to prepare for plantings and other activities required to restore or enhance wetlands and riparian areas shall be permitted;

b. Roads and utility lines may cross lakeshore and stream corridors, with the number and width of such crossings being minimized;

c. Existing irrigation works (dams, headgates, ditches, etc.), may be repaired or replaced;

d. Boat ramps, piers and docks may be installed in the lakeshore corridor. Such structures shall disturb no more than ten percent (10%) or twenty four feet (24'), whichever is less, of the lake frontage on any lot or site;

e. Pedestrian, bicycle and equestrian trails of a maximum ten feet (10') in width shall be permitted in lakeshore and stream corridors; and

f. No permit shall be approved for any activity listed in subsections Bla through Bld of this section except where the developer demonstrates: 1) that all permits required for compliance with the Idaho lake or stream channel protection acts and/or the clean water act have been approved; or 2) that complete applications for all such permits have been filed, and approval of those permits is an accepted condition of compliance with this title.

2. No grazing, feeding or keeping of livestock shall be permitted within the lakeshore or stream corridor portion of a residential lot or parcel.

3. Developments in special flood hazard areas shall comply with the detailed performance standards of chapter 6 of this title.

4. The restoration and open space use of lakeshore and stream corridors shall be encouraged.

C. Slopes: The open space use of fifteen percent (15%) to thirty percent (30%) slopes shall be encouraged. The development of slopes over thirty percent (30%) has been essentially eliminated, see section 8-3E-5, table 5, of this chapter. (Ord. 149, 10-22-2008)

8-3A-5: RUNOFF, EROSION AND SEDIMENTATION CONTROL:

This performance standard is substantially revised and supplemented by a detailed definition in chapter 1 of this title.

A. A professionally prepared runoff, erosion and sedimentation control plan which will completely fulfill its purpose shall be implemented by:

1. All developments in the lake village zoning district within one hundred fifty feet (150') of a lakeshore, wetlands or stream corridor; and

2. Developments in other zoning districts that: a) disturb, or may reasonably be expected to result in the disturbance of, a cumulative total of more than one acre of land with a slope greater than eight percent (8%), or with a high erosion hazard; b) include one thousand (1,000) or more linear feet of road crossing a slope greater than eight percent (8%), or with a high erosion hazard; or c) create a cumulative total of more than ten thousand (10,000) contiguous square feet of impervious coverage.

B. The purpose of the runoff, erosion and sedimentation control plan shall be to:

1. Minimize land disturbance and maximize the retention of existing vegetation;
 2. Minimize the area disturbed by construction at any one time, protect vegetation that is to be retained from damage by construction activities, and temporarily control erosion from areas disturbed during construction;
 3. Promptly, permanently stabilize all areas disturbed, using revegetation or structural techniques (vegetative techniques are encouraged: see subsection D of this section);
 4. Minimize runoff velocities and prepare on site drainageways to handle the accelerated rate and increased volume of runoff without increasing channel erosion;
 5. Retain the additional volume of runoff generated by development on site until it can be evaporated, absorbed through an adequate filtering layer of vegetation and soil and/or released at a rate that does not exceed the predevelopment rate of release or the capacity of downstream drainageways to accommodate flow without increasing channel erosion, whichever is less;
 6. Protect water quality using detention basins, filter strips and similar techniques;
 7. This performance standard also provides for the future maintenance of runoff, erosion and sedimentation control measures (including earthwork, plantings and structures), as required by section 8-4-8 of this title. The commission may, with the advice of the DEQ, require a development to institute a program of monitoring the performance of its runoff, erosion and sedimentation control measures; and
 8. Runoff, erosion and sedimentation control plans, and the design, construction, installation, planting and maintenance of the measures they propose, shall generally follow the BMPs (best management practices) of the department of environmental quality, except that sizing of any grassed infiltration areas to provide for the infiltration of the first one-half inch ($1/2$ ") runoff from all impervious surfaces on the site shall be expanded to one inch (1").
- C. The use of dry wells, injection wells and similar techniques for runoff control shall be minimized.
- D. The use of vegetative, as opposed to structural, runoff control and soil stabilization techniques shall be encouraged. Vegetated runoff control areas (detention basins, filter strips, etc.) may be integrated into landscaped buffers required by

section 8-3B-6 of this chapter. (Ord. 149, 10-22-2008)

8-3A-6: RATHDRUM PRAIRIE AQUIFER:

The performance standards of sections 8-3A-2, 8-3A-3, 8-3A-4, and 8-3A-5 of this article limit the potential for contamination of the Rathdrum Prairie aquifer by regulating certain land uses and protecting related resources, like lakeshore and stream corridors. Performance standards that are specifically designed for aquifer protection are adopted herein.

A. For the purposes of this title, feedlots and similar livestock feeding operations (poultry farms, dairies, etc.) are classified as industrial rather than agricultural uses. This removes those operations from the exemption for agriculture in the Rathdrum Prairie zoning district (see subsection 8-10-2B of this title), and enables this title to prohibit new feedlots and similar livestock feeding operations.

B. Underground storage tanks for motor vehicle fuel, or storage tanks subject to DEQ and Panhandle health district shall not be permitted in any zoning district. (Ord. 149, 10-22-2008)

8-3A-7: WILDFIRE HAZARDS:

These performance standards apply in the upper watershed, Lake Village and Hauser Hills zoning districts.

A. Individual homes and other principal structures shall provide a fire defensible space of at least thirty feet (30') surrounding the home or structure. A defensible space is one in which woody brush is removed or substantially thinned and dead fuel is removed. Fire hazards shall not be permitted within the defensible space. Maintenance of defensible space is a requirement for continuing compliance with this title.

B. Subdivisions and other multiple occupancy developments shall implement a wildfire prevention plan. Such plans shall be prepared with the assistance of a professional forester and shall:

1. Show how special wildfire hazard areas, including natural fire chimneys will remain undeveloped, or how the wildfire hazard in those areas will be mitigated;

2. Show how the wildfire hazard within the development will be reduced prior to occupancy by thinning and similar techniques, including clearing or, preferably, thinning of road rights of way and removal of all combustible slash resulting from road

construction from a strip at least one hundred feet (100') on either side of all roads;

3. Show how adequate access for firefighting equipment and the evacuation of the development will be provided;

4. Show how an effective system of perimeter and internal fuel breaks will be designed, constructed, and maintained; and

5. Show whether (and if so, how) a water supply adequate for wildfire fighting purposes will be provided. Provision of such a water supply is encouraged by subsection 8-3D-1D of this chapter. (Ord. 149, 10-22-2008)

CHAPTER 3

PERFORMANCE STANDARDS

ARTICLE B. LAND USE CONFLICTS

SECTION:

- 8-3B-1: Nuisances
- 8-3B-2: Livestock On Residential Lots
- 8-3B-3: Outdoor Storage On Residential Lots
- 8-3B-4: Home Occupations
- 8-3B-5: Irrigation Systems
- 8-3B-6: Landscaped Buffers !2R!

8-3B-1: NUISANCES:

As established by section 8-3-3 of this chapter, compliance with these performance standards is a continuing condition of compliance with this title.

A. No development that creates excessive levels of sound beyond its property line shall be permitted. Excessive sound, measured at the property line of the receiving use, exceeds the standards of table 2 of this subsection, as follows:

**TABLE 2
DETAILED PERFORMANCE STANDARDS FOR NOISE**

<u>Zoning District</u>	<u>Maximum Sound Level</u>
Upper watershed, Lake Village, Hauser Hills	60 dBA, 7:00 A.M. to 10:00 P.M. 50 dBA, 10:00 P.M. to 7:00 A.M.
Highway corridor,	70 dBA, any time

Rathdrum prairie

Note: "dBA" is the measure of sound levels in A-weighted decibels.

!SETLRM!!SETFNT!!SETTAB!

1. This performance standard applies to sounds generated by the occupancy or operation of a development, including sound generated by the operation of trains, motor vehicles, and heavy equipment on the site. It does not apply to the movement of trains on existing railroad rights of way, the movement of motor vehicles on public roads, the operation of farm machinery, the operation of watercraft, or other sources of noise that are not attributable to a particular development.

2. The maximum sound levels of table 2 of this subsection may be exceeded by temporary construction and maintenance activities, but in the upper watershed, Lake Village and Hauser Hills zoning districts, any excessive noise generated by such activities shall be restricted to the hours between seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

B. No development in any zoning district that directs excessive light, glare, or heat beyond its property line shall be permitted.

C. No development that will create, or may reasonably be expected to create, electrical interference on other properties shall be permitted.

D. Solid waste shall be stored in an enclosed building or approved containers, and handled in a manner that does not: 1) attract bears, rodents, flies or other animals; 2) generate odors perceptible beyond the property line or liquid runoff; or 3) permit the blowing of paper and other lightweight waste.

E. Commercial and industrial solid waste handling and storage areas shall be effectively screened from public view by enclosure in a building, location on the property, a fence or wall or a densely planted landscaped buffer.

F. No development that will generate dust, smoke, odors or other airborne pollutants that have an adverse impact on neighboring properties or the enjoyment of public spaces shall be permitted. (Ord. 149, 10-22-2008)

8-3B-2: LIVESTOCK ON RESIDENTIAL LOTS:

For the purposes of this performance standard, a "residential lot" is any lot or parcel under forty (40) acres in size.

Comment: The right to farm act⁵ assures commercial farmers that their operations will not become nuisances as residential and other development begins to surround them. The local planning act⁶ allows municipalities to define what is agricultural land to be provided this protection. This is a tradeoff between the rights of farmers, and the rights of residential landowners to be protected from offensive odors and property devaluation resulting from agricultural "type" of activity conducted on land which is not large enough to provide primary or meaningful supplemental income from such activity.

The tradeoff was chosen to be forty (40) acres. On parcels larger than forty (40) acres, agricultural activity is not regulated by the Hauser development code. On parcels smaller than forty (40) acres, these activities are regulated, but not banned. Livestock is still allowed on parcels smaller than forty (40) acres and larger than one acre, but the placement of the livestock and their manure is regulated to protect water quality.

A. No livestock may be kept within a lakeshore or stream corridor established by this title, or surrounding any well, spring or wetted recharge area.

B. Large livestock is prohibited on property zoned or in actual use for five (5) homes per acre or higher density. Small livestock is limited to five (5) animals per lot, and shall be kept in such a manner as to avoid any nuisance to neighboring properties, including noise or smell. Large livestock are not allowed in Hauser Lake and, in wetland areas defined in the comprehensive plan, are restricted to such ground that has sufficiently dried up to allow large animals to graze and that has adequate vegetation, grass three inches (3") high or higher, to take up the nutrients from the manure that otherwise would find its way into the lake. It should be noted that large livestock require substantially drier ground than people and caution should be taken to ensure firm ground. Large livestock are restricted to three (3) per parcel from two (2) acres to five (5) acres in size, or one animal on parcels under two (2) acres. If machinery is used in these areas, refueling should be done out of the wetland area.

C. Surface runoff from all corrals, pens and other areas within which stock are confined shall be directed to a densely vegetated on site retention area or filter strip.

D. Manure shall be removed from all corrals, pens, and other

5. IC §§ 22-4501 - 22-4504.

6. IC § 67-6529.

areas within which stock are confined at least twice each year, and more frequently if the administrator determines, based on the presence of odor, flies, etc., affecting neighboring properties, that the accumulation of manure is creating a nuisance. No manure shall be spread in a lakeshore or stream corridor established by this title, or surrounding any well, spring, or wetted recharge area. (Ord. 149, 10-22-2008)

8-3B-3: OUTDOOR STORAGE ON RESIDENTIAL LOTS:

Outdoor storage shall be permitted in rear yards, but there shall be no outdoor storage in front yards or required side yards (note that this permits storage to the side of a dwelling where the side yard is larger than required) on residential lots or parcels, except as permitted below:

A. Construction equipment and materials may be stored in a required side or front yard during the course of construction for which a permit has been approved in compliance with this title or the international building code. This exception expires with the permit, or upon the issuance of a certificate of compliance.

B. Vehicles and watercraft that have current licenses or registrations may be parked in front and side yards, but note that parking is not permitted within the clear vision triangles this title establishes at points of access to public roads.

C. Outdoor storage on residential lots or parcels shall not create a fire, health or safety hazard, or constitute an attractive nuisance. (Ord. 149, 10-22-2008)

8-3B-4: HOME OCCUPATIONS:

Home occupations shall be permitted in all zoning districts, but only in compliance with the following performance standards:

A. Home occupations may be located within dwellings or accessory buildings, but shall not occupy a floor area larger than that of the dwelling to which they are accessory.

B. No home occupation shall have more than one full time equivalent on premises employee who is not a member of the resident family.

C. Home occupations shall provide off street parking in compliance with the requirements of section 8-3D-5 of this chapter.

D. The storage of any materials and/or solid waste associated

with a home occupation shall be within an enclosed structure or effectively screened from view from neighboring residences and public ways by location on the property, a fence or wall or a densely planted landscaped buffer.

E. Home occupations shall display only the following signs:

1. One nonilluminated wall sign of no more than four (4) square feet; and
2. One nonilluminated, on site directional sign of no more than four (4) square feet. (Ord. 149, 10-22-2008)

8-3B-5: IRRIGATION SYSTEMS:

All developments including or adjoining irrigated lands, or including or adjoining irrigation works (headgates, canals, pumps, drains, etc.) shall be reviewed by the responsible irrigation entity. No development shall be permitted to adversely impact the operation of an irrigation system.

A. All subdivisions shall demonstrate compliance with Idaho Code 31-3805, as amended, which provides for the approval of subdivisions by irrigation entities. Compliance shall be attained by the transfer of water rights or installation of a central irrigation system maintained by a community association. Irrigation systems installed to comply with Idaho Code 31-3805 are subject to the requirements for required improvements; see chapter 4 of this title.

B. No development shall channel storm or melt water runoff into an irrigation system without the written consent of the responsible irrigation entity. (Ord. 149, 10-22-2008)

8-3B-6: LANDSCAPED BUFFERS:

A. The installation of landscaped buffers between potentially incompatible uses and along public roads in accordance with table 3 of this section and the detailed performance standards of chapter 7 of this title shall be required. Buffers along lakes and streams are required by subsection 8-3A-4B of this chapter.

B. A plan to provide for the retention of existing vegetation to serve buffering functions is required and shall be submitted prior to permit application.

TABLE 3 LANDSCAPE BUFFER REQUIREMENTS

<u>Zoning District</u>	<u>Situation</u>	<u>Buffer Width (Feet)</u>	<u>Height Adjustment</u>
Highway corridor	Commercial use > boundary with Hauser Hills	50	0.25:1
	Commercial use > Idaho Highway 53	20	none
	Cloverleaf and Hauser Lake Roads	20	none
	Commercial use > any other property line		
Rathdrum prairie	Industrial use > any property line, including road frontages	50	0.25:1

Note: The basic buffer width given in this table is for a level or nearly level buffer area with a lawn or other low ground cover and a minimum of 4 major trees in each 100 linear feet of buffer. The height adjustment is added to the basic buffer width when the use being buffered has buildings over 35 feet in height. The height adjustment ratio indicates how many feet of buffer width must be added for each foot of building height over 35 feet. See chapter 7 of this title for detailed performance standards for the construction of landscaped buffers.

(Ord. 149, 10-22-2008)

CHAPTER 3

PERFORMANCE STANDARDS

ARTICLE C. LAND USE COMPATIBILITY AND DEVELOPMENT

SECTION:

- 8-3C-1: Land Use Compatibility Factors
- 8-3C-2: Compatibility Within Districts
- 8-3C-3: Visual Resources
- 8-3C-4: Community Image
- 8-3C-5: Large Scale Developments
- 8-3C-6: Land Divisions !2R!

8-3C-1: LAND USE COMPATIBILITY FACTORS:

Compatibility with neighboring land uses shall be assessed using the following factors:

A. The proposed lot coverage shall be compatible with neighboring uses. For single-family dwellings, subject to class I permit

review only, it shall be assumed that the proposed lot coverage is compatible if: 1) the setbacks of table 4 of this subsection are maintained from all property lines; and 2) the minimum lot size is as specified by section 8-3E-2 of this chapter.

**TABLE 4
SPECIFICATION STANDARDS FOR SINGLE-FAMILY DWELLINGS
AND ACCESSORY BUILDINGS**

Dwelling Setbacks

<u>Zoning District</u>	<u>Yard</u>	<u>Setback (In Feet)</u>
Upper watershed	Front yard, arterial roads	50
	Front yard, all other roads	30
	Rear yard	30
	Side yard	10
All other zoning districts	Front yard, arterial roads	50
	Front yard, all other roads	25
	Rear yard	10
	Side yard	10

Accessory Building Setbacks

<u>Zoning District</u>	<u>Yard</u>	<u>Setback (In Feet)</u>
All zoning districts	Front yard, garages	25
	Front yard, all other accessory buildings	50
	Rear yard	15
	Side yard	10

Note: All setbacks are measured at right angles, from the property line to the outer edge of the nearest part of the foundation or any above grade projection of the structure (like eaves) that extends more than 3 feet beyond the outer edge of the nearest part of the foundation. For definitions of the various types of yards, see section 8-1-3 of this title.

!SETLRM!!SETFNT!!SETTAB!

B. The administrator may permit an exception from the presumptive setbacks of subsection A of this section for single-family dwellings that are in a substantially developed area where existing dwellings have reasonably consistent setbacks that are less than those required by table 4 of this section. It is the responsibility of the developer to provide the evidence needed to show that this exception is applicable. This exception may not be used to: 1) reduce the setback from an arterial road; or 2) to reduce any setback below the minimum separation required by the

international building code. Fire district and Panhandle health district approval is required.

C. All single-family dwellings in any residential district shall have a building height of not more than thirty five feet (35'). Height is measured at natural grade level.

D. Any development that exceeds ten (10) lots shall be designed to share functional connections with adjoining developments (existing and anticipated), including the logical extension of roads, shared access to arterials, shared parking and service access, integrated buffers and open space, and shared pedestrian circulation. (Ord. 149, 10-22-2008)

8-3C-2: COMPATIBILITY WITHIN DISTRICTS:

All development within the zoning districts shall be consistent with and compatible with the comprehensive plan future land use designations, goals and policies. (Ord. 149, 10-22-2008)

8-3C-3: VISUAL RESOURCES:

A. Signs: All signs shall comply with the detailed performance standards of chapter 5 of this title.

B. Hauser Lake Views; Building Height: No building in any residential district shall be more than thirty five feet (35') in height. (Ord. 149, 10-22-2008)

8-3C-4: COMMUNITY IMAGE:

Site planning shall place roads along the contours, avoid skylining buildings, provide for view corridors, and minimize clearing, grading, and other land disturbing activities. Large, interconnected blocks of open space shall be required in large scale developments. (Ord. 149, 10-22-2008)

8-3C-5: LARGE SCALE DEVELOPMENTS:

A large scale development will contain thirty (30) or more residential lots or units.

A. Large scale developments shall provide additional public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this title and state and federal law, and may include: off site runoff control measures; central sewerage systems; off site road

improvements, including additional lanes, signs or signals, bridges or culverts; solid waste transfer stations; emergency services buildings and apparatus, including fire engines and ambulances; school bus stops; and neighborhood parks at a rate of two (2) acres per one thousand (1,000) potential population. Also see section 8-3D-1 of this chapter for water system requirements.

B. The need, if any, for provision of these facilities shall be determined through a fact finding process conducted by the commission, at the expense of the developer. The commission may retain professional planners and engineers to conduct this study, the purpose of which shall be to determine what new facilities needs may be attributed to the proposed development. The study process shall be conducted as follows:

1. The administrator shall determine whether a proposed development is a large scale development;
2. The administrator will not schedule a hearing on an application determined to be for a large scale development, but shall place initiation of a large scale development study on the agenda of the next regular commission meeting; and
3. The commission shall review the application at that meeting. If it confirms the administrator's determination, the commission shall direct the administrator to initiate a large scale development study.
4. When a large scale development study is required, the developer shall place a deposit with the city, as provided in the resolution establishing fees for the administration of this title. The administrator shall retain appropriate professional assistance for the study, first drawing against the required deposit, then requesting additional payments from the developer as necessary, and as provided in the resolution establishing fees for the administration of this title. Unused funds shall be returned to the developer upon completion of the study.
5. An application shall be considered complete and a hearing scheduled only after completion of the large scale development study. (Ord. 149, 10-22-2008)

8-3C-6: LAND DIVISIONS:

A. Plat Or Record Of Survey Required: A record of survey or plat shall be required for all land divisions that are not exempted by subsection 8-10-2C of this title, and for all areas to be annexed. Records of survey and plats shall meet all requirements of Idaho Code 50-1301 et seq., and chapter 9 of this title.

B. Lot Splits: A lot split is the creation of any parcel of land of less than one hundred sixty (160) acres, but more than ten (10) acres for the purpose of sale, lease, rental or development. Lot splits require a class I permit, but applications for lot splits can, where appropriate (i.e., where a parcel is being created for a proposed commercial use that will require a class II permit), be combined with applications for class II permits. Multiple lot splits shall not be used as a means to evade the requirements of this title for subdivisions; see subsection C of this section⁷.

C. Incremental Subdivision: Any application for a subdivision that does not provide a master plan for development of the entire contiguous holdings of the developer/owner shall be rejected. (Ord. 149, 10-22-2008)

CHAPTER 3

PERFORMANCE STANDARDS

ARTICLE D. PUBLIC FACILITIES AND SERVICES

SECTION:

- 8-3D-1: Water
- 8-3D-2: Sewerage
- 8-3D-3: Access To Utilities
- 8-3D-4: Addresses
- 8-3D-5: Off Street Parking And Loading
- 8-3D-6: Roads
- 8-3D-7: Public Access
- 8-3D-8: Community Trail Systems
- 8-3D-9: Fire Protection !2R!

8-3D-1: WATER:

A. Where reliance on an individual water supply is proposed, evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form of documented experience with existing wells at geologically similar neighboring sites or records of on site well tests.

B. Where one is available within three hundred thirty feet (330')

7. Note: The acreage change above, which is consistent with the need to track development rights on all parcels of 160 acres or less.

of the proposed development, connection to a state approved water system shall be required. The costs of water main extension to the site and the provision of water mains, valves, fire hydrants, etc., within the development, in compliance with state standards, shall be the responsibility of the developer. Large scale developments may be required to provide or participate in the cost of providing additional water system capacity; see section 8-3C-5 of this chapter.

C. Where a central water system is not available, and ten (10) or more lots are proposed, the provision of a community or public system, in compliance with state design and construction requirements, shall be required.

D. Access to or provision of a water supply system that meets the fire flow requirements of the Hauser Lake fire protection district are required. (Ord. 149, 10-22-2008)

8-3D-2: SEWERAGE:

A. Sewage disposal systems shall be sited, designed and constructed in compliance with the state standards administered by the Panhandle health district and DEQ.

B. Community sewage systems or public systems are required for any development that proposes ten (10) or more lots.

C. Cluster developments over ten (10) lots are required to have a community sewerage system that meets state and federal design and construction requirements. (Ord. 149, 10-22-2008)

8-3D-3: ACCESS TO UTILITIES:

A. Power and telephone service shall be provided, at the expense of the developer, to all developments, and all lots in all developments.

B. Adequate rights of way or easements for utilities service shall be provided. Developments for which a class II permit is required shall obtain a written statement of compliance with this performance standard from each utility.

C. No building shall be placed in a utility easement, public or private. Wire, rail or wood fences with a gate or easily removable section across the easement may be constructed across utility easements. Note: Some utilities may impose rules that are more stringent than this performance standard.

D. Provision of underground power and telephone utilities shall

be required. (Ord. 149, 10-22-2008)

8-3D-4: ADDRESSES:

A. Each development, and each lot or principal structure in a development, shall be assigned an address at the time an application for a permit required by this title is filed. (Ord. 149, 10-22-2008)

8-3D-5: OFF STREET PARKING AND LOADING:

Off street parking and loading areas shall be provided in compliance with the detailed performance standards of chapter 8 of this title. Snow storage shall not be permitted to reduce the size of any required off street parking or loading area. (Ord. 149, 10-22-2008)

8-3D-6: ROADS:

A. Roads Provided: Safe all weather road access shall be provided, at the expense of the developer, to all developments, and all lots in all developments (for the purposes of this performance standard, "all weather" includes properly designed and constructed gravel roads). The design and construction of roads shall be in compliance with the detailed performance standards of subsection C of this section. Large scale developments may be required to provide or participate in the cost of providing additional road network capacity; see section 8-3C-5 of this chapter.

B. Access To Public Roads:

1. Points of access to public roads shall be constructed in compliance with the standards of subsection C of this section and chapter 8 of this title. Developments with points of access to a state or federal highway shall also obtain approval from the Idaho transportation department.

2. Developments containing twenty (20) or more dwellings, or with a distance of more than one thousand feet (1,000') from a public road that is maintained on a year round basis, shall provide a minimum of two (2) points of ingress and egress from public roads or highways. "Loop" systems that return to a single point of access to a public road or highway may be acceptable for relatively small developments (30 or fewer dwellings).

3. No commercial or industrial development shall have its principal access through a residential area.

C. Performance Standards; Purpose: The purpose of this subsection is to provide performance standards for the design and construction of new roads and improvement of existing roads in the Hauser Lake planning area.

1. Private Roads: For developments of one to nine (9) lots, roads/driveways shall meet the associated fire district standards for access and have at a minimum an all weather driving surface. Design shall consist of removing all topsoil and duff, putting down eight inches (8") of compacted ballast (pit run material), then a minimum of four inches (4") of compacted base material (crushed aggregate). Roads/driveways shall be maintained by plowing, grading, and regravelling.

a. Minimum common driveway and private road width of twenty feet (20'); minimum driveway width of fourteen feet (14').

b. A minimum turning radius for all corners shall be twenty feet (20'), as measured to the inside of the corner.

c. A minimum distance between switchbacks shall be seventy five feet (75'), as measured along the centerline between curves.

d. Turnarounds with a minimum radius of fifty feet (50') at the end of any roadway or driveway longer than one hundred fifty feet (150'), or as approved by the applicable fire district.

e. Minimum unobstructed overhead clearance shall be fourteen feet (14').

f. No private road or driveway shall have greater than twelve percent (12%) grade. Grades of ten percent (10%) or greater shall not exceed one hundred feet (100') in length.

g. All private roadways shall enter public roadways at a right angle and meet the radius requirements listed above; all driveways shall enter public or private roads at a right angle and meet the radius requirements listed above.

2. Public Roads: Public roads are required for developments of ten (10) lots or more. All roads shall meet the associated highway district standards for public roads.

a. Road construction shall meet all of the standards in this development code for site disturbance, buffering and water quality.

b. If the road will be privately maintained, a road maintenance agreement shall be submitted with the development agreement (section 8-4-4 of this title).

3. Approach And Access: Approach and access onto a public road shall meet the associated highway district standards for approach. (Ord. 149, 10-22-2008)

8-3D-7: PUBLIC ACCESS:

No development shall eliminate historically existing public access through private lands to public lands or water. (Ord. 149, 10-22-2008)

8-3D-8: COMMUNITY TRAIL SYSTEMS:

Dedication of rights of way that will result in substantial approved community trail systems and greenbelts shall be encouraged. (Ord. 149, 10-22-2008)

8-3D-9: FIRE PROTECTION:

Developments that are not presently in a fire protection district shall petition for addition to the appropriate district, as provided by Idaho Code 31-1401 et seq. (Ord. 149, 10-22-2008)

CHAPTER 3

PERFORMANCE STANDARDS

ARTICLE E. DEVELOPMENT INTENSITY

SECTION:

- 8-3E-1: Maximum Impervious Coverage
- 8-3E-2: Minimum Lot Or Parcel Size
- 8-3E-3: Residential Development Rights
- 8-3E-4: Cluster Development Criteria
- 8-3E-5: Development Intensity !2R!

8-3E-1: MAXIMUM IMPERVIOUS COVERAGE:

No development (residential, commercial or industrial) shall exceed the maximum impervious coverage limitation imposed by table 5 of this article. (Ord. 149, 10-22-2008)

8-3E-2: MINIMUM LOT OR PARCEL SIZE:

A. No dwelling shall be developed on a lot or parcel smaller than

the minimum lot size established in section 8-3E-5, table 5, of this article unless granted a variance from lot size or meets the definition and criteria for vested nonconforming uses found in chapter 10 of this title.

B. The minimum lot or parcel size needed for a commercial or industrial development to comply with this title will be a function of the maximum impervious coverage permitted by section 8-3E-1 of this article, the size of the off street parking and loading areas required by section 8-3D-5 of this chapter, the extent of the buffers required by section 8-3B-6 and/or subsection 8-3A-4B of this chapter, and other performance standards, but a minimum of one acre shall be required for all commercial or industrial developments, except home occupations. (Ord. 149, 10-22-2008)

8-3E-3: RESIDENTIAL DEVELOPMENT RIGHTS:

A. Assignment: Development rights are assigned to all undeveloped lands, as shown in section 8-3E-5, table 5, of this article. A development right is the right to construct one dwelling unit.

1. The unused portions of platted subdivision lots are not undeveloped lands, and have no development rights.

2. The destruction or demolition of a nonconforming dwelling does not create a development right that may be transferred. The replacement of nonconforming dwellings is provided for by section 8-10-4 of this title.

B. Exceptions: One development right shall also be assigned to any undeveloped, nonconforming lot or parcel that was in existence on the effective date of this title, regardless of its size. The acceptable proof of the prior existence of a lot or parcel shall be actual separate ownership, as shown by recorded deeds or other instruments of conveyance. No separate parcels exist within contiguous lands held by a single owner, regardless of how those lands are or have been described for other purposes (which means that multiple subdivision lots held by a single owner are a single parcel for the purposes of this title). Development of a dwelling on a nonconforming lot or parcel must comply with all requirements of this title except the requirements of section 8-3E-5, table 5, of this article. (Ord. 149, 10-22-2008)

8-3E-4: CLUSTER DEVELOPMENT CRITERIA:

Cluster developments protect open space and limit conversion of sensitive areas to suburban use by concentrating development into

a small portion of the available site. To qualify as a cluster for the purposes of this title, a development must obtain a class II permit and meet the criteria listed below:

A. Cluster developments do not place homes in sensitive areas, but such areas may be included as: 1) meet the definition of open space; or 2) part of a lot or lots on which building is confined to a particular envelope. Building lots (see section 8-3E-5, table 5, of this article) or building envelopes shall appear in the application for a class II permit.

B. A cluster is a pattern of development designed to concentrate building on the most suitable sites and preserve open space. Buildings concentrated together in specific areas to minimize infrastructure and development costs while achieving the allowable density. Allows the preservation of natural open space for recreation, common open space and preservation of environmentally sensitive features. Cluster developments are served by a central water system and, generally, by a community sewerage system. (Ord. 149, 10-22-2008)

8-3E-5: DEVELOPMENT INTENSITY:

!!!

TABLE 5
DEVELOPMENT INTENSITY

Zoning District	Overall Density	Minimum Lot Size	Cluster Size	Impervious Coverage Standards
Upper watershed	1:20 acres	20 acres	0.5	0 – 8% = 35% lot coverage 9 – 20% = 25% lot coverage 21 – 30% = 15% lot coverage 30%+ = 0%
Hauser Hills	1:5 acres	5 acres	0.5	
Lake Village	1:1 acres	1 acre	0.5	
Highway corridor	No limit			0 – 8% = 60% lot coverage Stream corridors = 0% lot coverage
Rathdrum prairie	No limit			

Notes:

Impervious coverage includes rooftops, paved, graveled and otherwise compacted roads, parking areas, sidewalks and all other surfaces that effectively prevent infiltration into the ground or significantly accelerate runoff.

1. There are minor exceptions to the prohibition of impervious coverage in lakeshore and stream corridors.

See subsection 8-3A-4B1 of this chapter.

2. For a definition of cluster development, see section 8-1-3 of this title and section 8-3E-4 of this article. (Ord. 149, 10-22-2008)

CHAPTER 4

REQUIRED IMPROVEMENTS

SECTION:

- 8-4-1: Definition
- 8-4-2: Installation At Developer's Expense
- 8-4-3: Standards For Required Improvements
- 8-4-4: Installation Of Improvements; Development Agreements
- 8-4-5: Guarantees
- 8-4-6: Inspection And Acceptance Of Improvements
- 8-4-7: Warranty Of Improvements
- 8-4-8: Continuing Maintenance Required !2R!

8-4-1: DEFINITION:

A "required improvement" is any improvement required for compliance with this title. Required improvements include, but are not limited to: improvements required to protect water quality, including the vegetative and structural measures needed to implement an approved runoff and erosion control plan; improvements required to mitigate potential nuisances, including landscaped buffers; utilities, including any extension of lines required to serve the development; off street parking and loading areas, roads; and any other improvement required for compliance with any performance standard of this title. (Ord. 149, 10-22-2008)

8-4-2: INSTALLATION AT DEVELOPER'S EXPENSE:

The installation of all required improvements shall be at the developer's expense. (Ord. 149, 10-22-2008)

8-4-3: STANDARDS FOR REQUIRED IMPROVEMENTS:

All required improvements shall be installed in compliance with this title and any design and engineering standards separately adopted by the city or other agencies responsible for providing services to the development. (Ord. 149, 10-22-2008)

8-4-4: INSTALLATION OF IMPROVEMENTS; DEVELOPMENT AGREEMENTS:

A. Prior To Final Plat Recording: All required improvements may be installed before a final plat is recorded or the development is offered for lease or sale, leased, sold, or occupied; or

B. Phasing; Development Agreements: Developers may elect to record final plats of the development in phases or to offer phases of the development for lease, sale or occupancy before all required improvements are installed. Phasing shall be permitted pursuant to a development agreement that:

1. Incorporates the site plan used as a basis for permit approval and a detailed site plan and construction drawings of the initial phase;

2. Identifies all required improvements in the initial phase(s) and establishes their estimated cost;

3. Sets a schedule for the completion of the required improvements in the initial phase and an anticipated schedule for future phases;

4. Guarantees completion and three hundred sixty five (365) days' maintenance of all required improvements in the initial phase(s) using one of the methods listed in section 8-4-5 of this chapter, and provides a process for the submission of detailed plans, cost estimates, and the guarantee of improvements in future phases;

5. Provides a process by which the city may, if necessary, complete required improvements using the guarantee provided;

6. Provides a process by which either party may request renegotiation of the development agreement;

7. Provides a process by which the development agreement may be transferred, with city approval, to the developer's successors; and

8. Provides that the development agreement and any vested rights it confers shall be void if the city is required to call a guarantee to complete required improvements, or if the anticipated schedule is not met or renegotiated. The developer shall have the right to renegotiate the anticipated schedule without losing vested rights, provided that such negotiations are initiated, by the developer, within ninety (90) days after failure to initiate or complete a phase as scheduled.

C. Effect Of Development Agreements: The effect of a development agreement shall be to create vested rights in the site plan, as it was approved. Such rights expire with the development agreement. Development agreements do not insulate developments from changes in state or federal regulations, or changes in

building and fire codes. (Ord. 149, 10-22-2008)

8-4-5: GUARANTEES:

Completion of the improvements identified in a development agreement shall be guaranteed by one of the following methods:

A. The developer may place an amount equal to one hundred fifty percent (150%) of the estimated cost of the required improvements in escrow, with that amount and accumulated interest being released only after the city has inspected and accepted the required improvements. A development agreement may provide for the phased release of a portion of the escrowed funds as work proceeds, but at least twenty five percent (25%) of the amount in escrow shall be retained until all required improvements are installed, inspected, and accepted. If required improvements are not completed as provided in the development agreement, the city shall use as much as necessary of the escrow account to complete those improvements, then return any remaining balance to the developer.

B. The developer may provide an irrevocable or standing letter of credit for an amount equal to one hundred fifty percent (150%) of the estimated cost of the required improvements. The letter of credit shall be released only after the city has inspected and accepted the required improvements. If any required improvements are not completed as provided in the development agreement, the city shall use as much as necessary of the credit available to complete those improvements, then return any remaining balance to the developer. (Ord. 149, 10-22-2008)

8-4-6: INSPECTION AND ACCEPTANCE OF IMPROVEMENTS:

A. Fees for the inspection of required improvements shall be set by resolution of the city council. Inspection fees must be paid before a certificate of compliance is issued.

B. Required improvements shall be inspected by the administrator before acceptance. Acceptance of required improvements shall be by action of the city council, following submission of the developer's written request for acceptance and receipt of the administrator's report that all improvements have been inspected and are in compliance with this title.

C. Reproducible as built drawings of all subdivision improvements shall be provided to the city, at the developer's expense, before a certificate of compliance is issued. (Ord. 149, 10-22-2008)

8-4-7: WARRANTY OF IMPROVEMENTS:

Required improvements shall be warranted by the developer for both materials and workmanship for one year after their acceptance. Such a warranty provision shall be included in all development agreements. Where all required improvements will be completed before a final plat is approved and the development is offered for lease, sale or occupancy, a warranty agreement shall be submitted for approval. Enforcement of the warranty shall be assured by:

- A. Retention of ten percent (10%) of an escrow account established to comply with section 8-4-5 of this chapter;
- B. A continuing letter of credit, as provided in section 8-4-5 of this chapter, but for ten percent (10%) of the cost of the required improvements; or
- C. Opening a new escrow account, in which an amount equal to ten percent (10%) of the cost of all required improvements is deposited, and which shall be released only upon expiration of the warranty. (Ord. 149, 10-22-2008)

8-4-8: CONTINUING MAINTENANCE REQUIRED:

The continuing maintenance of any improvement required for compliance with this title shall be required. Failure to maintain a required improvement shall be a violation of this title.

- A. Any development subject to the continuing maintenance requirement established herein that results, or may reasonably be expected to result, in the creation of multiple ownerships shall create a community association or other mechanism to assure continuing maintenance. The developer shall submit the proposed declaration of covenants, articles of incorporation and bylaws for the community association with the application for a permit and these documents shall have been recorded before a certificate of compliance is issued.
- B. The maintenance of any open space area required for compliance with this title shall include fencing, where required; prompt and effective control of noxious weeds; litter removal; and wildfire suppression. Maintenance activities shall not diminish the open space values (wetlands, slopes, etc.) being protected.
- C. Maintenance of landscaped areas required by this title includes installation and maintenance of an irrigation system and timely irrigation, where necessary; weed and pest control; and all other activities required to maintain the function of the landscaped areas. (Ord. 149, 10-22-2008)

CHAPTER 5

SIGNS

SECTION:

- 8-5-1: Purpose
- 8-5-2: Definitions
- 8-5-3: Permit Requirements
- 8-5-4: Performance Standards !2R!

8-5-1: PURPOSE:

This chapter establishes regulations for the location, type and size of signs permitted in the Hauser Lake planning area. Any sign not expressly permitted shall be prohibited. (Ord. 149, 10-22-2008)

8-5-2: DEFINITIONS:

!DEF! AREA: The area of the smallest straight sided geometric figure that can be defined by and include the outer limits of the copy or message (including both graphics and text) on the sign. Contrasting frames or borders shall be measured as part of the copy or message.

AWNING: A plastic or fabric shelter supported by a noncombustible rigid framework attached to a building.

DIRECTIONAL SIGNS: Signs used to identify points of access, the direction of travel, the location of handicapped parking spaces, and similar information in off street parking and loading areas. These signs bear no advertising copy.

GROUND SIGNS: Freestanding signs that do not exceed eight feet (8') above grade in height. Ground signs are not portable.

HOME OCCUPATION SIGNS: See section 8-3B-4 of this title.

NAMEPLATES: Small wall signs that identify the occupants and address of a building.

POLE SIGNS: Freestanding signs that exceed eight feet (8') in height above grade.

PROJECTING SIGNS: Signs attached to the wall of a building and project away from that wall. Projecting signs may extend no more than seven feet (7') from the building wall, and may not extend

to within two feet (2') of the near curb line. Projecting signs do not extend more than three feet (3') above the roofline of the building to which they are attached.

SUSPENDED SIGNS: Signs attached to the ceiling of an arcade or canopy and hang over a sidewalk with a vertical clearance of at least eight feet (8').

TEMPORARY SIGNS: Include construction, real estate, political, event and other signs displayed for a specific time delimited purpose.

TRAFFIC CONTROL SIGNS: Include standard regulatory signs: stop and yield signs, speed limit signs, etc.

WALL SIGNS: Signs either painted directly on the wall of a building or attached to the wall of a building, and parallel with the wall to which they are attached. Attached wall signs shall extend no more than one foot (1') nor extend above the roofline from the building to which they are attached.

WINDOW SIGNS: Signs which appear within the frame of, and are affixed directly to, a window. Window displays of merchandise are not signs, provided that no part of the display is affixed to the window. (Ord. 149, 10-22-2008) !DEFEND!

8-5-3: PERMIT REQUIREMENTS:

A. Permit Required:

1. A class I permit shall be required for all replacement signs, and the installation or placement of new signs at existing uses, except as provided in subsection B of this section. A replacement sign is a new sign. A permit is not required for the temporary removal of an existing sign for repair.

2. The location, type and size of all proposed signs shall be included in applications for class II permits. These uses are approved exactly as proposed, and a new class II permit will be required for any change in number, location, type and size of signs.

B. Exceptions To Permit Requirements: The signs listed herein are not exempt from any requirement of this title, except the requirement for a permit. No permit shall be required for placement or installation of:

1. Residential nameplates;
2. Temporary signs, including construction, real estate and

political signs;

3. Window signs; and

4. Traffic control signs or public notices. (Ord. 149, 10-22-2008)

8-5-4: PERFORMANCE STANDARDS:

A. Placement Of Signs: No sign shall be placed:

1. In or over a public right of way;

2. On a tree, cliff or other natural feature;

3. On a utility pole;

4. On a vehicle or trailer parked in a visible location for the primary purpose of displaying the sign; or

5. Where it creates a traffic safety hazard by obscuring traffic control signs or signals, or obstructing vision at intersections.

B. Permitted Signs:

1. Upper Watershed, Lake Village And Hauser Hills Zoning Districts: The following signs shall be permitted in the upper watershed, Lake Village and Hauser Hills zoning districts:

a. Traffic control signs or public notices placed by public agencies;

b. One nameplate of no more than four (4) square feet for each dwelling;

c. One temporary sign (construction, for sale, political, etc.) of no more than four (4) square feet;

d. The home occupation signs permitted by section 8-3B-4 of this title;

e. Service uses (churches, government offices, parks) in these zoning districts may display one nameplate of no more than twelve (12) square feet and on site directional, traffic control and regulatory signs of no more than four (4) square feet each.

f. Existing commercial uses in the Lake Village zoning district may maintain existing signs. Those uses may also replace their signs, provided that the replacement sign is no larger than the existing sign.

2. Highway Corridor And Rathdrum Prairie Zoning Districts: The following signs shall be permitted in the highway corridor and Rathdrum prairie zoning districts:

a. Traffic control signs or public notices placed by public agencies;

b. For dwellings: The same signs permitted by subsection B1 of this section; and

c. For commercial and industrial uses:

(1) On site directional and traffic control signs of no more than four (4) square feet each;

(2) Window signs that cumulatively occupy no more than twenty percent (20%) of the area within the frame of any window;

(3) Any combination of the following types of signs, provided that the total sign area does not exceed ten percent (10%) of the area of the building facade facing the road frontage, or thirty two (32) square feet, whichever is less: a) awnings; b) wall signs; and c) ground signs;

(4) Buildings with arcades may also have one suspended sign, of no more than two (2) square feet, for each use or occupancy with access from the arcade;

(5) Temporary signs (political, for sale, etc.) must fit within the sign area allocated by subsections B2c(2) and B2c(3) of this section.

C. Sign Design: Reserved.

D. Illuminated Signs: No flashing, blinking or moving signs shall be permitted, and no spotlight or other light source used to illuminate a sign shall create excessive light or glare (see subsection 8-3B-1B of this title).

E. Maintenance: Signs shall be maintained so as not to create health or safety hazards. Any sign that is structurally unsound, or no longer serves to inform or attract, shall be considered abandoned, and its removal required.

F. Abandoned Signs: Abandoned signs shall be removed within sixty (60) days of the adoption of this title, or within sixty (60) days of the abandonment of the use to which the sign is appurtenant.

G. Nonconforming Signs: No permit shall be issued for any new

conforming sign on a lot or parcel where there is an existing nonconforming sign. (Ord. 149, 10-22-2008)

CHAPTER 6

SPECIAL FLOOD HAZARD AREAS

SECTION:

8-6-1: Purpose

8-6-2: Definitions

8-6-3: Administration Of Federal Flood Insurance Program Requirements

8-6-4: Performance Standards

8-6-5: Variances !2R!

8-6-1: PURPOSE:

This chapter adopts the administrative procedures and performance standards required for the city's participation in the national flood insurance program. The provisions of this chapter apply to all development in special flood hazard areas identified by the federal emergency management agency (FEMA).

The stream corridor protection standards of this title will eliminate most building in the floodplain. These performance standards must be on the city's books, however, if residents are to be able to buy flood insurance. These standards also help ensure that the minor developments permitted in stream corridors do not increase downstream hazards. (Ord. 149, 10-22-2008)

8-6-2: DEFINITIONS:

!DEF! FLOOD: Partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation of runoff of surface waters from any source. The base flood is the flood having a one percent (1%) chance of being equaled or exceeded in any given year. It is also referred to as the 100-year flood.

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

FLOOD INSURANCE STUDY: The official report of the federal insurance administration, including flood profiles, flood boundary maps and the water surface elevation of the base flood.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including the basement. An unfinished or flood resistant enclosure, usable solely for parking, building access or storage, in an area other than a basement, is not considered a building's lowest floor, provided that it does not place the building in violation of the nonelevation design requirements of this chapter.

MANUFACTURED HOME: For floodplain management purposes, this definition is found in section 8-1-3 of this title and is expanded to include recreational vehicles, travel trailers and similar vehicles or trailers that are left in place for one hundred eighty (180) or more consecutive days.

NEW CONSTRUCTION: Buildings for which the start of construction was on or after the effective date hereof.

SPECIAL FLOOD HAZARD AREA (Also The FLOODPLAIN OR 100-YEAR FLOODPLAIN): Land subject to a one percent (1%) or greater chance of flooding in any given year. Designation on the flood insurance rate map (FIRM) always includes the letter A or V.

START OF CONSTRUCTION: Applies to substantial improvements and new construction and means the date a permit was issued, provided the actual start of construction, repairs, placement or other improvements was within one hundred eighty (180) days of the permit date. "Actual start" means either the first placement of permanent construction on a site, such as pouring a slab or footings, the installation of pipes, 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 installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundation, or erection of temporary forms; nor does it include installation of accessory buildings.

SUBSTANTIAL IMPROVEMENT: Repair, reconstruction or improvement of a building, the cost of which equals or exceeds fifty percent (50%) of that building's market value either before the improvement or repair is started, or where the building has been damaged and is being restored, before the damage occurred. 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 its external dimensions. (Ord. 149, 10-22-2008) !DEFEND!

8-6-3: ADMINISTRATION OF FEDERAL FLOOD INSURANCE PROGRAM REQUIREMENTS:

A. **Permit Required:** A permit shall be required for any activity in a special flood hazard area that may potentially affect flood flows. See subsection 8-10-2A of this title for permit requirements.

B. **Warning/Disclaimer Of Liability:** Applicants for permits in special flood hazard areas shall acknowledge, in writing, the following:

1. *I understand that, while the degree of flood protection required by this title is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, larger floods can and will occur.*
2. *I understand that projected flood levels may be increased by manmade or natural causes.*
3. *I understand that this title does not imply that land outside the special flood hazard area or uses permitted within such areas will be free from flooding or flood damage.*
4. *I understand that this title does not create any liability on the part of the city/county, or any officer or employee thereof, or on the part of the federal insurance administration, for flood damages.*

C. **Additional Application Requirements:** Applications for permits in special flood hazard areas shall be accompanied by the following information:

1. Elevation of the lowest floor of all proposed buildings;
2. Elevation to which any existing or proposed building has been or will be floodproofed;
3. For all buildings other than a single-family dwelling, certification by an engineer or architect that the floodproofing methods used comply with these performance standards; and
4. Where alteration of a watercourse is proposed, a description of the extent to which the watercourse will be altered or relocated as a result of the proposed development, and proof that all state or federal permits required for that alteration have been approved (see subsection 8-3A-4B of this title).

The developer shall provide the base flood elevation data for all developments that include fifty (50) or more lots or dwellings or five (5) or more acres.

D. Duties Of Administrator: The administrator shall serve as local floodplain manager and perform the following duties:

1. Determine that required state and federal permits have been approved before reviewing any application for a permit in a special flood hazard area;
2. Where base flood elevation data are not provided by FEMA, obtain and reasonably utilize any base flood elevation and floodway data available from state, federal or other sources as a basis for administration of these standards;
3. Maintain a record of the actual elevation of the lowest floor of new or substantially improved buildings, and whether or not the building contains a basement;
4. Maintain a record of floodproofing certifications required by subsection C3 of this section;
5. Notify Kootenai County and the Idaho department of water resources prior to the alteration or relocation of a watercourse, and submit evidence of that notification to the federal insurance administration; and
6. Keep records of appeal actions and report all variances to the federal insurance administration. (Ord. 149, 10-22-2008)

8-6-4: PERFORMANCE STANDARDS:

A. Anchoring:

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement.
2. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Anchoring methods may include, but are not limited to, the use of over the top or frame ties to ground anchors.

B. Construction Materials And Methods:

1. New construction and substantial improvements shall be built with materials and utility equipment that are resistant to flood damage, and using methods and practices that minimize flood damage.
2. All electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities shall be designed, or elevated or located, so as to prevent water from

entering or accumulating within their components during flooding.

C. Utilities:

1. New and replacement water systems shall be designed to eliminate infiltration of floodwaters into the system.
2. New and replacement sewerage systems shall be designed to eliminate infiltration of floodwaters into the system and discharge from the system to floodwaters.

D. Site Design: Utilities shall be located and designed to minimize flood damage, and the site shall be graded and drained to guide floodwaters around and away from existing and/or proposed buildings.

E. Residential Development: Standards in subsections E1 and E2 of this section apply only in areas where flood elevation data have been provided by FEMA.

1. Construction or substantial improvement of any dwelling shall result in the lowest floor being elevated to or above base flood elevation.
2. Fully enclosed areas below the lowest floor are prohibited, except where designed to automatically equalize hydrostatic forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by an engineer or architect, or meet the following minimum standards: a) a minimum of two (2) openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided; b) the bottom of such openings shall be no higher than one foot (1') above grade; and c) such openings may be equipped with screens, louvers or other coverings or devices, provided they permit automatic entry and exit of floodwaters.
3. Where base flood elevation data are not available, applications shall be reviewed to ensure that the proposed development will be reasonably safe from flood damage. The determination of reasonableness shall be based on evidence submitted with the application, including historical records, photographs of past flood events, and similar documentation. The minimum elevation above grade in such cases shall be two feet (2'). Certain developments must provide base flood elevation data, as required by subsection 8-6-3C of this chapter.
4. Manufactured homes in special flood hazard areas shall be elevated on and securely anchored to a permanent foundation, so that the lowest floor is at or above base flood elevation.

F. Nonresidential Development: Construction or substantial improvement of any nonresidential building located in a special flood hazard area shall result in the lowest floor being elevated to or above base flood elevation or, together with the attendant utility and sanitary facilities, the building shall:

1. Be floodproofed so that below base flood level, it is watertight, with walls substantially impermeable to the passage of water;
2. Be designed and constructed to resist hydrostatic and hydrodynamic loads and the effects of buoyancy;
3. Present a certification from an engineer or architect that the design and methods of construction comply with accepted standards of practice for meeting these performance standards; and
4. Meet the performance standard of subsection E2 of this section, for enclosed spaces below the lowest floor.

G. Floodways: The floodway is the channel of a river or other watercourse and any adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1'). The floodway is a hazardous area due to the velocity of floodwaters which carry debris and projectiles, and to the high erosion potential. Encroachment into the floodway, including fill, new construction and other development shall be prohibited, unless an engineer or architect certifies that the encroachment will not result in an increase in the flood level during the base flood discharge.

H. Maintenance Of Flood Capacity: Continuing maintenance to prevent the reduction of flood carrying capacity in altered or relocated watercourses shall be required.

I. Areas Of Shallow Flooding (AO Zones): An area of shallow flooding is an AO or AH zone on the flood insurance rate map (FIRM). In these areas, base flood depth ranges from one to three feet (3'), a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

1. Construction and substantial improvement of dwellings in AO zones shall result in the lowest floor being elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or to at least two feet (2'), where no depth number is specified.
2. New construction and substantial improvement of nonresidential buildings in AO zones shall:

- a. Be graded and drained to guide floodwaters around and away from existing and/or proposed buildings;
- b. Have the lowest floor elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or, where no depth number is specified, to at least two feet (2') above the highest adjacent grade; and
- c. Together with its attendant utility and sanitary facilities, be floodproofed so that any space below that level is watertight, with substantially impermeable walls and structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Compliance shall be certified by an engineer or architect. (Ord. 149, 10-22-2008)

8-6-5: VARIANCES:

A. Additional Finding For Variances: Approval of a variance in a special flood hazard area shall be based on all findings required by subsection 8-10-5B of this title, and the additional finding that approval of the variance will not result in increased flood levels, a threat to public safety, or extraordinary public expense.

B. Notice: Where a variance of the requirements of this chapter is approved, the administrator's notice of the decision (subsection 8-10-5B5 of this title) shall state that the city/county is not liable for any flood damages that result. Where a variance of the elevation requirements of this chapter is approved, the administrator shall also inform the developer that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 149, 10-22-2008)

CHAPTER 7

LANDSCAPE BUFFERING

SECTION:

- 8-7-1: Purpose
- 8-7-2: Minimum Buffer Requirements
- 8-7-3: Performance Standards
- 8-7-4: Buffer Width Reductions
- 8-7-5: Plant Material Specifications !2R!

8-7-1: PURPOSE:

Landscaping requirements are an essential element in mitigating potential land use conflicts and enhancing the visual appeal of the city. The purpose of this chapter is to assure that the landscaped buffers required by this title fulfill those goals. (Ord. 149, 10-22-2008)

8-7-2: MINIMUM BUFFER REQUIREMENTS:

The width of required buffers shall vary with the nature of the uses being separated, the height of the buildings buffered, and the design of the buffer. Subsection 8-3B-6B, table 3, of this title shows the minimum width required where the buffer consists of a level or gently sloping area of sod or ground cover and at least four (4) major trees in each one hundred (100) linear feet of buffer. (Ord. 149, 10-22-2008)

8-7-3: PERFORMANCE STANDARDS:

A. Height Adjustment: The minimum buffer width shall be increased by the height adjustment factor, where one is established. That factor is a ratio expressing the number of feet that must be added to minimum buffer width for each foot in height over thirty five feet (35') of the building being buffered.

B. Minimum Buffer Width: No required buffer shall be less than half the minimum buffer width or less than ten feet (10') in width, regardless of any reductions permitted by subsections 8-7-4A and B of this chapter.

C. Buffer Crossings/Inclusions: Buffers may be crossed by access driveways, utility lines, sidewalks and pedestrian trails. A sidewalk or pedestrian trail may run along the length of a buffer, with its width, up to a maximum ten feet (10'), included in the required buffer width. Buffers may also include permitted signs. (Ord. 149, 10-22-2008)

8-7-4: BUFFER WIDTH REDUCTIONS:

A. Berms: The minimum buffer width requirements in subsection 8-3B-6B, table 3, of this title may be reduced where a berm is included in the buffer. The width reduction shall be twice the height of the berm, but the maximum permitted reduction shall be ten feet (10'). No berm shall have a slope of more than three to one (3:1), except where it incorporates a retaining wall. Such walls may be used only on the side opposite the use or public way being buffered.

B. Additional Plantings: The minimum width requirements may be reduced where a greater density and diversity of plantings is included in the buffer. The buffer width reductions permitted by this section are cumulative and may result in a total reduction of thirty percent (30%). The buffer width reductions permitted by subsection 8-7-3B of this chapter are also cumulative with those permitted herein:

1. Major Trees: The required buffer width shall be reduced by ten percent (10%) where five (5) or more major trees are planted or retained in each one hundred (100) linear feet of buffer.

2. Understory Trees: The required buffer width shall be reduced by ten percent (10%) where five (5) or more understory trees are planted or retained in each one hundred (100) linear feet of buffer.

3. Shrubs: The required buffer width shall be reduced by ten percent (10%) where twenty (20) or more shrubs per one hundred (100) linear feet are planted or retained. (Ord. 149, 10-22-2008)

8-7-5: PLANT MATERIAL SPECIFICATIONS:

Plant materials installed in required buffers shall meet the following specifications:

A. All trees, major and understory, shall be containerized or bagged and burlapped stock in good condition with a caliper of at least one and one-half inches (1.5") (measured 1 foot above grade) for deciduous trees and a height of at least six feet (6') for coniferous trees; and

B. All shrubs shall be minimum one gallon containerized stock in good condition. (Ord. 149, 10-22-2008)

CHAPTER 8

OFF STREET PARKING AND LOADING

SECTION:

8-8-1: Purpose

8-8-2: Off Street Parking Required

8-8-3: Location And Circulation Of Parking Areas

8-8-4: Minimum Parking Space Standards

8-8-5: Off Street Loading Requirements

8-8-6: Access To Off Street Parking And Loading Areas !2R!

8-8-1: PURPOSE:

The performance standards set out in this chapter are intended to prevent traffic congestion by requiring provision of adequate off street parking and loading areas. (Ord. 149, 10-22-2008)

8-8-2: OFF STREET PARKING REQUIRED:

All buildings and uses shall provide the minimum number of off street parking spaces required by section 8-8-4 of this chapter. Parking spaces shall have graded and drained gravel or paved surfaces. The classification of uses and the off street parking requirements for uses shall be determined by the administrator. Any person who disputes a decision of the administrator may request a review of that decision using the appeals procedure of subsection 8-10-5A of this title. (Ord. 149, 10-22-2008)

8-8-3: LOCATION AND CIRCULATION OF PARKING AREAS:

A. Location Of Off Street Parking: Off street parking shall be provided on the same lot or parcel and under the same ownership as the use it serves, but two (2) or more uses may share parking where:

1. The total number of spaces provided is not less than the sum of spaces required for all buildings or uses served; and
2. A contract providing for shared parking for a period of at least twenty (20) years is executed before approval of a permit, and recorded before issuance of a certificate of compliance;
3. Required off street parking spaces shall be within six hundred feet (600') of a main entrance of the building or use served, except for spaces serving a dwelling, which shall be within one hundred feet (100') of the dwelling unit served.
4. Shared access and parking that reduces the number of points of access to public roads is encouraged by subsection 8-3C-1D of this title.

B. Circulation Within Off Street Parking Areas: The pattern of circulation within parking areas shall be designed to provide safe and efficient access to individual parking spaces, protect pedestrians moving through the parking area, and facilitate safe access to public streets:

1. Minimum aisle widths shall be:

Two-way circulation and 90° parking

24 feet

One-way circulation and 60° angle parking	18 feet
One-way circulation and 45° angle parking	15 feet
One-way circulation and 30° angle parking	13 feet

!SETLRM!!SETFNT!!SETTAB!

2. Where one-way circulation is used, directional signs shall be installed at all access points to the parking area.

3. No parking area shall be designed so that circulation from one portion of the area to another relies on a public street.

4. There shall be safe pedestrian access around or through all parking and loading areas. (Ord. 149, 10-22-2008)

8-8-4: MINIMUM PARKING SPACE STANDARDS:

A. All residential dwellings shall have at least two (2) spaces per dwelling unit of off street parking.

B. All commercial and industrial spaces shall have one space for every two hundred fifty (250) square feet of finished floor space. (Ord. 149, 10-22-2008)

8-8-5: OFF STREET LOADING REQUIREMENTS:

A. Passenger Loading Areas: Daycare centers, schools and places for public assembly located on arterial roads shall provide at least one safe, properly signed, off street passenger loading area.

B. Freight Loading Areas: Commercial and industrial buildings and uses shall provide one safe, properly signed, off street freight loading area for each ten thousand (10,000) square feet of gross floor area. Off street freight loading areas shall be on the same lot or parcel and under the same ownership as the building or use they serve, be designed to accommodate the largest vehicle that may reasonably be anticipated, and have the following minimum dimensions:

Vertical clearance	14 feet
Width	12 feet
Depth or length	35 feet

!SETLRM!!SETFNT!!SETTAB!

No vehicle parked in an off street freight loading area shall extend into a public right of way. (Ord. 149, 10-22-2008)

8-8-6: ACCESS TO OFF STREET PARKING AND LOADING AREAS:

Graded and drained gravel or paved driveways shall be provided for safe access to off street parking and loading areas, including the off street parking for single-family dwellings.

A. No parking or loading area shall create a situation in which vehicles are required to back onto a public road. Parking areas for single-family dwellings with access to local roads are exempt from this requirement.

B. Continuous curb cuts are prohibited. Access to public roads shall be via driveways that comply with these performance standards.

C. Driveways accessing Idaho Highway 53 shall be at least two hundred feet (200') from any other point of access (other driveways or intersections). Driveways to roads intersecting with Idaho Highway 53 shall be located at least one hundred fifty feet (150') from the highway or, where that distance cannot be attained, at the property line most distant from the highway.

D. Driveways to Cloverleaf and Hauser Lake Roads shall be one hundred fifty feet (150') apart, or where that distance cannot be attained, at the most distant point on the property. Driveways to roads intersecting Cloverleaf and Hauser Lake Roads shall be at least forty feet (40') from those roads.

E. Clear vision triangles shall be provided on both sides of driveways. A "clear vision triangle" is defined by extending a line between two (2) points: point 1 shall be thirty feet (30') from the outer edge of the driveway on the lot line paralleling the road the driveway enters; and point 2 shall be thirty feet (30') back from the property line on the outer edge of the driveway. For driveways accessing Idaho Highway 53, the minimum sight distance provided must be four hundred feet (400'), and the clear vision triangle shall be extended, if necessary, to provide that distance.

F. No parking, and no solid fence or wall, planter, hedge, shrub or other visual obstruction more than three feet (3') in height above grade shall be permitted in a clear vision triangle. Trees may be permitted in clear vision triangles, but where all branches are pruned to a height of at least seven feet (7') above grade.

G. Driveways for single-family dwellings shall be a minimum of ten feet (10') wide, with a minimum curb radius of five feet (5'), and a maximum grade of three percent (3%) for at least twenty feet (20') before the driveway intersects the road. Driveways for other uses shall be designed to accommodate the reasonably anticipated level of use.

H. Where required for drainage, driveways shall be constructed over a minimum twelve inch (12") culvert capable of supporting a load of forty thousand (40,000) pounds. (Ord. 149, 10-22-2008)

CHAPTER 9

SUBDIVISION PLATTING

SECTION:

- 8-9-1: Purpose
- 8-9-2: Preliminary Plats
- 8-9-3: Final Plats !2R!

8-9-1: PURPOSE:

This chapter establishes technical standards for the form and content of subdivision plats. The requirements it imposes are in addition to the requirements of state law. (Ord. 149, 10-22-2008)

8-9-2: PRELIMINARY PLATS:

A. Preliminary Plat Part Of Application: A preliminary plat is one part of the application for a class II permit to subdivide and shall be accompanied by the official application form and all other materials required for a complete application. The required site plan and the preliminary plat may be combined or separate.

B. Preliminary Plats To Be Comprehensive: Preliminary plats shall cover the entire area to be developed by one owner or a group of related or associated owners, even when it is anticipated that development will be phased or occur in the form of multiple subdivisions over several years. See subsection 8-3C-6C of this title.

C. Contents Of Preliminary Plats: Preliminary plats shall include:

1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county and state;
2. The name, address, telephone number and registration number of the engineer or land surveyor who prepared the preliminary plat;
3. A north point, and both graphic and written scales;
4. A vicinity map that locates the proposed subdivision within the Hauser Lake planning area and the section, shows major roads

and watercourses adjacent to or near the subdivision, and shows the boundaries and names of all adjacent or nearby subdivisions;

5. The location, nature and boundaries of all existing public ways and public or private easements in or adjacent to the proposed subdivision, including the county book and page number references to the instruments establishing those ways or easements;

6. The location and size of all existing utility lines in or adjacent to the proposed subdivision;

7. The exterior boundaries of the proposed subdivision;

8. The location, exterior dimensions, and number of proposed lots and blocks, or other parcels created by the subdivision;

9. The acreage of each proposed lot, and a table showing the total acreage of the area proposed for subdivision, the total acreage in lots, the total acreage in streets, and the total acreage of parcels proposed for dedication to public use or to be held in common by the lot owners;

10. Where they are proposed, and for cluster developments, the location and dimensions of building envelopes or building lots (see section 8-3E-5, table 5, of this title), and a prominent notice that building is permitted in the envelopes or designated building lots only;

11. The names of all proposed roads and widths and boundaries of all proposed road rights of way and utility easements;

12. The location of all irrigation structures, watercourses, and wetlands within or adjacent to the proposed subdivision;

13. The location of any floodplain and floodway boundaries, as established by the federal emergency management agency, and any lakeshore or stream corridor setback lines established by this title; and

14. Any other information required for compliance with this title.

D. Scale And Dimensions: Preliminary plats shall be prepared at a scale of one inch equals one hundred feet (1" = 100'), with all dimensions thereof shown in feet and decimals. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map, which may be combined with the vicinity map. The vicinity and index maps shall appear on the first of the serially numbered sheets. (Ord. 149, 10-22-2008)

8-9-3: FINAL PLATS:

A. Contents Of Final Plats: All final plats submitted shall be prepared in compliance with Idaho Code title 50, chapter 13, and shall include all information listed below:

1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county and state;
2. The name, address, telephone number, and registration number of the engineer or land surveyor who prepared the final plat;
3. A north point, and both graphic and written scales;
4. A vicinity map that locates the proposed subdivision within the Hauser Lake planning area and the section, shows major roads and watercourses adjacent to or near the subdivision, and shows the boundaries of and recorded names of all adjacent or nearby subdivisions;
5. The location, nature and boundaries of all existing public ways and public or private easements in or adjacent to the proposed subdivision, including the county book and page number references to the instruments establishing those ways or easements;
6. The point of beginning for the subdivision survey, which shall be a section or quarter section corner, and the location and a description of all existing monuments found during the course of the survey;
7. The location, nature and boundaries, with bearings and distances, of all existing public ways and public or private easements in or adjacent to the subdivision, including the county book and page number references of the instruments establishing those ways or easements;
8. The location, exterior dimensions, and number of all lots and blocks, or other parcels created by the subdivision, including bearings and distances and curve data for curving boundaries;
9. The acreage of each lot, and a table showing the total acreage of the subdivided area, the total acreage in lots, the total acreage in streets, and the total acreage of any parcels dedicated to public use or held in common by the lot owners;
10. The names of all streets and widths and boundaries of all street rights of way and utility easements, including bearings and distances and curve data for curving boundaries;

11. The location and a description of all monuments established during the course of the survey;

12. The location of any floodplain and floodway boundaries, as established by the federal emergency management agency, and any lakeshore or stream corridor setback lines established by this title;

13. A signed and dated owner's certificate which includes a complete legal description of the parcel being subdivided, and in which the owners of record dedicate all public ways and other public spaces to public use;

14. A public notary's acknowledgment of the owner's certificate;

15. A signed and dated certificate of consent in which all mortgagors, lien holders and other parties with any real property interest, including the holders of mineral rights, in the property consent to its subdivision;

16. A public notary's acknowledgment of the certificate of consent;

17. Certificates for plat approval by the commission and city council or board of county commissioners;

18. A statement of sanitary restriction, as required by Idaho Code 50-1326;

19. A certificate for use by the county recorder in recording the plat after its approval; and

20. Any other information required for compliance with this title.

B. Scale And Dimensions: Final plats shall be prepared at the scale of one inch equals one hundred feet (1" = 100') and all dimensions thereof shown in feet and decimals. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map, which may be combined with the vicinity map. All required certificates and the vicinity and index maps shall appear on the first of the serially numbered sheets.

C. Copy: The developer shall also provide the city with one reproducible copy of the final plat suitable for photographic reproduction and reduction. (Ord. 149, 10-22-2008)

CHAPTER 10

ADMINISTRATION AND ENFORCEMENT

SECTION:

- 8-10-1: Planning And Zoning Commission And Administrator
- 8-10-2: Permits Required
- 8-10-3: Permit Procedures
- 8-10-4: Nonconforming Uses And Buildings
- 8-10-5: Appeals And Variances
- 8-10-6: Amendments
- 8-10-7: Vacation Of Subdivisions
- 8-10-8: Hearing Procedures
- 8-10-9: Enforcement !2R!

8-10-1: PLANNING AND ZONING COMMISSION AND ADMINISTRATOR:

A. Planning And Zoning Commission:

1. Established: A planning and zoning commission is established, as authorized by Idaho Code 67-6504. Idaho Code 67-6504(a) requires that all commission members shall have resided in Kootenai County, Idaho, for at least two (2) years prior to their appointment.

a. The commission shall consist of five (5) members appointed by the mayor, with the consent of the city council.

b. As required by Idaho Code 67-6526(g), the number of commission members residing within the city and within the area of city impact shall be proportional to the total population residing within the city and within the area of city impact. Housing counts resulting from the current land use survey conducted as part of the city's planning effort suggest that the proper proportional shares in 1992 are one-third ($\frac{1}{3}$) in the city and two-thirds ($\frac{2}{3}$) in the area of city impact. It is noted that the number of commission members from outside the city limits may change as annexation occurs.

c. Commission members shall serve terms of three (3) years, except those members initially appointed, who shall serve staggered terms, as set by lottery, in order to provide for the annual appointment of at least one member.

2. Duties: The commission shall, as required by Idaho Code 67-6508, conduct a comprehensive planning process designed to prepare, implement and review and update a comprehensive plan for the city. The commission shall exercise all powers granted it by the local planning act and fulfill all duties assigned by this title.

B. Administrator: The mayor shall, with the consent of the city council, appoint a planning and zoning administrator, who shall perform the following duties:

1. Assist members of the public in understanding the applicability and requirements of this title;
2. Receive applications for permits required by this title, accepting only complete applications, as required by section 8-10-2 of this chapter;
3. Review applications for class I permits for compliance with this title and approve or disapprove such applications following the procedure established in subsection 8-10-3A of this chapter;
4. Prepare reports on, or arrange for the professional review of, applications for class II permits, following the procedure established by subsection 8-10-3B of this chapter;
5. Assist the commission, city council and board of county commissioners in setting meeting agendas and provide proper notice of all public hearings required by this title;
6. Issue certificates of compliance, based on site inspections, enforce the provisions of development agreements and investigate possible violations of this title;
7. Properly account for all fees collected in the administration of this title and prepare monthly and annual reports of development activity in the Hauser Lake planning area; and
8. Perform all other duties assigned by this title, and assist the commission in the execution of its duties.

C. Individual Liability: No commission or city council member, the mayor or any city employee or contractor who acts in good faith and without malice in a role established by this title shall be held liable for errors or omissions in its administration. Any suit brought against such an individual shall be defended by the city, and any judgment resulting from such a suit shall be a liability of the city. (Ord. 149, 10-22-2008)

8-10-2: PERMITS REQUIRED:

A. Permit Required: A permit shall be required for any division of land; any clearing, grading, construction, reconstruction, development or redevelopment; and any change in land use, except as specifically exempted by subsections B, C and D of this section.

1. A class I permit shall be required for:
 - a. Any lot split or land division not exempted by subsection C of this section;
 - b. The construction of a single-family dwelling, or placement of a mobile or manufactured home;
 - c. The establishment of a home occupation;
 - d. The construction or installation of any accessory building or fence not exempted by subsection D of this section;
 - e. Any minor change of use in an existing commercial or industrial site or building;
 - f. Any other development activity that is not exempted by subsection B, C or D of this section, but does not require a class II permit; and
 - g. Any clearing, grading or excavation in preparation for any of the activities listed in subsections A1a through A1f of this section. The class I permit procedure is found at subsection 8-10-3A of this chapter.
2. A class I permit shall also be required for certain activities that would otherwise be exempted by subsection D of this section, but are located within a lakeshore or stream corridor established by this title. See subsections D6 and D7 of this section.
3. A class II permit shall be required for:
 - a. Any division of land not exempted by subsection C of this section;
 - b. Any modification of a stream or lakeshore corridor established by this title, except those limited modifications that are exempt, or for which a class I permit is acceptable (see subsection A2 of this section), including any clearing, grading or excavation, and shoreline or channel stabilization;
 - c. The construction of any high density residential development, including attached dwellings and manufactured home parks;
 - d. The construction or establishment of any commercial or industrial development, including any major change in use in an existing commercial or industrial site or structure; and
 - e. Any clearing, grading or excavation in preparation for any of the activities listed in subsections A3a through A3d of this section. The class II permit procedure is found at subsection

8-10-3B of this chapter.

B. Statutory Exemptions:

1. As provided by Idaho Code 38-1302(3), forest practices are exempt from the requirements of this title.

2. As provided by Idaho Code 67-6529, the production of crops and livestock on agricultural lands in the area of city impact is exempt from the requirements of this title. As also provided by Idaho Code 67-6529, the term "agricultural lands" shall be defined to encompass all lands in the Rathdrum prairie zoning district established in section 8-2-1 of this title. The comprehensive plan encourages continued agricultural production in that zoning district.

C. Exemptions For Land Divisions: Exemption of a land division does not exempt the development of the parcel created from compliance with this title. No permit shall be required for:

1. Land divisions resulting from condemnation proceedings, voluntary sales or gifts of land for a public purpose, or court decrees ordering the creation of a specific parcel;

2. Any land division in which all resulting parcels are one hundred sixty (160) or more acres in size, or enforced only by regular review of all property transactions recorded in the planning area;

3. Any adjustment of property boundaries in which no new parcel is created and from which no nonconforming lot, parcel, use or building results.

D. Exemptions For Development Activity: The activities listed herein are not exempt from any applicable requirement of this title, except the requirement for a permit. No permit shall be required for:

1. The production of agricultural commodities (subsection B2 of this section exempts agricultural production from all requirements of this title in a portion of the area of city impact);

2. Clearing, grading or excavation for the installation or maintenance of residential grounds and gardens;

3. Repairs or remodeling that does not alter the exterior dimensions of the structure involved by more than six inches (6") (Note: The international building code and/or state electrical and plumbing codes may require a permit for such activities.);

4. The construction or installation of fences of eight feet (8') or less in height (Note: Fences must comply with the requirements of this title for clear sight triangles at points of access to public roads.);

5. Certain signs, as provided in chapter 5 of this title;

6. The construction or installation of accessory buildings that are exempt from review for compliance with the international building code and agricultural outbuildings, including silos, granaries and similar farm structures, except where such buildings or structures are within a lakeshore or stream corridor established by this title; and

7. Minor utility installations, except where such installations are within a lakeshore or stream corridor established by this title.

A demolition permit may be required at the discretion of the international building code compliance official in accordance with the standards of the international building code⁸.

E. Application Forms: Applications for permits shall be submitted on forms provided by the city, and all applications shall include a site plan (see section 8-1-3 of this title for the contents of a site plan). All information, including the site plan, and other maps, plans, drawings, tabulations and calculations, and all agency and government signatures called for on those forms shall be required for a complete application, and no incomplete application shall be accepted. The administrator may require submission of multiple copies of application forms and supporting materials.

F. Application Fees: Application fees for each type of permit established by this title shall be established by resolution of the city council.

G. Site Inspection: The filing of an application for a permit constitutes permission for the city to conduct inspections of the proposed development site during its consideration of the application. The administrator may delay consideration of any application when inclement weather or a snowpack prevents a useful site inspection. (Ord. 149, 10-22-2008)

8-10-3: PERMIT PROCEDURES:

A. Class I Permit Procedures: The class I permit procedure

8. See section 7-1-1 of this code.

provides for the prompt review of minor developments, while ensuring that they have no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The class I permit procedure shall be as follows:

1. The developer shall file a properly completed permit application form, the required supporting materials, and the required application fee with the administrator.
2. The administrator shall determine whether the proposed development is in compliance with this title. If the proposed development complies, the application for a permit shall be approved. Conditions may be attached to the approval of any permit, as provided in subsection C of this section. If the proposed development does not comply, the application for a permit shall be rejected. Where the proposed development is part of a larger development for which a class II permit was previously approved, the administrator shall also determine whether it is in compliance with the previously approved development plan and all conditions attached to that plan's approval.
3. The administrator shall notify the developer of the decision within twenty eight (28) days.
4. The administrator's decision may be appealed to the commission using the procedure of subsection 8-10-5A of this chapter. To initiate appeal proceedings, a notice of appeal must be filed with the administrator within twenty eight (28) days after notice of the decision has been issued. Developers proceed at their own risk during the appeal period.

B. Class II Permit Procedure: The purpose of the class II permit procedure is to assure effective regulation of developments that could have significant impacts on environmental quality, neighboring uses or public facilities and services. The class II permit procedure, which incorporates both the special use permit procedures authorized by Idaho Code 67-6512 and the review of proposed subdivisions authorized by Idaho Code 67-6513, shall be as follows:

1. The developer shall first file a request for a preapplication conference with the administrator. Prior to any application submittal, a preapplication conference shall be conducted.
2. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.
3. The administrator shall place a hearing on the application on the agenda of the next regular commission meeting for which the

notice requirements of subsection B5 of this section can be met, and at which time will permit its proper review.

4. The administrator may contract for professional review of the application, with the cost of that review to be paid by the developer in addition to the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.

5. The content of all hearing notices shall comply with the requirements of subsection D of this section. Notice for a class II permit hearing shall be provided as follows:

a. The applicant shall notify the adjoining property owners within three hundred feet (300') of the subject property, by certified mail, of the proposal. The notification shall be at least fifteen (15) days prior to the hearing to all owners of real property within three hundred feet (300') of the site, except as provided in subsection B5b of this section;

b. The city shall notify, by newspaper publication, one legal notice to appear in the city's official newspaper at least fifteen (15) days prior to the hearing;

c. By first class mail, at least fifteen (15) days prior to the hearing, to all potentially affected public agencies, specifically including the potentially affected fire department and school district; and to other interested parties who have requested, in writing, that the administrator provide them with notice of all hearings required by this title (the city may elect to charge a fee for this service);

d. The applicant shall post a sign, provided by the city, on the site at least seven (7) days before the hearing notifying the public of the proposed project. Where the administrator determines that so doing will provide more effective notice, the sign may be placed at a point of access to the site; and

e. Where more than two hundred (200) certified mail notices would be required, the administrator may limit certified mail notice to the nearest one hundred ninety nine (199) property owners, while providing all other forms of notice required by this title.

6. The commission shall conduct a hearing on the application following the procedure established in section 8-10-8 of this chapter. No application shall be reviewed if the developer or a representative is not present.

7. The commission shall determine whether the proposed development is in compliance with the comprehensive plan and this title. If the proposed development complies, the application for a permit shall be approved. Conditions may be attached to the approval of any permit, as provided in subsection C of this section. If the proposed development does not comply, the application for a permit shall be rejected. Where the proposed development is part of a larger development for which another class II permit was previously approved, the commission shall also determine whether it is in compliance with the previously approved development plan and all conditions attached to that plan's approval.

8. The administrator shall notify the developer and interested parties of the commission's decision within twenty eight (28) days.

9. The commission's decision may be appealed as follows:

a. Within the city limits, to the city council, using the appeals procedure of section 8-10-5 of this chapter; or

b. Within the area of city impact, to the entity or entities designated in a negotiated and duly adopted area of city impact development code, using the appeals procedure of subsection 8-10-5A of this chapter.

c. To initiate appeal proceedings, a notice of appeal must be filed with the administrator within twenty eight (28) days after notice of the decision has been issued. Developers proceed at their own risk during the appeal period.

10. The developer of a subdivision may file a final plat with the administrator at any time after the class II permit is approved. Phased final platting may be permitted by a development agreement. See chapter 4 of this title.

a. The administrator shall place the final plat on the agenda of the next commission meeting.

b. No public notice or hearing is required before approval of a final plat, but no final plat shall be reviewed if the developer or a representative is not present.

c. The commission shall review the final plat and determine whether it is in compliance with the class II permit, the comprehensive plan, and this title. If it finds that the final plat complies, the commission shall recommend that it be approved by the council. If it finds that the final plat fails to comply, it shall recommend that it not be approved by the city council. For subdivisions located within an area of city impact whose

boundaries were negotiated with Kootenai County and adopted by the development code, the recommendations shall be made to the entity or entities designated in the area of city impact development code.

d. Unless it is withdrawn by the developer, the administrator shall place review of the final plat on the agenda of the next regular council meeting at which time will allow its proper consideration.

e. The city council shall take due notice of the commission's recommendation in determining whether the final plat is in compliance with the class II permit, the comprehensive plan, and this title. If the city council finds that the final plat complies, it shall approve that plat. Conditions may be attached to approval of a final plat, as provided in subsection C of this section. If the city council finds that the final plat fails to comply, it shall reject that plat.

f. The administrator shall notify the developer and interested parties of the city council's decision within twenty eight (28) days.

C. Conditions: Conditions may be imposed on the approval of any permit or variance, provided that:

1. Those conditions are clearly designed to assure compliance with one or more specific requirements of this title; and
2. A list of the conditions imposed is provided to the developer with notification of the decision. That list shall specifically identify the provision of this title the condition is designed to implement.

D. Hearing Notices: All required notices shall provide the following information (for model notices, see subsection 8-10-8E of this chapter):

1. Name and mailing address of the developer;
2. Legal description of the development site;
3. Address of the development site, or another general description by which the public can locate it;
4. Present land use at the site;
5. Proposed use and, for subdivisions, the proposed number of lots and average lot size;
6. Body (commission, city council or board of county

commissioners) that will conduct the hearing;

7. Date, time and place of the hearing;

8. When and where application materials are available for review; and

9. Public comment is encouraged.

E. Time Approvals Valid: Permits shall be valid as prescribed in the current edition of the international building code or, if there is no provision therein for the particular permit issued, for one hundred eighty (180) days from the date of approval, with one maximum one hundred eighty (180) day extension available for commencement of development at the discretion of the code administrator, and additional extension available for completion of development timely commenced upon a showing of good cause for inability to complete. The time period may be modified by a development agreement, as provided in chapter 4 of this title. All permits approved in compliance to this code expire three hundred sixty (360) days from the date of approval. An applicant may request a single twelve (12) month extension to an approved permit to the Hauser planning and zoning commission. The commission shall hold a public hearing, pursuant to the procedures established in section 8-10-8 of this chapter, at its next regular meeting, which time will allow for proper legal notice and adequate time to review the request. An applicant must provide a showing of good cause for the permit to be extended. (Ord. 149, 10-22-2008)

8-10-4: NONCONFORMING USES AND BUILDINGS:

A nonconforming use or building complied with the regulations that existed at the time of its development, but would not comply with this title, if submitted for approval after its effective date. Nonconforming uses and buildings may continue subject to the requirements established herein:

A. There shall be no limit on the maintenance and repair of nonconforming uses or buildings, provided that no such activity increases the degree of nonconformity. No repair or maintenance activity that has the potential to increase sewage flows will be permitted until the existing sewage disposal facilities are brought into compliance with current design standards.

B. The use of a nonconforming commercial or industrial building or site may be changed, but only where:

1. The new use is no more intense (with intensity measured by anticipated traffic generation, anticipated noise generation, the

number of parking spaces required, the number and size of signs proposed and similar factors) than the existing;

2. The degree of nonconformity is in no way increased; and
3. The existing sewage disposal facilities are brought into compliance with current design standards.

Requests for changes in nonconforming uses shall be processed as applications for class II permits, with compliance with this subsection B added to the determinations made on the class II permit checklist.

C. Nonconforming buildings may be replaced, but only where:

1. The degree of nonconformity is in no way increased; and
2. The existing sewage disposal facilities are in compliance with applicable Panhandle health district and DEQ regulations and policies.

Nonconforming buildings that have been destroyed by fire or other catastrophe may be replaced upon approval of a class I permit, with compliance with subsections A and B of this section added to the determinations made by the administrator in determining whether or not to approve the application for such a permit. Other requests for the replacement of nonconforming buildings shall be processed as applications for class II permits, with compliance with subsections A and B of this section added to the determinations made on the class II permit checklist. Any repair, rehabilitation, replacement or demolition must meet the requirements of all other adopted codes and development codes. (Ord. 149, 10-22-2008)

8-10-5: APPEALS AND VARIANCES:

A. Appeals: Any decision of the administrator or commission may be appealed using the procedure described herein. Appeals from decisions of the administrator are heard by the commission. Appeals from decisions of the commission are heard by the city council. Appeals concerning development which is located within an area of city impact negotiated with Kootenai County shall be in accordance with the negotiated and duly adopted area of city impact development code.

1. The appellant shall file a properly completed notice of appeal, the required supporting materials, and the required appeal fee with the administrator. To initiate appeal proceedings, a notice of appeal must be filed with the

administrator within twenty eight (28) days after notice of the decision has been issued. Developers proceed at their own risk during the appeal period.

2. The administrator shall place a hearing on the appeal on the agenda of the next regular commission, city council or board of county commissioners meeting for which the notice requirements can be met, and at which time will permit its proper consideration. Notice requirements for an appeal shall be the same as for the original permit application.

3. The commission, city council or board of county commissioners shall conduct a hearing on the appeal following the procedure established in section 8-10-8 of this chapter. No appeal shall be heard if the appellant or a representative and, when the appellant is not the developer, the developer or a representative is not present.

4. The commission, city council or board of county commissioners shall determine whether the decision being appealed was correct, as measured by its compliance with the comprehensive plan and this title, and affirm, modify, or overturn that decision accordingly.

5. The administrator shall notify the appellant and interested parties, including the developer, if the developer was not the appellant, of the decision within twenty eight (28) days.

B. Variances: Variances provide relief for owners who, due to some unique physical limitation on the use of their land, would have no beneficial use of that property if the provisions of this title are strictly applied. A variance is a modification of the bulk and placement requirements of the ordinance 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 upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Applications for variances shall follow the procedure described herein. Applications for variances may be combined and processed with applications for class II permits, with the items included in subsection B4 of this section added to the list of determinations on the class II permit checklist. Where such a combination is made, the hearing notice must describe the proposed variance and cite the section of this title from which the variance is requested.

1. The developer shall file a properly completed application

form, the required supporting materials, and the required application fee with the administrator. The administrator may contract for professional review of the application, with the cost of that review to be paid by the developer in addition to the application fee.

2. The administrator shall place a hearing on the variance on the agenda of the next regular commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements for a variance hearing shall be the same as for a class II permit hearing.

3. The commission shall conduct a hearing on the proposed variance following the procedure established in subsection 8-10-8A of this chapter. No application for a variance shall be reviewed if the developer or a representative is not present.

4. The commission may approve a variance upon finding that:

a. The need for the variance results from undue hardship because of characteristics of the site;

b. Failure to approve the variance will result in undue hardship because reasonable use of the lot or parcel will not be possible without a variance;

c. Approval of the variance will be in the public interest and not create a nuisance, harm adjoining properties of the neighborhood, or have an adverse effect on implementation of the comprehensive plan; and

d. The variance approved is the minimum relief from the requirements of this title necessary to permit a reasonable use.

e. Conditions may be attached to the approval of a variance, as provided in subsection 8-10-3C of this chapter.

5. The administrator shall notify the developer and interested parties of the commission's decision within twenty eight (28) days.

6. The commission's decision may be appealed to the city council using the procedure of subsection A of this section, or, within an area of city impact that has been negotiated with Kootenai County, in accordance with the duly adopted area of impact development code. To initiate appeal proceedings, a notice of appeal shall be filed with the administrator within twenty eight (28) days after notice of the decision has been issued. Developers proceed at their own risk during the appeal period. (Ord. 149, 10-22-2008)

8-10-6: AMENDMENTS:

Any person may petition for the amendment of the comprehensive plan or this title. Amendment proceedings may also be initiated by the commission, on its own motion, or at the direction of the city council. The amendment procedure shall be as herein described:

A. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the administrator.

B. The administrator shall place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements shall be as follows:

1. For amendments to the text of the comprehensive plan or this title, as required by Idaho Code 67-6509; and

2. For zoning map amendments, the same as for a class II permit (see subsection 8-10-3B of this chapter).

C. The administrator may contract for professional review of the application, with the cost of that review to be borne by the developer in addition to the application fee. Such reviews shall be prepared in the form of a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.

D. The commission shall conduct a hearing on the proposed amendment following the procedure established in subsection 8-10-8A of this chapter. No application for an amendment shall be reviewed if the developer or a representative is not present. At the hearing:

1. For comprehensive plan amendments, the commission shall determine whether the proposed amendment is consistent with the public interest, and recommend that the city council and board of county commissioners approve or disapprove it accordingly; or

2. For amendments of this title, the commission shall determine whether the proposed amendment is consistent with the comprehensive plan, and recommend that the city council, or entities as specified in a negotiated and duly adopted area of city impact development code, approve or disapprove it accordingly.

E. The administrator shall convey the commission's recommendation to the city council and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular city council meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice shall be provided in the same manner as for the hearing before the commission.

F. The city council shall conduct a hearing on the proposed amendment following the procedure established in subsection 8-10-8A of this chapter. No application for an amendment shall be reviewed if the developer or a representative is not present. At the hearing, the city council shall take due notice of the commission's recommendations and:

1. For comprehensive plan amendments, determine whether the proposed amendment is consistent with the public interest and approve or disapprove it accordingly; and

2. For amendments to this title, determine whether the proposed amendment is consistent with the comprehensive plan and approve or disapprove it accordingly.

G. The administrator shall notify the developer and interested parties of the city council's decision within twenty eight (28) days, but no amendment to this title becomes effective until it has been adopted and published, as required by law.

H. Amendments affecting, or potentially affecting, the area of city impact, must be approved following the procedure established in subsections E, F and G of this section, or as specified in a negotiated and duly adopted area of city impact development code. (Ord. 149, 10-22-2008)

8-10-7: VACATION OF SUBDIVISIONS:

Requests for the vacation of subdivision plats shall follow the procedure provided in Idaho Code 50-1306A, except that, prior to conducting the required public hearing, the city council or board of county commissioners shall refer the proposed vacation to the commission for its review and recommendation. (Ord. 149, 10-22-2008)

8-10-8: HEARING PROCEDURES:

A. Procedures Outlined: This procedure shall be followed in all hearings before the commission, city council or board of county commissioners:

1. The presiding officer shall announce the purpose and subject of the hearing.
 2. The presiding officer shall determine whether proper notice of the hearing has been provided. If proper notice has not been provided, the hearing shall be rescheduled.
 3. The presiding officer shall ask if any member wishes to declare a conflict of interest, as defined by Idaho Code 67-6506, in the matter to be heard, and excuse anyone who declares such a conflict from participation in the hearing.
 4. The presiding officer shall ask the administrator to present a report on the proposal being considered.
 5. The presiding officer shall direct questions from members to the administrator. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.
 6. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its compliance or lack of compliance with the comprehensive plan and this title.
 7. The presiding officer shall request a statement from the developer or his representative, or in the case of appeals hearings, the appellant or his representative. Members may ask questions following this statement, with all questions and replies directed through the presiding officer.
 8. Following the statement of the developer or appellant, the presiding officer shall ask for statements from the public. Anyone giving a statement shall begin by stating his name and mailing address. Members may ask questions following this statement, with all questions and replies being through the presiding officer.
 9. When all statements have been given, the presiding officer shall ask if anyone who gave a statement wishes to speak in rebuttal to other statements or to clarify his statement. Questions from members may follow each rebuttal or clarification.
 10. The presiding officer shall close the public hearing and call for discussion, resulting in action, as provided by this title.
 11. Written statements, plans, photographs and other materials offered in support of statements at a hearing are part of the hearing record and shall be retained by the city.
- B. Additional Hearing Procedures: These procedures may be used,

without prior notice, to facilitate the conduct of large or controversial hearings:

1. In order to allow everyone an opportunity to speak, and to ensure completion of the agenda, time limits may be imposed on the statements given.

2. Anyone who wishes to make a statement may be required to register his intention to do so with the administrator before the hearing. The presiding officer shall then use the register to call upon persons to present their statements.

C. Record Of Hearings: As required by Idaho Code 67-6536, the administrator shall keep a tape record of all hearings on file for at least six (6) months after the final hearing, including appeals hearings, on the development.

D. Decisions:

1. Decision Record: All decisions shall be reported in the form of findings of fact and conclusions of law, as required by Idaho Code 67-6535. Findings of fact may be established by reference to the application materials, the report prepared by the administrator and testimony from the hearing. Conclusions of law shall be reported in the form of a performance checklist.

2. Decision Deadline: As required by Idaho Code 67-6519, this section establishes a reasonable time for deliberation on applications by the commission. The commission shall make a decision on any application for a permit within thirty five (35) days after the hearing or, when no hearing is required, the meeting at which the application first appeared on the commission's agenda. Submission of an incomplete application requires no action. Applications for which a large scale development study is required are not complete and subject to action until that study is complete.

E. Model Hearing Notices:

1. Purpose: The purpose of this subsection is to provide models for the hearing notices required by this title.

2. Notice For Class II Permit Application Hearing:

PUBLIC HEARING NOTICE

John Doe of P.O. Box 22, Spokane, WA 99004 proposes to subdivide the NE 1/4, SE 1/4, section 37, T. 99 N., R. 99 E.B.M., a 39.8 acre parcel, into 3 lots for residential development. The lots will average 13.2 acres in size. This property is located at

the southwest corner of Washboard Road and Muddy Lane, and is presently used as pasture.

The Hauser planning and zoning commission will conduct a public hearing on this proposal at 7:00 P.M. on Wednesday, January 1, 1994 at Hauser city hall. A copy of the application materials is available for public review at PLACE. Public comment is encouraged.

The planning and zoning commission will need to find a place with regular business hours where application materials can be made available for public review.

3. Notice Of Variance Hearing:

PUBLIC HEARING NOTICE

Mr. and Mrs. F. Doe of P.O. Box 999, Post Falls, Idaho 83854 have applied for a variance of the Hauser development code. The proposed variance would permit a three foot, eight inch extension of the residence at 45000 south Bass into the required side yard.

The Hauser planning and zoning commission will conduct a public hearing on this proposal at 8:00 P.M. on Wednesday, January 1, 1994 at Hauser city hall. A copy of the application materials is available for public review at PLACE. Public comment is encouraged.

4. Notice Of Appeal Hearing:

PUBLIC HEARING NOTICE

The Vanishing Land Company of 569 Manzanita, Boise, ID 83704 is appealing the Hauser planning and zoning commission's rejection of its application for a Class II permit to construct a 17 unit condominium on lots 1000 and 1001 of the Lakeside Gardens Addition.

The Hauser city council will conduct a public hearing on this appeal at 9:00 P.M. on Wednesday, January 14, 1994 at Hauser city hall. A copy of the application materials is available for public review at PLACE. Public comment is encouraged.

(Ord. 149, 10-22-2008)

8-10-9: ENFORCEMENT:

A. Failure To Obtain Permit: When the administrator becomes aware of an activity for which a permit is required by this title, but for which no permit has been approved, he shall order the occupant (and owner, if they are not the same) to immediately cease the unpermitted activity. Notice of this order shall be given by delivery to the site and/or certified mail. If the unpermitted activity does not cease, the administrator shall direct the city attorney to take action, as authorized by Idaho Code 67-6527, to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition. Required restoration shall include restoration of vegetative cover where sites have been cleared or graded in violation of this title.

B. Certificate Of Compliance: A certificate of compliance is issued when a site inspection finds that the development complies with this title and any conditions imposed upon its approval. Issuance of a certificate of compliance shall not be construed as approval of any violation of this title that was not discovered during the inspection.

1. A certificate of compliance shall be issued before any land division is offered for sale, lease or occupancy; sold, leased or occupied; or occupied in any way. Offering lots for sale, lease or occupancy, or selling, leasing or occupying a lot or building without a certificate of compliance shall be a violation of this title.

2. A temporary certificate of compliance may be issued to permit temporary use of a building when weather prevents the completion of landscaping or similar improvements. No temporary certificate of compliance shall be valid for more than one hundred eighty (180) days.

C. Enforcement Actions: The procedure for enforcement of this title shall be as follows:

1. The administrator shall notify the occupant (and owner, if they are not the same) of the violation by certified mail and/or delivery to the site. The notice shall describe the violation, cite the section of this title being violated and order the occupant and/or owner to attain compliance within thirty (30) days.

2. Any person who receives a notice of violation may request inspection by the administrator to show that compliance has been attained within the thirty (30) days allowed or:

a. File a written request with the administrator for an extension of time to attain compliance, with such extensions limited to a maximum of sixty (60) days and culminated by an inspection to show that compliance has been attained; or

b. File an appeal of the administrator's notice, following the procedure of subsection 8-10-5A of this chapter.

3. The administrator, after city council approval, shall direct the city attorney to commence legal action, as authorized by Idaho Code 67-6527, against any occupant or owner who fails to attain compliance within the specified time, or to show, on appeal, that a violation has not occurred.

D. Public Endangerment: The enforcement procedure provided by subsection C of this section may be accelerated when the administrator finds that public health and safety are potentially endangered by a violation. In such cases, the administrator shall direct the city attorney to take immediate action to end the danger to public health and safety.

E. General Penalty: Any person convicted of a violation of any section or provision of this title, where no other penalty is set forth, shall be punished as follows: Violations of the development code may be considered a criminal misdemeanor or an infraction and are punishable with fines or imprisonment. The city may also take civil actions or other methods delineated below to compel compliance or performance.

F. Punishment For Misdemeanor: Every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000.00), or by both. The city may also take civil action to compel compliance of requirements or performance and completion of, or maintenance of, improvements installed pursuant to this title.

G. Punishment For Infraction: Every offense declared to be an infraction is punishable only by a penalty not exceeding one hundred dollars (\$100.00) and no imprisonment. The city may also take civil action to compel compliance of requirements or performance and completion of, or maintenance of, improvements installed pursuant to this title. (Ord. 149, 10-22-2008)