

ORDINANCE NO. 159

AN ORDINANCE BY THE CITY OF HAUSER, IDAHO AMENDING TITLE 8 OF THE HAUSER MUNICIPAL CODE, MORE SPECIFICALLY, AMENDING CHAPTER 1 ADDING AND CLARIFYING DEFINITIONS, AMENDING CHAPTER 5, SIGNS, AMENDING CHAPTER 10 ADMINISTRATION AND ENFORCEMENT, PROVIDING FOR SEVERABILITY; PROVIDING THAT ADOPTION OF THIS ORDINANCE SHALL HAVE NO EFFECT ON PROSECUTIONS MADE UNDER ANY PREVIOUSLY EFFECTIVE ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF HAUSER IDAHO

SECTION 1. That Title 8 Chapter 1 of the Hauser Code be and the same is hereby amended to read as follows:

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

1. IC title 67, chapter 65.

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 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 and 8-10-9 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.

AFFECTED PERSON: A person or legal entity having an interest in real property which may be adversely affected by City action.

AGRICULTURE: Agricultural lands are land uses suitable for farming and agricultural pursuits. Agriculture pursuits are the tilling of soil, horticulture, floriculture, forestry, viticulture, raising crops, livestock, farming, dairying and animal husbandry including all uses customarily accessory and incidental thereto; but excluding slaughterhouses, fertilizer works, bone yards and commercial feedlots.

AMENDED PLAT: A plat that has minor corrections or modifications.

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.

COMMERCIAL RESORT: A privately owned, outdoor recreation area operated for profit. A commercial resort may include permanent facilities for overnight or seasonal living, camping areas, recreational vehicle parks, and limited commercial activities associated with convenience goods and services that serve to enhance the primary recreational use or activity. A commercial resort requires a Class II Permit and shall meet the following minimum standards.

a. Minimum Contiguous Area: Five (5) acres.

b. Permitted Activities: Activities permitted must be compatible with the recreational activities of a resort and may include outdoor facilities for swimming, boat launching, boat rentals, fishing, camping, picnicking, skiing, snowmobiling, lawn tennis, volleyball, badminton, golf, and horseback riding. Other outdoor activities not specified may be permitted only if the activities are a part of the operation of a resort.

c. Limited Commercial Uses: Limited commercial uses are permitted as accessory uses and are incidental to the overall operation of the resort. Limited commercial uses that are permitted in a commercial resort must meet the Class II performance standards. Limited commercial uses permitted may include but are limited to uses that are associated with the operation of the resort: convenience food store, restaurant, bar, retail fuel service, recreational vehicle park (see Recreational Vehicle Park Performance Standards, of this title), motel, hotel, camping facility, laundry facility, retail sales shops for sporting equipment, souvenirs, and art and handicraft items associated with the operation of the resort.

d. Prohibited Uses: General commercial wholesale and retail sales and services not directly associated with the activities of a commercial resort are prohibited.

e. Conditions: The City may attach such reasonable conditions as the record indicates may be necessary to visually screen, control dust, manage traffic, buffer adjoining uses, or to mitigate effects on water and air quality.

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.

FILL - A solid material which increases the ground surface elevation or the act of depositing such material by mechanical means.

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.

GRADING - Any movement of earth for the purposes of changing the shape or topography of the land. Movement of earth include but is not limited to grading, fill, and redistribution of earth.

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.

LIGHT 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. Light Industrial uses are allowed in the Rathdrum Prairie Zoning District.

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

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

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 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 located outside of a mobile home park 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.

MOBILE HOME: Mobile home means a factory-assembled structure or structures constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. Mobile homes are limited to existing Mobile Home Parks and shall meet current electrical, mechanical and plumbing standards.

MOBILE HOME PARK, EXISTING: A mobile home park that was in existence prior to July 26, 1993 and has been in continual operation since July 26, 1993. These parks are defined as any area or site or land upon which two (2) or more mobile homes or manufactured homes are placed and maintained for dwelling purposes, either on a permanent or semi-permanent basis. Agency Approval: All existing and future ~~recreational vehicle parks~~ mobile home parks and proposed expansions thereto shall have the approval of applicable agencies, including but not limited to: Panhandle Health District for sewage disposal, the Hauser Fire District for emergency services, access and water availability, Post Falls Highway District for access onto Highway District roads, U.S. Army Corps of Engineers in or adjacent to a designated wetlands, lakeshore or stream corridor and the Department of Lands as applicable.

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.

NOTICE OF VIOLATION: A notice of the existence of any violation of any provision of this Code to which these rules pertain, issued by the Administrator.

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 shall have 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.~~

A vehicle used for temporary recreational or emergency living quarters. More specifically, recreational vehicle means a motor home, fifth wheel, park trailer, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. The term recreational vehicle shall not include pickup hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles. Specific classes of recreational vehicles are defined as follows:

(a) The term "motor home" shall mean a vehicular unit designed to provide temporary living quarters, built into an integral part of or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American national standards institute (ANSI) A119.7 standard for recreational vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a portable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(b) The term "travel trailer" shall mean a vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or

3. IC § 49-119.

weight as not to require special highway movement permits when towed by a motorized vehicle.

(c) The term "fifth wheel trailer" shall mean a vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(d) The term "park trailer" shall mean a trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) The term "fold down camping trailer" shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(f) The term "truck camper" shall mean a portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and containing at least one (1) of the following facilities: stove; refrigerator or icebox; self-contained toilet; heater or air conditioner; potable water supply including a faucet and sink; separate 110-125 volt electrical power supply; or LP-gas supply.

For purposes of this Chapter recreational vehicles on private property outside of a recreational vehicle park shall meet the following standards:

1. The recreational vehicles shall have current registration and shall be in serviceable condition so it can be operated in a safe and lawful manner upon the roads and highways in the State of Idaho as set forth in the Idaho Motor Vehicle Laws of the State of Idaho. The RV shall not be set on blocks with the tires or running gear removed.
2. No decks or additions shall be attached to the RV, nor shall the RV be skirted.
3. The RV shall not be used as a dwelling. The owners must have a primary residence other than the RV. There shall be no mail service to this type of use. An RV may be used as a dwelling for the owners of the property during construction of a dwelling on the same property as the RV site. Upon completion of the residence or expiration of the building permit for the residence, the use of the RV shall revert to the temporary or intermittent use as allowed under this provision.
4. The RV must be hooked into a sewage disposal system which meets the requirements of the Panhandle Health District, or shall be either totally self-contained and removed from the site to empty holding tanks at an approved location as necessary, or have a contract for sewage pumping service to avoid spills. Unlawful sewage disposal shall result in an infraction that will be assessed against the property owner.

5. The RV shall not be used as a rental property.
6. RV's located in flood plains must comply with Title 8 Chapter 6 Flood Hazard Areas.
7. A Class I permit that may be subject to conditions of approval is required for recreational vehicles that are temporarily located on private property that are:
 - a. the second or additional recreational vehicle(s) on the property.
 - b. on the property more than 14 consecutive days.

RECREATIONAL VEHICLE PARK - These parks are any area or site or land upon which two (2) or more recreational vehicles as defined by Idaho Code Title 63 are placed and maintained for dwelling purposes on a temporary recreational or emergency basis. All recreational vehicles parks shall be required to meet Class II permit procedures and performance standards. Any expansion of an existing nonconforming park that existed prior to July 26, 1993 shall be required to meet Class II permit procedures and performance standards.

RECREATIONAL VEHICLE PARK PERFORMANCE STANDARDS:

1. Intent: The intent of these standards is for temporary, emergency or recreational living quarters and not permanent or year round housing. Recreational vehicle parks require a Class II Permit.
2. Accessory Uses: Management headquarters, recreational facilities, toilets, dumping stations, coin operated laundry facilities, and other convenience establishments are permitted as accessory uses incidental to the operation of the recreational vehicle park.
3. Separation Requirement: Recreational vehicles shall be separated from each other and from other structures by at least ten feet (10'). Any accessory structures, such as attached awnings or carports, shall, for the purpose of this separation requirement, be considered to be part of the recreational vehicle.
4. Parking Pad Material Requirement: Each recreational vehicle lot/space shall contain a stabilized vehicular parking pad composed of paving, compacted crushed gravel, or other all-weather material.
5. Interior Drives; Approval Required: Interior drives in recreational vehicle parks which enter and exit onto a public road must be approved by the City or applicable highway district or state transportation department.
6. Screening Required: Fences, walls, or vegetative screening shall be provided at the property lines of a recreational vehicle park where the park adjoins adjacent lands that are zoned or used for residential purposes. In particular, extensive off street parking areas and service areas for loading and unloading purposes other than for passenger uses and areas for storage and collection of refuse shall be screened.
7. Internal Roads; Parking Service Areas: Internal roads and parking service areas shall provide safe and convenient access for service and emergency vehicles and to amenities within the recreational vehicle park. Internal roads shall not be designed to encourage use by outside traffic to traverse the recreational vehicle park to adjoining

developed areas.

8. Off Street Parking: Each recreational vehicle lot shall have one off street vehicle parking space.
9. Wheel Removal Prohibited: Any action toward removal of wheels of a recreational vehicle, except for temporary purposes of repair or to attach the recreational vehicle to the grounds for stabilizing purposes is prohibited.
10. Occupancy Limitations: Occupancy of a recreational vehicle park space by a particular recreational vehicle shall be limited to March 1 through October 31 not to exceed a maximum of fourteen consecutive days. Additional rental space usage in the park exceeding 14 consecutive days require a Class 1 permit that may be subject to conditions of approval. Recreational Vehicle Park owner shall retain records available for inspection by the City that delineate the license of each vehicle, length of stay and permanent residency of each park space vehicle other than the recreational vehicle occupancy compliance. The owner shall also retain records of sewage pumping for the City and the Panhandle Health District and presented to the City upon request.
11. Site Plan: A site plan shall be submitted upon application for a permit with a north arrow and date of drawing, showing uses and structures which are proposed. Said plan shall include adequate information to clearly depict existing and proposed structures and their uses, existing and proposed roads, easements, points of access, recreational vehicle lot dimensions, number of acres in site, dimensions of property lines, property line setbacks, reserved or dedicated open space, major landscape features (both natural and manmade), locations of existing and proposed utility lines, accessory off street parking and loading facilities, parking space areas, wastewater drain field area, traffic circulation patterns, refuse and service areas, signs, outdoor storage, and fences, yards, or wall or vegetative screening.
12. Agency Approval: All existing and future recreational vehicle parks and proposed expansions thereto shall have the approval of applicable agencies, including but not limited to: Panhandle Health District for sewage disposal, the Hauser Fire District for emergency services, access and water availability, Post Falls Highway District for access onto Highway District roads, U.S. Army Corps of Engineers in or adjacent to a designated wetlands, lakeshore or stream corridor and the Department of Lands as applicable.
13. The recreational vehicles shall have current registration and shall be in serviceable condition so it can be operated in a safe and lawful manner upon the roads and highways in the State of Idaho as set forth in the Idaho Motor Vehicle Laws of the State of Idaho. The RV shall not be set on blocks with the tires or running gear removed.
14. No decks or additions shall be attached to the RV, nor shall the RV be skirted.
15. The RV shall not be used as a dwelling. The owners must have a primary residence other than the RV. There shall be no mail service to this type of use.
16. The RV must be hooked into a sewage disposal system which meets the requirements of the Panhandle Health District, or shall be either totally self-contained and removed

from the site to empty holding tanks at an approved location as necessary, or have a contract for sewage pumping service to avoid spills. Unlawful sewage disposal shall result in an infraction that will be assessed against the recreational vehicle park owner.

17. The RV shall not be used as a rental property.

18. RV's located in flood plains must comply with Title 8 Chapter 6 Flood Hazard Areas.

REPLAT: The process by which a previously recorded subdivision plat, or portion of a plat, is modified.

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 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

4. See definition of Site Plan in this section.

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, 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; amd. Ord. 153, 5-27-2009) !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)

SECTION 2. That Title 8 Chapter 5 of the Hauser Code be and the same is hereby amended to read as follows:

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:

ARCADE: A covered passageway with shops and stalls on either side.

AREA: The total square footage of a sign face shall be measured so as to include the entire area within a continuous perimeter enclosing the extreme limits of the sign, including the background on which the lettering is placed. Such perimeter shall not include any structural elements which lie outside the limits of the sign and which do not form an integral part of the display

~~!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.

BANNER SIGN: A flexible material on which a sign is displayed. It may be anchored to the outside of a building or other structure, affixed to windows, or otherwise displayed on exterior surfaces. Banner Signs shall be considered temporary and fall under the same standard time limit of event signs.

CORNER VISIBILITY. No sign or display shall be permitted at the intersection of a road, alley or driveway, in a manner that obstructs the clear vision of any part of the road. If a sign is placed at the intersection of two roads, the sign must not interfere with the 50 foot corner visibility triangle. For signs located near a driveway entrance onto a road, a sight triangle based on the speed of traffic is used. At a point fifteen feet back from the edge of the road surface or curb, no sign may block the line of vision to a point equal to the speed limit times ten. For example, if the speed limit is 35 miles per hour, the exiting driver must be able to see the road and vehicles up to 350 feet away.

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.

EVENT SIGNS, BUSINESS: A sign that advertises an occurrence of commercial importance that happens at a specific date and time. These event signs are limited to the Highway Corridor Zoning District. Existing non-conforming commercial uses within the Lake Village shall be permitted to utilizing business event signage in the Highway Corridor Zoning District.

EVENT SIGNS, COMMUNITY: A sign that advertises an occurrence of community importance that happens at a specific date and time. These event signs are limited to organizations that have established IRS 501 (C) status or are a municipal corporation. These event signs are

allowed in all zoning districts.

EVENT SIGNS, RESIDENTIAL: A sign that advertises an occurrence of personal or social importance that happens at a specific date and time on a residential property. These events signs are limited to Hauser Hills, Lake Village and Upper Watershed Zoning districts.

EXISTING NON-CONFORMING COMMERCIAL USES: Commercial Uses that were established prior to July 26, 1993.

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.

NONTRADITIONAL SIGNS: A sign that is typically three-dimensional and includes inflatable signs. Nontraditional signs are temporary and shall be considered under the standards of events and banner signs.

OFF-PREMISES SIGN -- Any sign that advertises or gives notice of ~~to~~ any business or activity not located on the same parcel as the sign, or any sign that advertises or gives notice of any commodity or service not sold or offered upon the same parcel as the sign.

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

PORTABLE SIGN -- A sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

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.

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.

SIGN HEIGHT. The height of a sign shall be measured from the natural grade adjacent to the sign, to the top of the sign, or to the highest point of the sign structure or frame, whichever is greater. On slopes, the height of the sign is measured at the mid-point of the sign.

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, and political, ~~event and~~ other signs displayed for a specific time delimited purpose. Construction signs shall be removed within two days of a certificate of occupancy or final permit inspection. Political signs that are incidental to an election held pursuant to law are permitted provided they are put up no sooner than sixty (60) days before an election and taken down no later than two (2) days after the election, and are not placed on public property. Real Estate Signs shall be located on the advertised property and shall not be permitted off-premise.

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

VEHICLE: Every device in, upon, or by which any person or property is or may be transported or drawn upon a public or private street, excepting devices used exclusively upon stationary rails or tracks.

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 building roofline from the building wall 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, unless specifically delineated under exceptions to Permit Requirements, 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. All sign permit applications located adjacent to public right of way shall receive written approval from any applicable affected transportation agency or emergency service provider.

2. For all Class II permits, 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)
5. City Signage that include local businesses indicating directions/access/mileage to various locations within the City.

8-5-4: PERFORMANCE STANDARDS:

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

1. In or over a public right of way; with the exception of authorized municipal or traffic control signs;
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~~ Allowed Signs:

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

- 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 signs (construction, ~~for sale,~~ political or real estate, etc.) of no more than four (4) square feet each;

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

e. Service uses (churches, government offices, non profit service organizations and parks) in these zoning districts may display identification signs one nameplate of no more than thirty-two (32') ~~twelve (12)~~ square feet on one parcel and no more than four (4) on site directional, and 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.~~ Existing, legally established non-conforming commercial uses in the Lake Village zoning district may retain existing signage under Title 8-5-4.E. Replacement signage shall conform to the standards of the Highway Corridor Zoning District. For purposes of this standard, contiguous parcels under the same ownership shall be determined as one non-conforming parcel.

g. Event, non-traditional or banner signs are permitted for up seven (7) days per event. As part of the permit process, property owner authorization, a calendar of erection dates and a site plan with locations shall be submitted for review and approval. No more than 3 signs are allowed for the event, one of which shall be on the premise of the event.

h. Off-Premise Signage Existing, legally established non-conforming commercial uses in the Lake Village zoning district may erect one sign in the Highway Corridor District, however the off-premise sign shall meet all standards under this Title and the permit applicant shall have authorization from the property owner in the Highway Corridor Zoning District. Additional off-premise signage shall require a Class II permit in any other zoning districts.

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~~ allowed 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 the sign shall be hung at the entrance to the use;
;

(5) ~~Temporary signs (political, for sale, etc.) must fit within the sign area allocated by subsections B2c(2) and B2c(3) of this section.~~ Temporary signs for construction, political or real estate of no more than four (4) square feet each.

d. Event, nontraditional or banner signs, for up seven (7) days per event. As part of the permit process, property owner authorization, a calendar of erection dates and a site plan with locations shall be submitted for review and approval.

e. Off-Premise Signage. One off-premise sign on each parcel not to exceed thirty two (32) square feet. Additional off-premise signage shall require a Class II permit.

C. ~~Sign Design: Reserved.~~ PROHIBITED SIGNS: The following signs and displays are prohibited in all zoning districts:

1. Signs that create a hazard or dangerous distraction to vehicular traffic; that may be confused with or interfere with authorized railroad or traffic signs, signals or devices; that impair the vision of drivers or pedestrians; or that otherwise interfere with traffic visibility.
2. Signs that are not structurally sound or pose a hazard to people or property.
3. Roof signs.
4. Revolving signs or signs with moving parts.
5. Animated signs (both mechanically and electronically animated).
6. Signs with audible devices.
7. Signs, lights or displays that flash.
8. Signs advertising activities that are illegal.
9. Signs that are obscene as defined in Idaho Code Title 18 Chapter 41.
10. Signs not specifically permitted by this title.

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). Illuminated signs as inside window displays

are allowed.

E. Maintenance: Signs shall be maintained so as not to create health or safety hazards. Any sign that is structurally unsound, is rusted, peeling paint or missing letters 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)

H. International building code. Signs shall be constructed in conformance with the currently adopted edition of the *International Building Code*. If a building permit is not required, no other permit is necessary, however the sign or display must meet the requirements of this title.

SECTION 1. That Title 8 Chapter 10 of the Hauser Code be and the same is hereby amended to read as follows:

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: Appeal Hearing Procedures ~~Enforcement !2R!~~
 8-10-10: Enforcement

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 city planning and zoning commission shall consist of five (5) members, four (4) members of which shall reside in the city, appointed by the mayor and confirmed by the city council, with a fifth member residing within the area of city impact (ACI). The joint planning commission, as required by Idaho Code 67-6526(g) and the adopted area of city impact agreement (ordinance 119), shall be composed of seven (7) members, three (3) of which reside in the ACI, two (2) of which reside elsewhere in Kootenai County and are seated on the Kootenai County planning commission, and two (2) of which reside within the city. The joint planning commission shall evaluate and make recommendations to the county on applications, plans, or ordinance amendments for lands within the area of city impact.

b. City commission members shall serve staggered terms of three (3) years, in order to provide for the annual appointment of at least one member.

2. Duties: The five (5) member city planning and zoning commission shall act with the full authority of the council as delineated in this title, excluding the authority to adopt the city comprehensive plan, ordinances, or to approve final land subdivisions. The joint planning commission shall act as delineated in this title and ordinance 119 as a recommending body to the board of county commissioners within the area of city impact. (Ord. 153, 5-27-2009)

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, filling, 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; or

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; or

e. Any clearing, filling, grading or excavation in preparation for any of the activities listed in subsections A3a through A3d of this section and this subsection A3e. 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, if the recorded or court stamped final orders of such proceeding, sale, gift, or decree are submitted to the city within one year of such event creating the parcel. Court decrees do not guarantee that a

lot or parcel is buildable;

2. Any land division in which all resulting parcels are one hundred sixty (160) or more acres in size;

3. Adjustments to platted lot lines providing: a) no additional lots or parcels are created, b) the total area of a lot or parcel is changed less than twenty percent (20%) from the original platted lot size, c) the resulting lot meets the minimum size for the zone and is otherwise in conformance with all ordinances, d) the lot line adjustment does not result in a lot separated by a right of way or road, and e) a statement is included on the deed of conveyance indicating that the instrument is being recorded for lot line adjustment purposes, and that the property being transferred is not a separate lot. Lot line adjustments that do not meet these requirements must go through the replat or minor replat process;

4. Boundary line adjustments to legally created, unplatted parcels, providing: a) no additional parcels are created, b) the resulting parcels meet the minimum size for the zone and are otherwise in conformance with all ordinances, and c) the boundary line adjustment does not result in lots separated by a right of way or road. A parcel of land that is not buildable because it does not conform to ordinances, or was created improperly, cannot be converted to a buildable parcel through a boundary line adjustment;

5. Lot and boundary line adjustments are accomplished by recording a deed of conveyance for the property that will be transferred, and then, for the receiving parcel, recording a second deed describing the new, exterior parcel boundaries (so that an additional parcel of land is not inadvertently created).

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 code⁵.

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. 153, 5-27-2009)

H. Certificate Of Compliance: A certificate of compliance is issued when a site inspection finds that the development, parcel, lot or site 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.

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

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.

8-10-3: PERMIT PROCEDURES:

A. Class I Permit Procedures: The class I permit procedure 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 8-10-95A 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 pre application 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.~~

65. 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.

76. 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.

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

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

a. Within the city limits, to the city council, using the appeals procedure of section 8-10-59 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 delineated within the Hauser-Kootenai County Area of City Impact Agreement Ordinance of Kootenai County. ~~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.

109. 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. (Ord. 149, 10-22-2008)~~

~~ED. Time Approvals Valid: Class I 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. All preliminary subdivision plats and conditions of approval on class II permits unless specifically delineated in the order of decision approved in compliance to this code expire three hundred sixty five (365) days from the date of approval. An applicant may request a single twelve (12) month extension to an approved permit to the code administrator. Subsequent extensions shall be reviewed and approved through the applicable Hauser planning and zoning commission or within the Hauser Area of City Impact Joint Planning commission Requests for extension shall be reviewed and considered for approval by the planning and zoning commission having jurisdiction pursuant to section 8-10-1 of this chapter. The commission shall hold a public hearing at its next regular meeting if time for adequate review is available and lawful notice can be given, pursuant to the procedures established in section 8-10-8 of this chapter, or at a later time in less than sixty (60) days that 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. 153, 5-27-2009)~~

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. Appeal procedures are delineated in 8-10-9 of the Municipal Code. 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 8-10-9~~, 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)~~

A. Notices of Hearings. Notice of public hearings shall be provided as follows:

1. Notice of Meetings. In addition to the public notice provisions of this chapter Ordinance, notices of regular and special meetings, including the posting of agendas, shall be given in accordance with Idaho Code § 67-2343.
2. Content. The content of notices for public hearings shall conform to the requirements of Idaho Code Title 67, Chapter 65, Idaho Code, and shall include the time and place of the hearing, a summary of the application or request, and a statement that written comments on an application must be submitted at least fourteen (14) days prior to the hearing, or at the hearing. If a City hearing body has issued recommendations on the application, or has made or recommended material significant changes to a proposal, the notice shall also include a summary of those recommendations and/or changes.
3. Newspaper, Other Media, Political Subdivisions. At least twenty-eight (28) days prior to a public hearing, a copy of the notice shall be published in a newspaper of general circulation in City of Hauser, and shall be made available to other newspapers, radio and television stations. At least twenty-eight (28) days prior to the hearing the notice shall also be mailed to all political subdivisions providing services within City of Hauser, including school districts.
4. Property Owners. When notice of adjacent and nearby property owners is required by law, hearing notices shall be mailed, certified, at least fifteen (15) days prior to the hearing. The notice shall be mailed to property owners or purchasers of record within the land being considered, and within three hundred (300) feet of the exterior boundaries of that site, including any contiguous properties under the same ownership. The City of Hauser may also require that notice be provided to other areas that may be affected by the proposed change. Additional procedures for notification of property owners may be established by the City.
5. Site Posting. Where on-site posting of a hearing notice is required by law, the notice shall be posted on the premises that are the

- subject of the application, at least fifteen (15) days prior to the hearing. If the site is inaccessible, the access driveway to the site shall be posted where it adjoins a public or private road.
6. Alternate Forms of Notice. When notice is required to two hundred (200) or more property owners or purchasers of record, notice may be provided through a display advertisement at least four (4) inches (4") by two (2) columns in size, in the official newspaper of City of Hauser, published at least fifteen (15) days prior to the hearing. Notices of the hearing must also be posted at the external boundaries of the site adjoining public or private roads. If the site is not located on a road, the access driveway(s) to the site shall be posted where they adjoin public or private roads.
- B. Changes or Additions to Applications. Once hearing notices have been distributed to agencies mailed and/or published, the applicant may not modify the content of the application, or submit additional items, except in response to a recommendation made by a hearing body until the hearing. Any modifications to an application or additional items in support of an application, to be submitted in response to a request made by a hearing body must be submitted no later than fourteen (14) days after the date of the request. The applicant may, however, withdraw an application no later than fourteen (14) days prior to the hearing, and may resubmit a new application at any time after the new or modified items are submitted. If withdrawn, the application shall not be rescheduled for a public hearing until the additional items have been received. If a withdrawal of an application is not received in a timely manner, the application shall proceed to hearing before the appropriate hearing body.
- C. Agency and Public Comments. Written comments from agencies and the public must be received at least fourteen (14) days prior to the hearing, or must be submitted at the hearing. Written information shall not be accepted during the fourteen (14) days preceding a hearing, nor shall written information be accepted at the hearing.
- D. Types of Hearings. For the purposes of this section: chapter,
1. A "legislative hearing" shall mean a hearing is held for applications or proposals of a general nature, such as comprehensive plans, ordinances, areas of city impact, or changes in zoning of Citywide or area-wide scope those affecting City wide ordinances or plans.
 2. A "quasi-judicial hearing" hearings shall mean a hearing are held for situation- or site-specific requests, including site-specific applications for Class II permits, zone changes, preliminary subdivisions variances, and appeals of decisions or interpretations.
- E. Mandatory Procedures for All Hearings. In every legislative or quasi-judicial hearing to which this Title applies, the hearing body (including the Planning Commission, City Council) shall:

1. Accept ~~Receive~~ a report from staff, including an evaluation of the request, proposed findings of fact, and, if applicable, recommended conditions;
 2. Require that every person wishing to testify properly identify themselves for the record;
 3. Mark every exhibit and enter it into the record;
 4. Maintain a transcribable record in accordance with *Idaho Code* 67-6536;
 5. Accept written information into the record during the public hearing;
 6. Accept no additional written information or testimony into the record after the close of the public hearing;
 7. Provide decisions and recommendations in writing in accordance with *Idaho Code* 67-6519 or 67-6520, and 67-6535; and
 8. Base decisions and recommendations on the standards and criteria set forth in federal and state laws and regulations and the City of Hauser Comprehensive Plan, applicable City ordinances, *Idaho Code*, and Federal law in a manner consistent with the goals and policies of the City of Hauser Comprehensive Plan.
- F. Discretionary Procedures for All Hearings. In every legislative or quasi-judicial hearing to which this Ordinance applies, the hearing body may:
1. Require witnesses to state their position in writing before the hearing;
 2. Limit the time that each witness may speak;
 3. Take notice of its own knowledge and experience as to a particular issue;
 4. Require that witnesses be sworn;
 5. Continue a hearing to allow time for submission and/or review of new information.
- G. Mandatory Procedures for Quasi-Judicial Hearings. In every quasi-judicial hearing to which this chapter Ordinance applies, the hearing body shall:
1. Require that its members declare any potential conflicts, or economic interests in the proposed action, in accordance with *Idaho Code* § 67-6506. A member with a conflict may not deliberate on, nor participate in the proceeding or action;
 2. Allow the applicant to present the application or request;
 3. Receive public information, recommendations and testimony from witnesses; As a general rule, the following order of presentation should be observed:
 - a. Those in favor of the application;
 - b. Those neutral with respect to the application;
 - c. Those opposed to the application;
 4. Allow rebuttal testimony from the applicant;
 5. Make a decision on the proposal based only on the information in the official record. Once a hearing is closed, the hearing body shall

- only allow new testimony, including or written information testimony, by reopening the hearing. The public shall have an opportunity to review and testify on any new information that is received, and the applicant shall have an opportunity for rebuttal to respond to new information and rebut new testimony;
6. Provide decisions and recommendations in writing in accordance with Idaho Code 67-6519 or 67-6520, and 67-6535;
7. Unless otherwise approved by the applicant, make a recommendation and/or decision within thirty-five (35) days of the close of the public hearing, or in the case of the Council, within thirty-five (35) days of the receipt of a hearing body recommendation. If the Council chooses to hold a public hearing on an application, the Council shall make a decision within thirty-five (35) days of the close of the final public hearing. In the event a hearing body fails to carry out its responsibilities according to these regulations, the Council shall assume their duties.
- H. Deliberations. The hearing body may discuss and vote on an application or issue at the same meeting at which testimony is taken, or at a later meeting.
- I. Conflicting Requirements. In instances of conflict between the provisions of this section Ordinance and Idaho Code state law, the provisions of Idaho Code shall rule.

8-10-9: APPEAL HEARING PROCEDURES:

- A. Notice of Appeal: A person who is aggrieved by action may appeal the action as provided in the applicable provisions of City of Hauser Code. Such appeal shall be made by serving a written notice of appeal specifically setting forth the grounds of appeal. The aggrieved person shall appeal any action within twenty-eight (28) days of the official action or signed order of decision to be in compliance with this Title.
- B. Setting Date of Hearing; Notice: Upon receipt of the notice of appeal, the Code Administrator shall inform the appropriate hearing body of the appeal and set a date for a hearing on the appeal. They shall provide written notice of the time and place of the hearing to the hearing body, to the appellant, and to any persons who have lodged verbal or written complaints in the matter who have indicated that they wished to received such notice at least twenty-eight (28) days prior to the hearing.
- C. Standard of Review; Burden of Proof: Appeals shall be based upon the grounds set forth in the written notice of appeal and shall be heard and acted upon by the hearing body in a *de novo* proceeding. The burden of

proof shall fall upon the appellant to establish, by a preponderance of the evidence, that the action was erroneous.

- D. Conduct of Hearing: The following rules shall govern the conduct of all hearings of appeals of an administrative decision or the issuance of a notice of violation:
1. Appeal hearings shall be open to the public according to the provisions of the Idaho Open Meetings Law, Idaho Code § 67-2340 et seq., but shall not be considered “public hearings” under the Local Land Use Planning Act, Idaho Code § 67-6501 et seq. and this chapter.
 2. The appeal hearing shall be informal and the Idaho Rules of Evidence shall not apply. The appellant may be represented by counsel and present testimony and evidence at the hearing, except that submission of new evidence not presented during the application process shall be admitted only at the discretion of the appeals body. The Planning Commission or Mayor shall regulate the course of the proceedings to assure that there is a full disclosure of known relevant facts and issues.
 3. Testimony and submission of evidence shall be limited to the appellant, representatives of the appellant, and other affected persons as defined in section 2-1-2 of this chapter. As a general rule, the following order of presentation should be observed:
 - a. Introduction of appeal by staff;
 - b. Appellant’s case in chief;
 - c. Testimony and/or evidence in support of the appellant;
 - d. City’s case in chief;
 - e. Testimony and/or evidence in support of the City;
 - f. Affected Persons case in chief; and
 - g. Appellant’s rebuttal.
 4. A transcribable record of the appeal hearing in its entirety shall made by mechanical, electronic or other means. Any party may cause additional recordings to be made during the hearing if the making of the additional recording does not cause distraction or disruption. Any party may request preparation of a transcript of the hearing. Any transcript prepared at the request of the Council or the Planning Commission shall be at City expense. Any transcript prepared at the request of any other party shall be at that party’s expense. Expenses for any transcript prepared for purposes of judicial review shall be paid in accordance with Rule 84 of the Idaho Rules of Civil Procedure.
 5. At the close of the appeal hearing, the hearing body may take action on the appeal, or may take the appeal under advisement for a period not to exceed fourteen (14) days. If the appeal is taken under advisement by a Planning Commission, the Planning

Commission shall issue a written recommendation to the Council within fourteen (14) days after the conclusion of the hearing. If the appeal is taken under advisement by the Council, the Council shall issue a written decision within fourteen (14) days after the conclusion of the hearing.

E. Action on Appeal:

1. The Planning Commission may recommend that the action be affirmed, reversed or modified based on substantial and competent evidence presented at the hearing.
2. After receiving a recommendation from the Planning Commission, the final decision on the appeal shall be made by the Council. The Council may summarily issue a final decision approving the recommendation from the Planning Commission after conducting deliberations on the matter, or may conduct an additional *de novo* appeal hearing prior to making a final decision.
3. If an additional hearing is held before the Council, the Council may affirm, reverse or modify the action based on substantial and competent evidence presented at the hearings held before the Planning Commission and the Council. In the event the Council finds that the action was erroneous, it may reverse or modify the action, or it may remand the matter to the Code Administrator or Planning Commission for further proceedings, as may be appropriate.
4. The recommendation to the Council by the Planning Commission, and the decision of the Council on appeal, shall be in writing, shall include a concise and explicit statement of the underlying facts of record, and shall include a reasoned statement in support of the decision. All parties to the appeal shall be provided with a copy of the recommendation and/or decision.
5. The decision of the Council on appeal shall be binding upon the Applicant/Appellant. If the action is reversed, the Code Administrator shall comply with the decision of the Council upon expiration of the time for filing of a petition for judicial review with the District Court, or such longer period as the Council may permit.
6. If the Council remands the matter to the Code Administrator or Planning Commission for further proceedings, the decision of the Council shall specify the actions to be taken by the Code Administrator or Planning Commission on remand.

8-10-10 ENFORCEMENT:

- A. It shall be the duty of the Administrator or duly-authorized agents to enforce this title and other city ordinances. The Administrator shall not issue permits unless existing and intended structures, the parcel of land, and uses of the buildings and land, conform in all

respects with the provisions of this title and other city ordinances.

AB. 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 or U.S. first-class pre-paid 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. Whenever any construction, site work, specific conditions of approval, or other related laws, ordinances or requirements fails to meet the requirements of this Title, the Administrator may issue a Notice of Zoning Ordinance Violation and order any work stopped by written notice. Such Notice of Zoning Ordinance Violation or Stop Work Notice shall be served on any persons engaged in doing or causing such work to be done, and persons shall forthwith stop such work until authorized by the Administrator to proceed. In the event that a Notice of Zoning Ordinance Violation is issued, the Administrator shall additionally prepare and mail, via certified mail, a Notice of Zoning Ordinance Violation.

The notification shall include:

1. The property owner and the legal description of the parcel.
2. The nature of the violation.

3. The remedial action that must be undertaken to resolve the violation.
4. The length of time allotted to resolve the violation.
- D. The property owner shall have 30 days from the date the Notice of Zoning Ordinance Violation was mailed to resolve the violation. If resolution does not occur within those 30 days, the Notice of Zoning Ordinance Violation shall be filed in the County Recorder's Office and a copy mailed to the Owner, via certified mail.
- E. The Notice of Zoning Ordinance Violation shall also advise the owner of the Notice of Zoning Ordinance Violation appeal process. The Administrator may consider a written appeal, submitted by the property owner, and received no later than 30 days after the Notice of Violation was mailed. The appeal shall be heard by the City Council of the City of Hauser on a day specified by the Council. If the appeal is denied, the Council shall specify an exact number of days to gain compliance with this title before the Notice of Violation is recorded. If the appeal is approved, the Council will specify actions to be taken by the Administrator to release the violation. The Council may elect to add or remove conditions of remedial action.
- F. 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 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.
- G. At such time the Violation is resolved, the owner shall pay the fee specified in the current adopted fee schedule and the Administrator shall file in the Office of the County Recorder a Release of Notice of Violation. The Release shall contain all of the information contained in the Notice of Violation, as well as the corrective action taken to resolve the violation. A copy of the Release shall be mailed to the owner, via U.S. first-class pre-paid certified mail.
- H. If the Violation is not resolved, 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.
- I. Appeals of Notice of Violation and/or Stop Work Orders shall comply with provisions of Chapter 10 Section 9 of this Title.
- J. Complaints: Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Administrator. The Administrator shall properly record such complaint, immediately investigate, and take action thereon as provided by this title.

~~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.~~

DK. 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.

EL. 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. .Each day the violation occurs shall be considered a separate violation. The city may also take civil actions or other methods delineated below to compel compliance or performance.

FM. 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.

GN. 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)

SECTION 8. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 9. Neither the adoption of this Ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the Hauser City Council or the validity of any such action to be taken upon matters pending before the Hauser Council of Commissioners on the effective date of this Ordinance.

SECTION 10. This Ordinance shall take effect and be in full force from and after its passage, approval, and publication in the Coeur d'Alene Press. The provisions of this Ordinance shall apply to all applications and appeals filed with, and received by, the Hauser City on and after the effective date of this Ordinance.

ADOPTED this ____ day of _____, 2010.

Olita Johnston, Mayor

ATTEST :

Donna Ray, Clerk