

LATAH COUNTY, IDAHO ORDINANCE #269
LATAH COUNTY LAND USE ORDINANCE

AN ORDINANCE OF LATAH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, REPEALING THE “LATAH COUNTY ZONING ORDINANCE” ORDINANCE #29 AND ALL AMENDMENTS THERETO, THE “LATAH COUNTY SUBDIVISION ORDINANCE” ORDINANCE #31A AND ALL AMENDMENTS THERETO, AND THE “LATAH COUNTY MANUFACTURED HOUSING ORDINANCE” ORDINANCE #52 AND ALL AMENDMENTS THERETO; AND ADOPTING ORDINANCE #269 THE “LATAH COUNTY LAND USE ORDINANCE”, THE OFFICIAL ZONING MAP OF LATAH COUNTY, AND OTHER RELATED OVERLAY MAPS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE;

WHEREAS, Title 67, Chapter 65, Idaho Code adopts standards and requirements for Local Land Use Planning for counties and municipalities in the State of Idaho; and

WHEREAS, in accordance with Idaho Code Sections 67-6508 and 67-6509, Latah County has adopted the “Latah County Comprehensive Plan”; and

WHEREAS, in accordance with Idaho Code Section 67-6511, Latah County has adopted land use regulations and a zoning map, and has subsequently prepared an update to those regulations and map that will replace the currently adopted regulations and map; and

WHEREAS, the Latah County Planning Commission and the Board of County Commissioners find that the proposed ordinance is in accordance with Latah County Resolution #94-17 the adopted “Latah County Comprehensive Plan” as amended; and

WHEREFORE, it is in the best interest of the citizens of Latah County to have regulations regarding land use activities;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Latah County, Idaho:

SECTION 1: REPEALING THE “LATAH COUNTY ZONING ORDINANCE” ORDINANCE #29 AND ALL AMENDMENTS THERETO, THE “LATAH COUNTY SUBDIVISION ORDINANCE” ORDINANCE #31A AND ALL AMENDMENTS THERETO, AND THE “LATAH COUNTY MANUFACTURED HOUSING ORDINANCE” ORDINANCE #52 AND ALL AMENDMENTS THERETO

That the “Latah County Zoning Ordinance” – Latah County Ordinance #29 and all amendments thereto, the “Latah County Subdivision Ordinance” – Latah County Ordinance #31a and all amendments thereto, and the “Latah County Manufactured Housing Ordinance” – Latah County Ordinance #52 and all amendments thereto be repealed upon the effective date of this Ordinance.

SECTION 2: ADOPTION OF LATAH COUNTY LAND USE ORDINANCE, THE OFFICIAL ZONING MAP OF LATAH COUNTY, AND OTHER RELATED OVERLAY ZONE MAPS

That the “Latah County Land Use Ordinance”, which will set out the land use codes for Latah County in accordance with the Latah County Comprehensive Plan and Idaho Code, and accompanying Zoning Map of Latah County and the Floodplain Overlay Zone maps be adopted as follows:

Latah County Land Use Ordinance # 269

August 2006

**Revised as amended by ordinances #270, #271, #272, #274, #275, #276, #277, #278, #279,
#281, #283, #285, #286, #287, #288, #289, #290, #291, #294, #296, #297, #298, #300, #303,
#304, #305, #306, #308, #310, #311, #312, #314, #316, #317, #321, #322, #325, #326, #341,
#342, and #345**

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ARTICLE 1

ADMINISTRATION

SECTION 1.01 PURPOSE AND AUTHORITY

The purpose of this ordinance is to promote the health, safety, and general welfare of the people of Latah County by establishing regulations and standards in accordance with the Latah County Comprehensive Plan. This ordinance is authorized by the provisions of Title 67, Chapter 65, Idaho Code, the “Local Land Use Planning Act” and Article XII, Section 2 of the Idaho Constitution.

SECTION 1.02 ADMINISTRATION

1.02.01 ESTABLISHMENT OF THE PLANNING DEPARTMENT

There shall be a Latah County Planning and Building Department and the Board of Latah County Commissioners shall appoint a Director to administer the provisions of this ordinance. The Department, in the execution of its administrative duties, may establish procedures and rules it deems necessary for compliance with this Ordinance.

1.02.02 ESTABLISHMENT OF LAND USE REGULATIONS

To achieve the purpose of this ordinance and comply with the provisions of the Latah County Comprehensive Plan and the Local Land Use Planning Act, the County shall establish land use zones, regulations, and development standards. The regulations developed to implement these zones and standards shall be administered and enforced by the Planning Department and shall apply to all property subject to the authority of the Board of Latah County Commissioners as provided by Title 67, Chapter 65, Idaho Code.

1.02.03 SEVERABILITY

If any part or provision of this regulation or the application of this regulation to any person or circumstance is declared to be invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application deemed invalid and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances.

1.02.04 CONFLICTS

Where any provision of this regulation imposes restrictions different from those imposed by any other provision of this regulation or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall apply.

1.02.05 ESTABLISHMENT OF ZONES AND SUB-ZONES BY MAP

The boundaries of the zones are hereby established as shown on the map(s) entitled "Official Zoning Map of Latah County, Idaho", and said map(s), or copies thereof, with all explanatory material, are hereby adopted by reference as part of this ordinance. The "Official Zoning Map of Latah County, Idaho" shall be kept by the County Auditor and as a layer in the GIS system of Latah County, Idaho, and shall be open to and available for public inspection in the Office of the Auditor of Latah County, Idaho, or at other appropriate offices and facilities in the Latah County Courthouse, Moscow, Idaho.

1.02.06 ESTABLISHMENT OF FEES

The Board of Latah County Commissioners shall adopt by resolution a "Fee Schedule of the Planning Department" to establish application or service fees used to administer the requirements of this ordinance.

1.02.07 ENFORCEMENT OF LAND USE REGULATIONS AND PENALTIES

A violation of any provision of this ordinance is hereby declared to be a misdemeanor and is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the County jail not to exceed six months, or by both such fine and imprisonment. Every day a property or person is found in violation of this ordinance is considered a separate punishable offense. Additionally, the ordinance may be enforced by the filing of a civil suit seeking any lawful remedy including, but not limited to, an injunction.

When the Planning Department determines that any provision of this ordinance is being or has been violated, the Department shall notify the person(s) responsible of the necessary corrective action. If after written notification the person(s) responsible fail(s) to correct the violation or fail(s) to successfully appeal the Department's determination, the Planning Department shall refer the matter to the Prosecuting Attorney for appropriate action. Failure of the Planning Department to follow these procedures shall not limit the remedies available to the Prosecuting Attorney in enforcing this ordinance and shall not be used as a defense in any enforcement proceeding, whether criminal or civil.

The Prosecuting Attorney may enforce this ordinance by taking whatever criminal and/or civil action is deemed appropriate. Prior to the Prosecuting Attorney filing a civil action, the Board of Latah County Commissioners shall approve the filing of the civil action.

Any use that is listed as a permitted use in one zone, but is not listed as a permitted use in another zone, is not a permitted use in the latter zone. Any use that is listed as a conditional use in one zone, but is not listed as a conditional use in another zone, is not a conditional use in the latter zone.

1.02.08 ESTABLISHMENT OF PLANNING COMMISSION

The Latah County Planning Commission is hereby established as provided for by Idaho Code Section 67-6504. This Commission shall be composed of seven members assigned to positions A - G.

1.02.09 ORGANIZATION OF THE PLANNING COMMISSION

The Planning Commission shall elect a Chairman, Vice-Chairman, and Secretary. This Commission shall abide by the provisions of this ordinance, the Local Land Use Planning Act, and shall also adopt by-laws as required.

1.02.10 EXPIRATION DATES FOR PLANNING COMMISSION

Positions A, B, and C shall first expire December 31, 2009 and then every six years thereafter. Positions D and E shall expire December 31, 2011 and every six years thereafter. Positions F and G shall expire December 31, 2007 and every six years thereafter. Appointment to complete the term of a vacated position or appointment to a new term shall be done by motion and order of the Board of Latah County Commissioners.

1.02.11 JURISDICTION OF THE PLANNING COMMISSION

The Planning Commission shall be responsible for recommending amendments of the Latah County Comprehensive Plan and land use ordinances to the Board of Latah County Commissioners. The Planning Commission shall not consider amendments which are deemed to be quasi-judicial proceedings.

1.02.12 ESTABLISHMENT OF ZONING COMMISSION

The Latah County Zoning Commission is hereby established as provided for by Idaho Code Section 67-6504. This Commission shall be composed of five members assigned to positions A - E.

1.02.13 ORGANIZATION OF THE ZONING COMMISSION

The Zoning Commission shall elect a Chairman, Vice-Chairman, and Secretary. This Commission shall abide by the provisions of this ordinance, the Local Land Use Planning Act, and shall also adopt by-laws as required.

1.02.14 EXPIRATION DATES FOR ZONING COMMISSION

Position A shall first expire December 31, 2009 and then every six years thereafter. Positions B and C shall expire December 31, 2011 and every six years thereafter. Positions D and E shall expire December 31, 2007 and every six years thereafter. Appointment to complete the term of a vacated position or appointment to a new term shall be done by motion and order of the Board of Latah County Commissioners.

1.02.15 JURISDICTION OF THE ZONING COMMISSION

The Zoning Commission shall be responsible for holding quasi-judicial hearings required by this ordinance and Idaho Code for applicant initiated land use requests. When requested by staff, by a majority of the Zoning Commission members, or by the Board of Latah County Commissioners, the Zoning Commission or Board of Latah County Commissioners may appoint a Hearings Examiner in accordance with Idaho Code Section 67-6520 upon approval by the Board of Latah County Commissioners.

1.02.16 ESTABLISHMENT OF THE LAND USE BOARD OF APPEALS

The Latah County Zoning Commission shall serve as the Land Use Board of Appeals. All organization, rules and procedures of the Zoning Commission shall apply to the Land Use Board of Appeals.

1.02.17 JURISDICTION OF THE LAND USE BOARD OF APPEALS

The Land Use Board of Appeals shall hear appeals of any written decision of the Planning Department regarding the Department's interpretation or administration of the provisions of this ordinance. The Land Use Board of Appeals may affirm, modify, or reverse the decision of the Planning Department. The Land Use Board of Appeals shall not have the authority to waive the requirements of this ordinance or take any action that is contrary to the specific provisions of this ordinance.

If an applicant wishes to appeal a decision made by the Planning Department, the applicant must first appeal to the Land Use Board of Appeals in accordance with this Section. If the applicant then wishes to appeal the decision of the Land Use Board of Appeals, the applicant may request reconsideration by the Board of Latah County Commissioners in accordance with Section 1.02.18. An applicant may not bypass the appeal process required by this section.

1. APPEAL PROCEDURE OF THE LAND USE BOARD OF APPEALS

- A. An appeal period of 14 days will begin upon the date of the Planning Department's written decision. Any affected person may appeal a decision of the Planning Department.
- B. The appellant must specify the issues on appeal and shall submit the written appeal and fee to the Planning Department within the 14 day period described above. The written appeal must specify which portions of the decision the appellant finds to be in error and explain the appellant's reasons for determining that the decision is in error and contrary to the provisions of this ordinance. The Planning Department shall provide a report to the Land Use Board of Appeals that provides any additional explanation as to the decision it made, which shall also be made available to the appellant upon completion.

C. The Land Use Board of Appeals shall hold a meeting on the request for appeal and provide a written decision to the applicant or affected person within 60 days of receipt of the request for appeal. This meeting shall be limited to consideration of the issues on appeal. The appellant and Planning Department may submit additional evidence during the meeting, if permitted by the Land Use Board of Appeals.

2. RECONSIDERATION PROCEDURE FOR LAND USE BOARD OF APPEALS' DECISIONS – Pursuant to Idaho Code § 67-6535 decisions of the Land Use Board of Appeals may be reconsidered by the Board of Latah County Commissioners, as set forth in Section 1.02.18 of this ordinance.

3. EFFECTIVE DATE - No Land Use Board of Appeals' decision shall become effective, and if applicable, no building or installation permit shall be issued, until the 14-day reconsideration period (1.02.18.2) has elapsed or until the Board of Latah County Commissioners has made a decision upon reconsideration.

1.02.18 RECONSIDERATION OF DECISIONS MADE BY THE ZONING COMMISSION THE LAND USE BOARD OF APPEALS OR THE BOARD OF LATAH COUNTY COMMISSIONERS

1. An applicant or affected person may seek reconsideration to the Board of Latah County Commissioners, in accordance with Idaho Code § 67-6535, of any decision made by the Zoning Commission, the Land Use Board of Appeals, or the Board of Latah County Commissioners.

2. An applicant or affected person must submit a written request for reconsideration and fee to the Planning Department within 14 days after the service date of the underlying decision.

3. A written request for reconsideration must identify and explain the specific deficiencies in the decision for which reconsideration is sought. Once a written request for reconsideration is timely submitted, any other affected person may submit a written statement in regards to the request for reconsideration. Such written statement must be submitted to the Planning Department within 14 days after a request for reconsideration is submitted.

4. The Board of Latah County Commissioners shall hold a hearing on the request for reconsideration and provide a written decision to the applicant or affected person within 60 days of receipt of the request for reconsideration. If a written decision is not issued within 60 days, the request shall be deemed denied.

The hearing shall be limited to consideration of the issues included in the request for reconsideration. The Board of Latah County Commissioners shall only consider the underlying record; the written request for reconsideration; and written statements submitted by affected persons, if any. The Board of Latah County Commissioners may, but is not required to, allow oral argument by the appellant, any affected person, the Planning Department, the Zoning Commission, the Land Use Board of Appeals, or the

Board of Latah County Commissioners. Such oral argument shall be limited to facts that were previously established and are contained in the underlying record.

5. Additional evidence may be presented only if the Board of Latah County Commissioners remands the decision back to the Zoning Commission, or the Land Use Board of Appeals, or the Board of Latah County Commissioners. The Board of Latah County Commissioners may only remand once. The Board of Latah County Commissioners may remand the decision when the appellant or respondent requests leave to present additional evidence. To remand a decision, the Board of Latah County Commissioners must find, in writing, that the additional evidence is material, relates to the validity of the underlying decision, and there was good reason for failure to present the additional evidence before the original decision making body. The order remanding the matter shall describe the nature of the additional evidence to be presented, and presentation of additional evidence on remand shall be limited to the evidence described in the remand order. The additional evidence shall be presented at a duly-noticed public hearing. An appellant or affected person may seek reconsideration of the resulting decision in accordance with the procedures set forth in this Section 1.02.18.
6. Upon reconsideration, the Board of Latah County Commissioners may affirm, reverse, or modify the underlying decision. The Board of Latah County Commissioners may reverse or modify the underlying decision only if: (1) the Board finds that the substantial rights of the appellant have been prejudiced; and (2) the underlying decision is in violation or excess of constitutional or statutory authority; made upon unlawful procedure; not supported by substantial evidence; or arbitrary, capricious, or an abuse of discretion. The Board of Latah County Commissioners shall not have the authority to waive any requirement of this ordinance or to take any action that is contrary to the specific provisions of this ordinance.
7. Pursuant to Idaho Code § 67-6535, a decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.

1.02.19 MEDIATION

As per Idaho Code Section 67-6510, mediation may be utilized for land use permits. The mediation can occur between an applicant and any other affected person objecting to the application. The Board of Latah County Commissioners, the Latah County Zoning Commission, and the Latah County Planning Department cannot be a party to mediation. The Board of Latah County Commissioners or Zoning Commission is not required to force mediation. Any person can decline mediation, however, the Board of Latah County Commissioners may mandate one session of mediation so long as the Board of Latah County Commissioners pays for that session. The Board of Latah County Commissioners or the Zoning Commission is not required to change a decision based on the results of mediation and is not bound by any agreement reached as a result of the mediation. If the Board of Latah County Commissioners or the Zoning Commission wants

to consider such potential agreements made upon mediation between parties so they can change their decision, they must have a public hearing before making any changes to the application, findings, conditions, or decision. Furthermore, before the Board of Latah County Commissioners or the Zoning Commission can make any changes to findings, conditions or decisions they make, they must still show that the revised application, conditions, findings or decision either meets or does not meet the criteria required to approve or deny an application.

1.02.20 PLANNING DEPARTMENT REVIEW OF BUILDING PERMITS

The Latah County Planning and Building Department, under the authority of the adopted Building Code Ordinance, issues building permits. All building permit applications for new structures or which change the location, shape, size, or use of an existing structure shall be reviewed and approved by the Department prior to issuance of a building permit. Department approval shall be based upon compliance with the provisions of this ordinance.

ARTICLE 2

DEFINITIONS

SECTION 2.01 DEFINITIONS

For the purpose of this Ordinance, certain words and terms used herein are defined as follows:

ACCESSORY BUILDING/ACCESSORY USE- a subordinate building or use, the use of which is incidental to the primary use or principal building on the same parcel

AFFECTED PERSON- one having an interest in real property which may be adversely affected by the issuance or denial of a permit under this ordinance

AGRICULTURE- the art or science of cultivating the ground, including the harvesting of crops, and the rearing and management of livestock

AGRICULTURAL LAND- any property that is located in the Agriculture/Forest or Industrial zoning designations

AGRICULTURAL OR FORESTRY PRACTICES- practices directly linked to the production of crops and the rearing and management of livestock, aquaculture, and bee-keeping, or to the science and art of cultivating, maintaining, and developing forests

AGRICULTURAL OR FOREST SERVICE INDUSTRY- industries that provide services directly linked to agricultural or forestry practices

AGRONOMY- the application of soil and plant sciences to land management and crop production

AIRPORT- one or more landing strips equipped with control tower and hangers or maintenance facilities as well as accommodations for passengers and cargo

ALIQUOT DESCRIPTION/ALIQUOT PARTS - the Public Land Survey System shows that each township/range intersection includes thirty-six one mile squares known as sections; sections can be described in more detail, using quarter sections, quarter-quarter sections, and smaller; aliquot parts are a way to describe legal subdivisions of a section by division into halves or fourths ad infinitum; "Aliquot" means "contained in something else an exact number of times"

AMUSEMENT / THEME PARK- a commercially operated park having various devices for entertainment (such as a roller coaster or water slide) and usually booths for the sale of food and drink

ANIMAL CONTAINMENT- animals kept in a confined space such as a building or area that does not sustain crops, vegetation, forage growth or post-harvest residues in the normal growing season

ANIMAL HUSBANDRY- the branch of agriculture, commercial or non-commercial, concerned with the care, raising or breeding of animals such as fish, bees, poultry, dogs, cattle, hogs, sheep, and horses, subject to Section 3.01.01.2 of this ordinance; for the purposes of this ordinance, dog activities and facilities as listed in Section 3.01.03.4, are not considered animal husbandry

ANIMAL UNIT- a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by one (1), plus the number of young slaughter or feeder cattle less than twelve (12) months of age multiplied by six-tenths (0.6), plus the number of mature dairy cattle multiplied by one and four-tenths (1.4), plus the number of young dairy cattle multiplied by six-tenths (0.6), plus the number of swine weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds, multiplied by four-tenths (0.4), plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (0.1), plus the number of sheep multiplied by one-tenth (0.1), plus the number of horses multiplied by two (2), plus the number of chickens multiplied by one-hundredth (0.01). Animals not listed can be calculated based on their weight interpolated in comparison to the weight of slaughter/feeder cattle.

Animal Unit Equivalentents:

Slaughter/feeder cattle	1.0
Slaughter/feeder cattle less than 12 months	0.6
Dairy cattle – mature	1.4
Dairy cattle – young	0.6
Swine greater than 25 kilograms (55 lbs.)	0.4
Swine weaned less than 25 kilograms	0.1
Sheep	0.1
Horse	2.0
Chickens	0.01

BASE FLOOD- a flood that has a 1% chance of being equaled or exceeded in any given year

BASE FLOOD ELEVATION- the elevation of the crest of the base flood

BASEMENT- that portion of a building which is wholly or partly below grade

BED AND BREAKFAST- a place where people live as their primary residence and operate overnight accommodations for individuals, consisting of no more than four single or double guest rooms

BLOCK- a group of lots or tracts within a subdivision

BOARDED/BOARDING- the act of housing animals or people for remuneration, including rooms for rent

BOUNDARY LINE ADJUSTMENT- the adjustment of a property boundary between two adjacent parcels that typically changes the size or shape of the parcels, subject to Section 8.05 of this ordinance

BUILDING- any structure designed to house people or property, having a roof, but excluding all forms of vehicles, even if immobilized

BUILDING SETBACK- distance that a building must be located away from property lines, structures, public or private road rights-of-way, or the like

CAMPGROUND- as regulated by a conditional use permit under Section 3.01.03.3 of this ordinance, a site with recreational cabins with no kitchens or a site where a limited number of people can pitch a tent, that may or may not have other separate facilities such as showers, bathrooms, or a single kitchen facility; campgrounds are not allowed to have recreational vehicle parking unless the owner receives permission for both a campground and a recreational vehicle park through the conditional use permit process

CATEGORY 19 PROPERTY- property, as defined by the Latah County Assessor's Office, to be roads, ditches, canals, or public rights-of-way; this property is typically tax-exempt

CEMETARY- a place or ground set apart for the burial of the dead; a graveyard; a necropolis

CLUB- a facility that provides services to social, recreational, fraternal, civic or other groups

CHURCH- a building set apart for religious activities

COMMERCIAL- any activity where there is remuneration customarily received, exchanged, or paid for goods, merchandise or services

COMMERCIAL FRUIT AND VEGETABLE GARDENING- cultivation of flowers, vegetables, herbs, or fruit to be sold, typically as a residential accessory use, including summertime fruit stands

COMPREHENSIVE PLAN- the officially adopted Latah County Comprehensive Plan

CONDITIONAL (SPECIAL) USE- a use permitted in one or more zones as defined by this ordinance but which, because of characteristics peculiar to such use, or because of size, technological processes or equipment, or because of the exact location with reference to surroundings, street, and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones

DAIRY- a farm with dairy animals where dairy products are produced, including the place, room, or house where milk is kept, and/or converted into butter or cheese

DAY CARE FACILITY- a facility that provides care for six or more children that are not related by blood or marriage to the persons providing the care, in a place other than the child's or children's own home

DRINKING ESTABLISHMENT- a bar, pub, tavern, night club, or other place that serves alcoholic drinks such as liquor, beer, or wine on the premises

DRIVEWAY- a private road giving access from a public right-of-way to a building on abutting grounds subject to Article 9 of this ordinance

DUPLEX- a house divided into two living units or residences

DWELLING- one residence, a house or manufactured home, in which one family lives, built or installed in accordance with this ordinance and the adopted building code ordinance

DWELLING UNIT- one house or manufactured home

DWELLING UNIT, MULTI-FAMILY- a house, manufactured building, apartment building, duplex, or other similar living unit that contains two or more living units or that serves more than one family

ELIGIBLE PARCEL- an “existing parcel”, as defined in Section 8.01.01 of this ordinance, or a “new parcel” or “lot” created and approved under the current or previous land division process, short plat process or full plat process of Latah County; parcels of land must be “eligible parcels” to be eligible for one residential building permit or commercial building permits, as allowed by their zoning designation; if a residence exists on an eligible parcel, no building permits for additional dwellings can be issued for this parcel except under the provisions of Sections 3.01.02.1, 3.01.02.2, 3.01.03.15 and 4.04 of this ordinance

ENCLOSED ENTERTAINMENT FACILITY- pool halls, bars, ice rinks, adult entertainment facilities, roller rinks, and similar types of operations

ENLARGEMENT / EXPANSION- a change in use such that it is larger, more expansive, or broader in scope or nature from what was originally approved

EXISTING NATURAL MINERAL RESOURCE DEVELOPMENT- any natural mineral resource development that was considered to be in existence as a non-conforming use upon the date of adoption of this ordinance

EXISTING PARCEL- as defined in Section 8.01.01 of this ordinance

EXISTING RESIDENTIAL ACCESSORY STRUCTURE/BUILDING- a building that was legally built prior to the adoption of this ordinance that may be a conforming or a non-conforming use

FAIRGROUNDS- an area where outdoor and indoor fairs, circuses, or exhibitions are held, and all buildings associated with such activities; if approved as part of a Conditional Use Permit, fairgrounds may include indoor or outdoor arenas, exhibit and food booths, stalls and buildings for animals, exhibit buildings, areas for fairs and circuses, park areas, camping and recreational vehicle areas, and outdoor exhibit areas

FEEDLOT- a plot of land where animals are confined to be fattened that exceeds the requirements set forth in Section 3.01.01.2 of this ordinance

FLOOD / FLOODING- a general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; and/or the unusual and rapid accumulation or runoff of surface waters from any source

FLOOD FRINGE- the area on either side of the floodway that is subject to inundation by the base flood but conveys little or no velocity flows

FLOOD INSURANCE RATE MAP/FLOOD HAZARD BOUNDARY MAP- the official map on which the Federal Insurance Administration has delineated both the Areas of Special Flood Hazard and the risk premium zones applicable to the County (located at the Planning Department)

FLOOD INSURANCE STUDY- the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood (located at the Planning Department)

FLOODPLAIN- an area of Special Flood Hazard not including the Floodway (see FLOOD FRINGE)

FLOODWAY- the channel of a river or stream and the over bank areas adjacent to the channel which carries the bulk of the floodwater downstream and is usually the area where water velocities and forces are the greatest and most destructive

FLOODWAY MAP- the official map on which the Federal Insurance Administration and the Federal Emergency Management Agency has delineated floodways for the County (located at the Planning Department)

FORESTRY- the science and art of cultivating, maintaining, and developing forests

FULL TIME EQUIVALENT – 40 hours per week or 2080 hours per year of employment

GUN CLUB- private, commercial or public firing ranges

HIGHWAY- a road owned, operated, or managed by the Idaho Transportation Department

HIGHWAY DISTRICT- the North Latah County Highway District or South Latah Highway District, or the governmental authority having jurisdiction over public roads or streets

HORTICULTURE- the science or art of cultivating fruits, vegetables, flowers, trees, shrubs or ornamental plants

HOTEL- an establishment that provides lodging and sometimes meals or other services for travelers and other paying guests

HYDRODYNAMIC LOADS/HYDRODYNAMIC FORCES- the forces on a structure from current, waves, ice, etc.

HYDROSTATIC LOADS/HYDROSTATIC PRESSURE- the pressure that standing water places on the walls and floor of a structure

LANDING STRIP- a place where aircraft land and take off

LOT- a piece of land having specific boundaries that are described and drawn in its approved platted subdivision or approved mobile home park development, or approved division under Section 8.02 of this ordinance

LOT AREA- the size, in square feet, of a lot

LOWEST FLOOR- the lowest floor of the lowest enclosed area (including basement or crawl space) of a structure

MANUFACTURED HOME PARK/DEVELOPMENT- a development that consists of a high density of manufactured homes with the land being owned, undivided, by a person(s) and with the homes being owned by either the owner of the land or by other individuals as personal property

MANUFACTURING- to make or process a raw material into a finished product, especially with the use of industrial machines

MINI-STORAGE- individual spaces in a building to rent for storing goods

MONUMENT- any permanent marker used for survey purposes as specified in Title 50, Chapter 13, Idaho Code

MOTEL- an establishment that provides lodging for motorists in rooms having direct access to an open parking area

NEW PARCEL- as defined in Section 8.01.01 of this ordinance

NONCONFORMING PARCEL- as defined by Section 4.01.06 of this ordinance

NONCONFORMING USE- a parcel, use, or structure which was legal when commenced or built, but which does not conform to subsequently enacted or amended regulations

OFF-STREET PARKING- parking spaces located on property exclusive of rights-of-way or easements

OFFICE- a place in which business, clerical, medical or professional activities are conducted

PARCEL- a contiguous quantity of land recorded as the property of persons or entities, each of which is named in a single instrument conveying ownership thereof, and which has been separately conveyed from any adjoining quantity of land, whose boundaries are defined in the last recorded instrument of conveyance of such parcel; a parcel of land may or may not be an “eligible parcel”, a “new parcel”, or an “existing parcel” as defined by this ordinance; this definition shall not apply to transfers of property as boundary line adjustments as set forth in Section 8.05 of this ordinance

PERFORMANCE BOND/BOND- a bond issued by an insurance company to guarantee satisfactory completion of a project by a contractor

PERMANENT DWELLING / PERMANENT LIVING QUARTERS- one house or manufactured home built or installed in accordance with this ordinance and the adopted building code ordinance

PERMIT- a license; a permission granted in writing, such as a building permit or a conditional use permit

PLANT NURSERY- a place where plants are grown for sale

PLAT- the drawing, map or plan of an approved subdivision as regulated by Section 8.03 of this ordinance, an approved division of property under Section 8.02 of this ordinance, an approved cemetery, townsite or other tract of land, or a replatting of such, including certifications, description and approvals

PRIMARY RESIDENCE- a place in which a person or family lives for more than 50% of the year

PRIMARY USE- the principal or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory

PROFESSIONAL CLINIC- a facility comprised of one or more professional offices

PROPERTY LINE- the boundary line between two parcels

PUBLIC BUILDING- a building used by the public; a building used for public purposes; a building owned by the public or a public agency

PUBLIC PARK- an area for play, outdoor recreation or other leisure activities or the protection of natural, cultural or historical resources that is operated by a public or quasi-public organization and is dedicated to public use

QUASI-JUDICIAL- a decision or proceeding which entails the application of a general rule or policy to specific individuals, interests, or situations. Typical quasi-judicial proceedings include hearings on applications for permits

REAL PROPERTY-all property not considered to be personal property

RECREATIONAL RESORT- a hotel, motel, or other overnight accommodation that offers recreational activities

RECREATIONAL VEHICLE PARK- a location where there are parking spaces for recreational vehicles where water, a sewage dump station, electricity and other services may be provided

RECREATIONAL VEHICLE STORAGE FACILITY- a place where recreational vehicles are stored, but not lived in

REMNANT PARCEL- the parcel that is remaining after one or more new parcels are created from an eligible parcel via a land division under Section 8.01 of this ordinance

REPAIR SHOP- a building where repairs are made to items typically brought to the building by the public

RESTAURANT- a business establishment where meals or refreshments may be purchased

RETAIL STORE- a store to provide the sale of commodities or goods to consumers

RIGHT-OF-WAY- a right of passage, an easement; the right of one person, of several persons, or of the community at large, to pass over the land of another; any property deemed a category 19 by the Latah County Assessor

RIGHT-OF-WAY, PUBLIC- a legal right for a public agency, an agency providing a public service, or the public at large for passage over another person's ground; the area over which a right-of-way exists for a public road, a public utility, a private utility or similar public facilities or structures

SALVAGE, WRECKING, AND JUNK YARDS – a commercial or private place where waste, discarded or salvaged materials are customarily bought, sold, stored or exchanged and are handled, disassembled, crushed or stored

SCHOOL- a place for learned intercourse and instruction; an institution for learning; an educational establishment; a place for acquiring knowledge and mental or physical training

SERVICE LOT- a place where vehicles or other machinery or equipment are maintained

SERVICE USE- an activity that supports and is integral to permitted or conditionally permitted uses in its zone

SETBACK- the distance a structure must be located away from property lines, structures, public or private road rights-of-way, or the like

SIGN- any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, including but not limited to outdoor advertising displays and billboards

SINGLE FAMILY DWELLING- a house or manufactured home installed in accordance with this ordinance and the adopted building code ordinance, that is for use by one family or that meets the requirements in Idaho Code Section 67-6531

SLAUGHTERHOUSE- a building where animals are killed, butchered and/or otherwise processed

SOLID WASTE DISPOSAL FACILITY- a landfill, transfer station, composting area, recycling center or similar facility, not including personal composting

SPOT ZONE- the zoning of a small land area for a use that differs measurably from the zoned land uses surrounding the area, usually giving privileges not generally extended to properties similarly located in the area and generally is an arbitrary departure from the Comprehensive Plan, the other adjacent zoning, the other adjacent land uses, and the other adjacent eligible parcel sizes; typically, a spot zone is for private gain designed to favor or benefit a particular individual or group and not the welfare of the community as a whole

STRUCTURE- anything which is built or constructed, including, but not limited to, buildings, decks, foundations, towers, poles, gas or liquid storage tanks

SUBDIVISION- as regulated by Section 8.03 of this ordinance, a tract of land divided into 5 or more lots for the purpose of sale or development; this definition shall not include any parcels divided under Section 8.01 or Section 8.02 of this ordinance

SUBSTANTIALLY IMPROVED STRUCTURE- for floodplain purposes (Section 5.01 of this ordinance), this is as defined by the Federal Emergency Management Agency as part of the National Flood Insurance Program.

TEMPORARY LIVING QUARTERS- not having and not requiring permanent attachment to the ground or sewer or water utilities or systems

TOWER- any structure or device designed, constructed and/or erected and used to attach or otherwise affix an antenna(s) that exceeds 20 feet in height from the base of the structure; residential, commercial, agricultural, or utility buildings and utility poles shall not be considered towers; however, "towers" shall include structures or devices erected on or attached to such buildings, poles, or structures which increase the total height by more than 20 feet

UTILITY EASEMENT- an easement provided for utilities and utility structures

UTILITY STRUCTURE- dams, power plants, power sub-stations, storage yards for public roadway maintenance, and similar facilities which provide a service, such as light, power, water, or sewage disposal by a public or private utility or for personal use

VEHICLE- every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including, but not limited to, automobiles, buses, trucks, recreational vehicles, and commercial coaches

VETERINARY CLINIC- a medical facility that determines and treats the diseases of domestic animals, such as horses, sheep, cattle, various pets, etc.

WAREHOUSE- a storehouse for wares or goods

WASTE WATER TREATMENT FACILITY- a facility that collects and treats sewage that is not an underground septic system

WATER TREATMENT FACILITY- a facility that collects, treats, and/or distributes drinking water that is not a private well

WIND POWERED ELECTRICAL GENERATING EQUIPMENT/WINDMILL- a mill operated by the power of the wind, usually by the action of the wind upon oblique vanes or sails which radiate from a horizontal shaft; a generator that extracts usable energy from winds

WIND TURBINE - a device for converting the flow of air into mechanical motion that can be utilized

ARTICLE 3

LAND USE ZONES

SECTION 3.01 AGRICULTURE/FOREST ZONE

The Agriculture/Forest Zone is shown on the "Official Zoning Map of Latah County". This zone is established to achieve the purposes of this ordinance and the goals and policies of the Latah County Comprehensive Plan by accommodating, providing opportunities for, and the continuation of agricultural and forest land uses. Uses allowed in this zone include those that are integral to agriculture and forestry, uses which will not conflict with accepted farm and forest practices, and uses which will not result in the excessive conversion of productive farm and forest land to uses which can be more appropriately located in other zoning designations, and which are consistent with Idaho's Agricultural Protection Act.

3.01.01 PERMITTED USES

The following uses are permitted in this zone as a right of property ownership:

1. Agronomy and all uses normally associated with raising, harvesting, and selling of crops, including trees and other plants.
2. Animal husbandry and all of the uses normally associated with raising, feeding, and selling of livestock. Feedlots, dairies, continuous confined animal management operations, or other types of similar facilities that operate for 6 or more months out of any 12 month period, with fewer than 250 animal units.
3. Forestry and all uses normally associated with raising, harvesting, and selling of timber and other forest products.
4. Accessory buildings and uses required to conduct, and normally associated with, the uses permitted in this zone (but not including commercial or industrial uses such as commercial storage, processing facilities, dairies, feedlots, production facilities, slaughterhouses, or agricultural or forestry service industries with more than five full-time equivalent employees).
5. One single family dwelling for each eligible parcel. Approved single family dwellings shall have no more than two rooms for rent or remuneration and these rooms shall not exceed an average occupancy of two persons per room.
6. Home occupations as provided by Section 4.02.
7. Veterinary Clinics

3.01.02 PERMITTED USES REQUIRING AN ADMINISTRATIVE ZONING PERMIT

The following uses require an “Administrative Zoning Permit” prior to being allowed. All such uses shall conform to the conditions set by this code and set in the permit. The application must be approved and inspection(s) shall be conducted to ensure any use listed conforms to the conditions of the permit prior to the use being enacted.

1. Additional single family dwelling units for parcels that have existing residences. The additional dwelling units may be located on any site within the parcel, but shall not exceed a total density of one unit per 40 acres (i.e. a parcel must have 80 acres to be eligible for a second dwelling or 120 acres for a third dwelling, etc.). All second dwelling units are subject to the following conditions:
 - A. Each second dwelling shall be located outside of a designated flood hazard area unless there is no other place on the parcel that will accommodate this or unless there is a need for the second dwelling to be located close to the home site and all available areas that are close to the primary residence are in the flood hazard area.
 - B. The applicant must obtain approval for a septic system.
 - C. The applicant must submit plans for a water system or a statement that individual wells will be used.
 - D. A shared driveway and access point is required unless the new residence is far from the primary dwelling and is near a different road where access approval is obtained. No new access points will be made onto state highways. A driveway map must be submitted to the Planning Department.
 - E. In addition to meeting the requirements of Section 9.01.02.4, all shared private driveways shall have a graveled or paved surface of at least 20 feet wide.
 - F. Access approval is required from the appropriate agency overseeing the roadway.
 - G. The applicant shall provide to the Planning Department a site. The site plan shall include the location of the building site, the potential or actual location and plans for the wells or water system, septic systems, other structures, easements, driveways and regulatory setbacks.
 - H. All new dwellings shall meet setback requirements.

If the second dwelling is more than 100 feet from the primary residence, in addition to the above, it and all accessory structures related to the residential use shall be required to be placed in a manner to preserve productive farm land, commercial timber stands, streams, riparian areas, and other unique natural features to ensure the rural nature of Latah County is preserved, that agriculture and forest industries are protected from residential growth, and to ensure that natural resources are protected.

2. Accessory Cottage Housing

The intent of this Section of the ordinance is to enable the placement of one accessory housing unit, either attached or separate from an existing principal dwelling, on parcels that are not eligible for additional building permits. The accessory cottage house shall meet all of the following requirements:

- A. Any new structure must meet all other zoning requirements, the owner of such property must obtain a valid building permit prior to any construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- B. Any existing structure must be brought into compliance with all current zoning requirements, building codes, and occupancy ratings for a residence, the owner of such property must obtain a valid building permit prior to making any changes or commencing construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- C. Accessory cottage housing roofs shall comply with snowload requirements in the area in which they are constructed.
- D. Minimum constructed roof pitch shall be of a 3:12 rise to run ratio. Constructed roof pitch in excess of rise to run ratio of 5:12 shall be credited for snowload construction requirements. The attached roof shall meet the Latah County snowload requirements (as set forth in the Latah County Building Code Ordinance) for the area in which they are constructed or placed. In the event there is a conflict with any other adopted codes, such as the Building Code, the more restrictive shall apply.
- E. Accessory cottage housing shall be installed as real property with a permanent foundation.
- F. Septic system for accessory cottage housing shall be inspected and approved by the North Central District Health Department.
- G. A plan for a water supply system or a statement that individual wells will be used shall be submitted to the Planning Department. If individual wells are used, their location shall be shown on a map submitted to the Planning Department.
- H. The square footage for accessory cottage housing shall be the minimum allowed by the building code and a maximum of 900 square feet, and the square footage of the accessory cottage housing unit shall not exceed fifty (50) percent of the total square footage of the principal dwelling.
- I. The maximum separation between the principal dwelling and the accessory cottage housing shall be 100 feet unless it is physically impractical to do so, in

which case it must be located as close as is physically practical to the principal dwelling.

- J. A deed restriction shall be recorded prior to issuance of a building permit indicating that the accessory cottage housing unit shall forevermore be tied to the principal building and shall not be separated or put on its own parcel for sale or any other purpose. If the parcel becomes eligible for a land division as per Section 8.01 of this ordinance, so long as the accessory dwelling and the primary residence can meet the setback requirements, the owner of the property may apply for a land division and, as part of the approval, can create a parcel that includes the accessory dwelling. Once the land division has been approved, the Planning Department shall record a document that indicates that the division of the accessory cottage house is allowed by the regulation and approved by the Department.
 - K. Unless impossible, accessory cottage housing shall use the same driveway as the primary residence. In addition to meeting the requirements of Section 9.01.02.4, the shared private driveway shall have a graveled or paved surface of at least 20 feet wide. A driveway map must be submitted to the Planning Department.
3. Public parks subject to the following requirements:
- A. Daytime hours of operation only 5 AM to 10 PM.
 - B. The applicant must submit a site plan showing locations of playgrounds, bathrooms, paths, parking, campground areas, picnic shelters, events areas.
 - C. The applicant must submit a playground safety plan if a playground is proposed.
 - D. If any of the following are proposed, the applicant must submit a facilities plan that includes bathrooms (or porta-potties), sewage system location and approval, and the well site and water distribution system (including fountains).
 - E. The applicant must submit a parking plan that shows adequate off street parking.
 - F. The applicant must submit a plan for lighting. Lighting must not interfere with neighboring properties, must be full cut off fixtures, and, when feasible, be shut off at night.
 - G. All structures, including signs and fences, are subject to building permit requirements.
 - H. Structures, parking, and other features of the park may be subject to the Accessibility requirements of the building code.

- I. Any public parks that have overnight accommodations, want to operate outside of the prescribed hours of operation, that rent space for events, or that charge for admissions require a conditional use permit.
4. Water treatment facilities subject to the following requirements:
 - A. Submittal of approval from the agency in charge of approval of the facility.
 - B. Submittal of a plan for chemical storage and handling.
 - C. If in a designated flood hazard area, the facility must meet all of the requirements of Section 5.01 that are applicable, including Section 5.01.04.8.
 - D. Submittal of a map of power, gas and other utility plans for the facility.
 - E. Building permits for all structures as prescribed by code.
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - H. Submittal of plan for fencing and buffering. Fencing may be required to ensure that the public's safety is not compromised.
 - I. Submittal of a plan for parking.
 5. Bed and Breakfasts with no more than four single or double guest rooms that will be conducted outside of the primary residence and/or that will be beyond the scope of the home occupation provisions as provided in Section 4.02 of this ordinance or the provisions set forth in Section 3.01.01.5 of this ordinance. Guest rooms outside of the primary residence shall only have a bed (beds) and/or a bathroom, and shall not have a kitchen. Guest rooms outside of the primary residence must be within 100 feet of the primary residence or a conditional use permit will be required. One common hall/room may be used for entry/exit into the guest rooms but such common hall/room shall not have any kitchen facilities.
 6. Public buildings subject to the following requirements:
 - A. Hours of operation anywhere between the hours of 7 AM to 10 PM.
 - B. No outdoor events or activities.

- C. Submittal of a plan for parking. Parking plan must include enough parking spots to accommodate an event that is of a maximum number; parking plan must include a landscape buffer; parking areas must be built prior to occupancy of the structure.
 - D. Submittal of a plan for lighting; lighting must be directed away from nearby residences and must be of a full cut off fixture.
 - E. Submittal of a plan for noise; plan must include information that shows that no event will be a nuisance to neighboring residential properties.
7. Utility structures and uses, not including dams, power plants, or very similar structures
- A. Submittal of approval from the agency in charge of approval of the facility.
 - B. Submittal of a plan for chemical storage and handling.
 - C. If in a flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8.
 - D. Submittal of a map of power, gas and other utility plans for the facility.
 - E. Building permits must be obtained for any structures as prescribed by code.
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. When applicable, the facility must have an odor control plan.
 - H. Landscape buffers shall be provided for utility structures that are a visual nuisance. Fencing shall be provided for utility structures that are a hazard to public health. A plan shall be submitted, and once approved, the landscaping and fencing shall be installed prior to occupancy.
 - I. Submittal of a stormwater drainage plan.
 - J. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - K. Submittal of a plan for parking.
8. Unlit communication towers and transmission facilities lower than 50' high subject to the following requirements:
- A. Towers are subject to Section 4.05, changing "Conditional Use Permit" to "Administrative Zoning Permit" and changing "Zoning Commission" to "Planning Department".

- B. Towers shall not be lit.
- C. Towers shall not be higher than 50 feet high.

3.01.03 CONDITIONAL USES

The following uses may be permitted by the Zoning Commission upon the issuance of a Conditional Use Permit as provided by Section 7.01:

1. Agricultural or forestry related commercial or industrial business or service uses with more than five full-time equivalent employees. Regardless of number of employees, all natural mineral resource developments that are related to or used for agriculture or forestry uses shall be subject to Section 3.01.03.8 of this ordinance.
2. Feedlots, dairies, continuous confined animal management operations, or other types of similar facilities that operate for 6 or more months out of any 12 month period, with more than 250 animal units.
 - A. Any containment of animals must be situated at least 35 feet from any perennial stream shown on a USGS 7.5 minute map.
 - B. At the time of application, the applicant shall show proof that plans and permits for water, nutrient management, and odor management will be approved by the relevant regulatory agency such as the Idaho Department of Water Resources, the Idaho Department of Agriculture, and/or the Idaho Department of Environmental Quality, and shall name the agency and contact person, or the applicant shall show proof that no such permit is required. Copies of these permit approvals must be provided to the Planning Department prior to any commencement of activities on the permitted property. The Board of Latah County Commissioners may request a review as per Idaho Code Section 67-6529E, the results of which shall be in the possession of the County prior to the public hearing being held.
 - C. Anyone, regardless of their property's distance from the site of the permit or regardless of whether they own property, may testify at the required public hearings.
3. Campgrounds and recreational vehicle parks (subject, at a minimum, to the requirements set forth in Section 3.04.02-introductory paragraph and Section 3.04.02.11), golf courses, recreational fields, gun clubs, meeting halls, concert and event venues, outdoor sports training centers, and fairgrounds (subject, at a minimum, to the introductory paragraph requirements set forth in Section 3.04.02).
4. Dog boarding operations with 4 or more dogs.
5. Public buildings that operate outside of the provisions of Section 3.01.02.6.

6. Dams and Power Plants, and other very similar utility structures.
7. Communication towers and transmission facilities that are lit and/or that are over 50 feet high, subject to Section 4.05.
8. Mineral resource developments subject to Section 4.03.
9. Landing strips, heliports, and airports.
10. Solid waste disposal facilities.
11. Cemeteries, mortuaries, crematoriums, churches, museums, child day care facilities and schools.
12. Single Residential Wind Turbine.
 - A. The applicant shall place the wind turbine in a location that will have the least negative effect upon neighboring properties.
 - B. A maximum of one per each residence. Each wind turbine and any repairs require a building permit.
 - C. The proposed wind turbine shall be set back a minimum of 150% the height of the wind turbine from any public road, public right-of-way, or property line. The proposed wind turbine shall be setback a minimum of 300% the height of the wind turbine from any residential public or commercial structure. The Zoning Commission may waive such setbacks if it deems such to be appropriate and if the following criteria are met:
 1. The applicant must file with the Planning Department a signed notarized form, approved by the Planning Department, from all owners of record of all such property and structures consenting to the location of the wind turbine;
 2. Each form shall be recorded in the Latah County Recorder's Office prior to submission to the Planning Department; and
 3. For property line waivers, the form(s) shall be accompanied by a current legal survey of the property line(s) relevant to the setback.

Setbacks from any public road or public right-of-way shall not be waived.
 - D. Residential wind turbines shall not be lit.
 - E. Wind turbines shall not be operated from 5:30 PM to 10PM Monday through Fridays. Wind turbines shall not be operated from 7 AM to 10 PM on Saturday and Sunday.

- F. Wind turbines shall be no higher than 50 feet high unless otherwise authorized by the Zoning Commission.
 - G. Wind turbines shall have a blade size no larger than 4 feet.
 - H. Wind turbines shall be designed and installed to have an automatic and a manually powered shut off that is available at ground level in the event the wind turbine becomes defective or there is a high wind event.
 - I. Defective or Abandoned Wind Turbine: Any wind turbine found by the building official to be unsafe, abandoned, or defective shall be repaired by the landowner to meet federal, state and local safety standards and the Latah County Building Code. Such wind turbine shall be shut off immediately upon notification of the building official to the owner of the property and shall remain off until the building official has verified the structure has been repaired and is no longer unsafe or defective. The County shall have the authority to pursue legal action if necessary.
13. Commercial, Multiple Residential, or Other Wind Turbine.
- A. The following documents must be attached and submitted along with the application:
 1. A survey of the parcel of land on which the proposed wind turbine(s) is to be located. This survey shall include all real property described on the deed of conveyance most recently recorded for that parcel that complies with this ordinance.
 2. A detailed drawing of each wind turbine with the height and location specified.
 3. If monopole towers are to be used, information on noise reduction methods that will be used to reduce the noise.
 4. The amount of energy to be produced by each wind turbine.
 5. Documents demonstrating to the satisfaction of the Zoning Commission that the necessary easements have been obtained, as well as plans showing how vehicle access will be provided.
 6. If any proposed wind turbine is less than 2,000 feet from any residence or commercial or public building, and/or less than 300% the height of the wind turbine to any property line, the applicant shall submit a signed notarized form, approved by the Planning Department, from all owners of record of such residential, commercial, or public structures and all owners of record of such property consenting to the location of the wind turbine. Each form

shall be recorded in the Latah County Recorder's Office prior to submission to the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.

7. All property owners of record located within 2,000 feet of any proposed wind turbine, as well as all adjacent property owners, shall be notified by regular mail at the last address listed in the Latah County Assessor's Office records by the Planning Department 15 days prior to the hearing.
- B. Each wind turbine and any repairs require a building permit.
- C. The following are required conditions for any wind turbine and for the approval of the construction of such and shall appear in any CUP approved for such use. These in no way limit the Zoning Commission from setting additional conditions to ensure that the wind turbine(s) is (are) in compliance with the criteria.
1. Any proposed wind turbine shall be set back a minimum of 300% the height of the wind turbine from any public road, public right-of-way, property line, residential, public, or commercial structure. At a minimum, the wind turbine shall be at least 1000 feet away from any residential, public, or commercial structures. The Zoning Commission may waive such setbacks if it deems such to be appropriate. To request to waive such setbacks, the applicant must file with the Planning Department a signed notarized form, approved by the Planning Department, from all owners of record of all such property or structures consenting to the location of the wind turbine. For property line waivers, this form shall be accompanied by a current survey approved by the Latah County Surveyor of the property line relevant to the setback. This form shall be recorded in the Latah County Recorder's Office by the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.
 2. Vibrations shall not be produced that will be humanly perceptible beyond the property boundary.
 3. If equipment enclosures will be located on the ground, a six to seven foot high fence of wood, masonry or privacy slats completely surrounding the equipment enclosure is required to secure and screen the equipment and structure.
 4. A warning sign no larger than three square feet and no smaller than two square feet must be placed on the fencing access/gate. It must contain the name of the owner and operator of the facility, and a phone number for cases of emergency as well as any other information required by law.
 5. Any wind turbine/structure shall be finished in a non-reflective neutral color or as otherwise specified by the Zoning Commission.

6. No ladder rungs or climbing pegs on any wind turbine shall be allowed within 20 feet of the ground.
 7. The maximum wind turbine lighting is a low intensity red light as defined by the Federal Aviation Administration. No wind turbine shall be higher than can accommodate a low intensity red light.
 8. Wind turbines and all accompanying equipment enclosures or ancillary facilities shall be camouflaged to fit into their immediate surroundings at the discretion of the Zoning Commission.
 9. Compliance at all times with any applicable laws or regulations including the Latah County Land Use Ordinance and the Latah County Building Code Ordinance.
 10. All wind turbines must have an approval by the Idaho Department of Fish and Game (IDFG), based on a determination of the impact the proposed wind turbine will have on local and migratory birds. If the IDFG does not provide a written response to the Planning Department within 45 days of the IDFG receipt of the request for review, then IDFG approval of the site will be assumed by the Planning Department.
 11. Wind turbines shall be designed and installed to have an automatic and a manually powered shut off that is available at ground level in the event the wind turbine becomes defective, makes noise, or there is a high wind event.
 12. Each wind turbine and associated structure and any replacements or repairs are required to get building permits.
- D. In addition to the conditional use permit criteria set out in Section 7.01, the Zoning Commission shall take the following considerations into account when deciding whether to grant a conditional use permit for wind turbine :
1. Whether the height, design, and any proposed future modification of the wind turbine , will reduce or eliminate visual obtrusiveness to the greatest extent feasible and practical;
 2. Whether it has been demonstrated the wind turbine will have a negative impact on nearby property;
 3. Whether the existing land use of the proposed site is unique to that land; and
 4. Whether any aspect of the wind energy operation may pose an unreasonable nuisance at the proposed site, including but not limited to lighting and noise.

E. Removal or Repair of Defective Wind Turbine

Any wind turbine found by the building official to be unsafe, abandoned, defective or causing an undue amount of noise heard on any nearby property shall be repaired by the landowner to meet federal, state and local safety standards, the Latah County Building Code, and to not create nuisance noise. Such wind turbine shall be shut off immediately upon notification of the building official to the owner of the property and shall remain off until the building official has verified the structure has been repaired and is no longer unsafe, defective, or a nuisance. If the wind turbine is not legally repaired within 120 days, it will be considered to be abandoned. At the end of the 120 days, the owner shall immediately take down the wind turbine. If the owner does not immediately take down the wind turbine, legal proceedings as set forth in Section 3.01.03.13.F. shall commence to ensure the wind turbine is taken down.

F. Abandoned Wind Turbine

1. In addition to the provisions set forth in Section 3.01.03.13.E, any wind turbine that has been turned off or not working for a period of 120 days shall be considered abandoned. The wind turbine owner or landowner thereof shall take down any such wind turbine(s) and any accompanying equipment enclosure within 60 days.
2. The Planning Department, upon determining that wind turbine has been abandoned, shall serve notice by certified mail of its determination of abandonment upon the owner of the system and to the land owner, to the address on file with the Latah County Assessor's Office. The notice shall contain the reasons why the wind turbine has been deemed abandoned, the owner's obligation to remove the wind turbine pursuant to this Section, and the owner's right to appeal the determination of abandonment.
3. The wind turbine owner or landowner may, during the 60 days, apply, and for good cause shown, have granted, an extension of time on such terms as the Planning Department shall determine.
4. If such structure and equipment enclosure are not so removed within said 60 days or any extension thereof, then the County has the right without further notice to enter upon the land and remove and abate such structures at the expense of the wind turbine owner or landowner by any remedy available at law or in equity. In the event Latah County exercises its right hereunder, any and all salvage rights shall inure to, and become property of Latah County at the County's sole option.
5. The Planning Department's determination of abandonment may be appealed pursuant to Section 1.02.17.

14. Accessory Cottage Housing

The intent of this Section of the ordinance is to enable the placement of one accessory housing unit, either attached or separate from an existing principal dwelling, on parcels that are not eligible for additional building permits that exceeds the size allowed in Section 3.01.02. The Zoning Commission shall, as a minimum, place the following requirements upon any accessory cottage housing conditional use permit.

- A. Any new structure must meet all other zoning requirements, the owner of such property must obtain a valid building permit prior to any construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- B. Any existing structure must be brought into compliance with all current zoning requirements, building codes, and occupancy ratings for a residence, the owner of such property must obtain a valid building permit prior to making any changes or commencing construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- C. Accessory cottage housing roofs shall comply with snowload requirements in the area in which they are constructed.
- D. Minimum constructed roof pitch shall be of a 3:12 rise to run ratio. Constructed roof pitch in excess of rise to run ratio of 5:12 shall be credited for snowload construction requirements. The attached roof shall meet the Latah County snowload requirements (as set forth in the Latah County Building Code Ordinance) for the area in which they are constructed or placed. In the event there is a conflict with any other adopted codes, such as the Building Code, the more restrictive shall apply.
- E. Accessory cottage housing shall be installed as real property with a permanent foundation.
- F. Septic system for accessory cottage housing shall be inspected and approved by the North Central District Health Department.
- G. A plan for a water supply system or a statement that individual wells will be used shall be submitted to the Planning Department. If individual wells are used, their location shall be shown on a map submitted to the Planning Department.
- H. The square footage for accessory cottage housing shall be a maximum of 1500 square feet, and the square footage of the accessory cottage housing unit shall not exceed fifty (50) percent of the total square footage of the principal dwelling.

- I. The maximum separation between the principal dwelling and the accessory cottage housing shall be 100 feet unless it is physically impractical to do so, in which case it must be located as close as is physically practical to the principal dwelling.
 - J. A deed restriction shall be recorded prior to issuance of a building permit indicating that the accessory cottage housing shall forevermore be tied to the principal building and shall not be separated or put on its own parcel for sale or any other purpose. If the parcel becomes eligible for a land division as per Section 8.01 of this ordinance, so long as the accessory dwelling and the primary residence can meet the setback requirements, the owner of the property may apply for a land division and, as part of the approval, can create a parcel that includes the accessory dwelling. Once the land division has been approved, the Planning Department shall record a document that indicates that the division of the accessory cottage house is allowed by the regulation and approved by the Department.
 - K. The applicant shall work with the Planning Department to ensure the best placement of the accessory cottage housing. The applicant shall try to minimize the impacts the accessory cottage house has on any nearby residences.
 - L. The accessory cottage housing shall be of a similar character of the primary residence or of a typical accessory structure seen in this zoning designation. Preliminary plans for the structure shall be submitted prior to the public hearing. The Planning Department shall review these plans and make recommendations, if necessary, to the Zoning Commission regarding changes that would need to be made to the residence to meet this requirement.
 - M. Unless impossible, the accessory cottage housing shall use the same driveway as the primary dwelling. In addition to meeting the requirements of Section 9.01.02.4, the shared private driveway shall have a graveled or paved surface of at least 20 feet wide. A driveway map must be submitted to the Planning Department.
- 15. Salvage, wrecking, and junk yards occurring outside of a fully enclosed building.
 - 16. Mini-storage units, recreational vehicle storage facilities, and boat storage facilities. One (one) recreational vehicle storage location, in conjunction with and on the same parcel as a single family residence, for use by the occupants of the residence in accordance with Section 4.06 of this ordinance, does not require a Conditional Use Permit.
 - 17. Public parks that have overnight accommodations, that have hours of operation outside of the prescribed hours of operation, that rent space for events, or that charge for admissions. Subject to Section 3.01.02.3.B through 3.01.02.3.I of this code as well as any other conditions as set in an approved conditional use permit.

18. Commercial kitchens no larger than 3000 square feet in size not related to agriculture or forestry as set forth in Section 3.01.03.1.
19. Food processing operations, regardless of number of employees, operating outside of the provisions for home occupations, that retail on-site.
20. Small scale retail sales and rental shops, no larger than 600 square feet in size, directly related to recreation in Latah County that are in proximity to recreational sites.
21. Waste water treatment facility subject to the following minimum conditions:
 - A. Submittal of approval from the state agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits must be obtained for any structures as prescribed by code
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. Must submit an odor control plan;
 - H. Must submit plans for a landscape buffer around the facility and after approval, install the landscaping. The buffer should adequately shield any nearby uses that involve people from the facility;
 - I. Must submit a stormwater drainage plan for the waste water treatment facilities;
 - J. Must submit a plan for any locations for any composting areas. Composting areas shall have a landscape buffer that shall meet the requirements of item H.
 - K. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - L. Submittal of plan for fencing. All wastewater treatment plants that have open sewage pits shall have a protective fence ensuring the safety of the public.
 - M. Submittal of a plan for parking. All parking lots must be constructed prior to occupancy.

3.01.04 SIZE AND SETBACK REQUIREMENTS

Minimum eligible parcel size is one acre. All accessory structures shall be a minimum of 10 feet from any property line. All other structures shall be a minimum of 35 feet from any property line not abutting a public right-of-way. All structures shall be a minimum of 20 feet from the boundaries of any public right-of-way or 60 feet from the center line of any road placed within the boundaries of a public right-of-way, whichever is greater. When the setback distance is disputed, the Planning Department may require the property owner to have the property line established by a professional surveyor licensed in the State of Idaho. A detached accessory building can be built to the side or rear lot lines provided a written mutual agreement of the abutting property owners on the property lines affected be recorded in the Latah County Recorder's Office. Fences, bridges, retaining walls, roads, driveways, in ground scales, poles, signs, access ramps, and mailboxes (respecting rights of way and easements) are exempt from setback requirements.

3.01.05 SIGN RESTRICTIONS

No sign shall exceed 64 square feet in display area and no sign for advertising or commercial purposes shall be allowed unless it pertains only to a permitted use engaged on the property. Directional signs that indicate the location of a business, residence, public structure or park, or similar location, shall not be larger than 6 inches by 24 inches, shall be made of a hard material, cannot bear a legend giving a command such as "stop, stop ahead, turn, caution" etc., or any legend that in any way imitates a standard or commonly used traffic signal device or sign, or displays telephone numbers or commercial advertising, and can only be posted at each corner of road intersections where the direction of travel to the intended location changes. There cannot be more than one 4x4 pressure treated post used for all directional signs located at each corner of road intersections and the height of any directional sign cannot exceed 10 feet above the road surface. To place any item or sign in the public right of way approval must be gained from the appropriate highway agency, and any sign located in the public right of way must be far enough out of the roadway to allow for plowing, ditching and all other road maintenance. Directional signs are required to be removed if the item they are describing no longer is at the location as directed by the signs. No sign or item used to post a sign may impair the sight of drivers traveling on public roads. No sign greater than two square feet shall be lighted and such lighting shall be directed onto the sign, shall be of a full-cut off fixture, and shall not impair the sight of drivers. Signs installed by the Idaho Transportation Department, local highway district, or other governmental agency for purposes of traffic safety or road information, are exempt from these restrictions.

SECTION 3.02 RURAL RESIDENTIAL ZONE

The Rural Residential Zone is shown on the "Official Zoning Map of Latah County". This zone is established to achieve the purposes of this ordinance and the goals and policies of the Latah County Comprehensive Plan by providing opportunities for residential development in areas appropriate for limited low density housing. Uses allowed in this zone include low density residential, limited horticultural and animal husbandry, and uses which will not conflict with a rural residential neighborhood.

3.02.01 PERMITTED USES

The following uses are permitted in this zone as a right of property ownership:

1. One single family dwelling for each eligible parcel. Approved single family dwellings shall have no more than two rooms for rent or remuneration and these rooms shall not exceed an occupancy of two persons per room.
2. Agronomy, orchards, commercial fruit and vegetable gardening, plant nurseries and related horticultural operations, not including any processing or year round sales facilities related to the primary use of the property.
3. Animal husbandry not to exceed 10 animal units, not including the uses permitted under Section 3.02.03.2 of this ordinance.
4. Accessory buildings and uses required to conduct, and normally associated with, the uses permitted in this zone.
5. Home occupations, as provided by Section 4.02.

3.02.02 PERMITTED USES REQUIRING AN ADMINISTRATIVE ZONING PERMIT

The following uses require an “Administrative Zoning Permit” prior to being allowed. All such uses shall conform to the conditions set by this code and set in the permit. The application must be approved and inspection(s) shall be conducted to ensure any use listed conforms to the conditions of the permit prior to the use being enacted.

1. One duplex or single family home converted into no more than two separate dwelling units subject to the following conditions:
 - A. The two residences shall utilize a shared driveway and access point off the roadway. In addition to meeting the requirements of Section 9.01.02.4, the private driveway shall have a graveled or paved surface of at least 20 feet wide. A driveway map must be submitted to the Planning Department.
 - B. All units shall use a single approved access point onto the roadway
2. Public parks subject to the following requirements:
 - A. Daytime hours of operation only 5 AM to 10 PM
 - B. The applicant must submit a site plan showing locations of playgrounds, bathrooms, paths, parking, campground areas, picnic shelters, events areas;
 - C. The applicant must submit a playground safety plan if a playground is proposed;

- D. If any of the following are proposed, the applicant must submit a facilities plan that includes bathrooms (or porta-potties), sewage system location and approval, and the well site and water distribution system (including fountains);
 - E. The applicant must submit a parking plan that shows adequate off street parking.
 - F. The applicant must submit a plan for lighting. Lighting must not interfere with neighboring properties, must be full cut off fixtures, and, when feasible, be shut off at night.
 - G. All structures, including signs and fences, are subject to building permit requirements
 - H. Structures, parking, and other features of the park may be subject to the Accessibility requirements of the building code.
 - I. Any public parks that have overnight accommodations, want to operate outside of the prescribed hours of operation, that rent space for events, or that charge for admissions require a conditional use permit.
3. Water treatment facilities subject to the following requirements:
- A. Submittal of approval from the agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a designated flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits for all structures as prescribed by code
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - H. Submittal of plan for fencing and buffering. Fencing may be required to ensure that the public's safety is not compromised.
 - I. Submittal of a plan for parking.

3.02.03 CONDITIONAL USES

The following uses may be permitted by the Zoning Commission upon the issuance of a Conditional Use Permit as provided by Section 7.01:

1. Mini-storage or recreational vehicle storage facilities. A recreational vehicle storage location, in conjunction with and on the same parcel as a single family residence, for use by the occupants of the residence, does not require a Conditional Use Permit.
2. Animal husbandry, dairies and feedlots with more than 10 animal units subject to the following:
 - A. Any containment of animals must be situated at least 35 feet from any perennial stream shown on a USGS 7.5 minute map;
 - B. At a minimum, the Zoning Commission shall consider the effects of lighting, noise, aesthetics, water, nutrient management, and odor management; and
 - C. Anyone, regardless of their property's distance from the site of the permit or regardless of whether they own property, may testify at the required public hearings.
3. Dog boarding operations with 4 or more dogs.
4. Golf courses, recreational fields, meeting halls, and public parks that have overnight accommodations, that have hours of operation outside of the prescribed hours of operation, that rent space for events, or that charge for admissions. Public parks are subject to Section 3.02.02.2.B through 3.02.02.2.I of this code as well as any other conditions as set in an approved conditional use permit.
5. Public buildings and utility structures and uses.
6. Child day care facilities.
7. Full plats subject to Section 8.03 of this ordinance.
8. Veterinary clinics with associated boarding facilities.
9. Solid waste disposal facilities and waste water treatment facilities.
10. Cemeteries, mortuaries, crematoriums, churches, museums, and schools.
11. A single building office or professional clinic with less than 2,000 square feet.
12. Bed and Breakfasts with no more than four single or double guest rooms that will be conducted outside of the primary residence and/or that will be beyond the scope of the

home occupation provisions as provided in Section 4.02 of this ordinance or the provisions set forth in Section 3.02.01.1 of this ordinance.

13. Processing and year round sales facilities for agronomy and horticulture not to exceed 3500 square feet in size.
14. Accessory Cottage Housing

The intent of this Section of the ordinance is to enable the placement of one accessory housing unit, either attached or separate from an existing principal dwelling, on parcels that are not eligible for additional building permits. The Zoning Commission shall, as a minimum, place the following requirements upon any accessory cottage housing conditional use permit.

- A. Any new structure must meet all other zoning requirements, the owner of such property must obtain a valid building permit prior to any construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- B. Any existing structure must be brought into compliance with all current zoning requirements, building codes, and occupancy ratings for a residence, the owner of such property must obtain a valid building permit prior to making any changes or commencing construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- C. Accessory cottage housing roofs shall comply with snowload requirements in the area in which they are constructed.
- D. Minimum constructed roof pitch shall be of a 3:12 rise to run ratio. Constructed roof pitch in excess of rise to run ratio of 5:12 shall be credited for snowload construction requirements. The attached roof shall meet the Latah County snowload requirements (as set forth in the Latah County Building Code Ordinance) for the area in which they are constructed or placed. In the event there is a conflict with any other adopted codes, such as the Building Code, the more restrictive shall apply.
- E. Accessory cottage housing shall be installed as real property with a permanent foundation.
- F. Septic system and domestic water supply for accessory cottage housing shall be inspected and approved by the North Central District Health Department.
- G. The square footage for accessory cottage housing shall be the minimum allowed by the building code and a maximum of 900 square feet, and the square footage of the accessory cottage housing unit shall not exceed fifty (50) percent of the total square footage of the principal dwelling.

- H. The maximum separation between the principal dwelling and the accessory cottage housing shall be 100 feet unless it is physically impractical to do so, in which case it must be located as close as is physically practical to the principal dwelling. All accessory cottage housing in this zoning designation shall be at least 200 feet away from any existing residence on any neighboring property, unless attached by a wall to the primary dwelling (duplex) or unless the neighboring residence is owned by the same person as the location of the request.
 - I. A deed restriction shall be recorded prior to issuance of a building permit indicating that the accessory cottage housing shall forevermore be tied to the principal building and shall not be separated or put on its own parcel for sale or any other purpose. If the parcel becomes eligible for a land division as per Section 8.01 of this ordinance, so long as the accessory dwelling and the primary residence can meet the setback requirements, the owner of the property may apply for a land division and, as part of the approval, can create a parcel that includes the accessory dwelling. Once the land division has been approved, the Planning Department shall record a document that indicates that the division of the accessory cottage house is allowed by the regulation and approved by the Department.
 - J. The applicant shall work with the Planning Department to ensure the best placement of the accessory cottage housing. The applicant shall try to minimize the impacts the accessory cottage house has on any nearby residences.
 - K. The accessory cottage housing shall be of a similar character of the primary residence or of a typical accessory structure seen in this zoning designation. Preliminary plans for the structure shall be submitted prior to the public hearing. The Planning Department shall review these plans and make recommendations, if necessary, to the Zoning Commission regarding changes that would need to be made to the residence to meet this requirement.
 - L. Unless impossible, the accessory cottage housing shall use the same driveway as the primary dwelling. In addition to meeting the requirements of Section 9.01.02.4, the shared private driveway shall have a graveled or paved surface of at least 20 feet wide. A driveway map must be submitted to the Planning Department.
15. Single Residential Wind Turbine.
- A. The applicant shall place the wind turbine in a location that will have the least negative effect upon neighboring properties.
 - B. A maximum of one per each residence. Each wind turbine and any repairs require a building permit.

- C. The proposed wind turbine shall be set back a minimum of 150% the height of the wind turbine from any public road, public right-of-way, or property line. The proposed wind turbine shall be setback a minimum of 300% the height of the wind turbine from any residential public or commercial structure. The Zoning Commission may waive such setbacks if it deems such to be appropriate and if the following criteria are met:
1. The applicant must file with the Planning Department a signed notarized form, approved by the Planning Department, from all owners of record of all such property and structures consenting to the location of the wind turbine;
 2. Each form shall be recorded in the Latah County Recorder's Office prior to submission to the Planning Department; and
 3. For property line waivers, the form(s) shall be accompanied by a current legal survey of the property line(s) relevant to the setback.

Setbacks from any public road or public right-of-way shall not be waived.

- D. Residential wind turbines shall not be lit.
- E. Wind turbines shall not be operated from 5:30 PM to 10PM Monday through Fridays. Wind turbines shall not be operated from 7 AM to 10 PM on Saturday and Sunday.
- F. Wind turbines shall be no higher than 50 feet high unless otherwise authorized by the Zoning Commission.
- G. Wind turbines shall have a blade size no larger than 4 feet.
- H. Wind turbines shall be designed and installed to have an automatic and a manually powered shut off that is available at ground level in the event the wind turbine becomes defective or there is a high wind event.
- I. Defective or Abandoned Wind Turbine : Any wind turbine found by the building official to be unsafe, abandoned, or defective shall be repaired by the landowner to meet federal, state and local safety standards and the Latah County Building Code. Such wind turbine shall be shut off immediately upon notification of the building official to the owner of the property and shall remain off until the building official has verified the structure has been repaired and is no longer unsafe or defective. The County shall have the authority to pursue legal action if necessary.

3.02.04 SIZE AND SETBACK REQUIREMENTS

Minimum eligible parcel size is one acre. All accessory structures shall be a minimum of 10 feet from any property line. All other structures shall be a minimum of 35 feet from any property line

not abutting a public right-of-way. All structures shall be a minimum of 20 feet from the boundaries of any public right-of-way or 60 feet from the center line of any road placed within the boundaries of a public right-of-way, whichever is greater. When the setback distance is disputed, the Planning Department may require the property owner to have the property line established by a professional surveyor licensed in the State of Idaho. A detached accessory building can be built to the side or rear lot lines provided a written mutual agreement of the abutting property owners on the property lines affected be recorded in the Latah County Recorder's Office. Fences, bridges, retaining walls, roads, driveways, in ground scales, poles, signs, access ramps, and mailboxes (respecting rights of way and easements) are exempt from setback requirements.

3.02.05 SIGN RESTRICTIONS

No sign shall exceed 32 square feet in display area and no sign for advertising or commercial purposes shall be allowed unless it pertains only to a permitted use engaged on the property. Directional signs that indicate the location of a business, residence, public structure or park, or similar location, shall not be larger than 6 inches by 24 inches, shall be made of a hard material, cannot bear a legend giving a command such as "stop, stop ahead, turn, caution" etc., or any legend that in any way imitates a standard or commonly used traffic signal device or sign, or displays telephone numbers or commercial advertising, and can only be posted at each corner of road intersections where the direction of travel to the intended location changes. There cannot be more than one 4x4 pressure treated post used for all directional signs located at each corner of road intersections and the height of any directional sign cannot exceed 10 feet above the road surface. To place any item or sign in the public right of way approval must be gained from the appropriate highway agency, and any sign located in the public right of way must be far enough out of the roadway to allow for plowing, ditching and all other road maintenance. Directional signs are required to be removed if the item they are describing no longer is at the location as directed by the signs. No sign or item used to post a sign may impair the sight of drivers traveling on public roads. No sign greater than two square feet shall be lighted and such lighting shall be directed onto the sign, shall be of a full-cut off fixture, and shall not impair the sight of drivers. Signs installed by the Idaho Transportation Department, local highway district, or other governmental agency for purposes of traffic safety or road information, are exempt from these restrictions.

SECTION 3.03 SUBURBAN RESIDENTIAL ZONE

The Suburban Residential Zone is shown on the "Official Zoning Map of Latah County". This zone is established to achieve the purposes of this ordinance and the goals and policies of the Latah County Comprehensive Plan by providing opportunities for residential development in areas appropriate for higher density single family housing. Uses allowed in this zone include residential subdivisions, limited service and commercial activity, and uses which will not conflict with a suburban residential neighborhood.

3.03.01 PERMITTED USES

The following uses are permitted in this zone as a right of property ownership:

1. One single family dwelling for each eligible parcel.
2. Accessory buildings and uses required to conduct, and normally associated with, the uses permitted in this zone.
3. Home occupations, as provided by Section 4.02.
4. Duplexes or single family homes converted into no more than two separate dwelling units or one dwelling unit with two or fewer rooms for rent.
5. Subdivisions and manufactured home parks as regulated by this ordinance.

3.03.02 PERMITTED USES REQUIRING AN ADMINISTRATIVE ZONING PERMIT

The following uses require an “Administrative Zoning Permit” prior to being allowed. All such uses shall conform to the conditions set by this code and set in the permit. The application must be approved and inspection(s) shall be conducted to ensure any use listed conforms to the conditions of the permit prior to the use being enacted.

1. Public parks subject to the following requirements:
 - A. Daytime hours of operation only 5 AM to 10 PM
 - B. The applicant must submit a site plan showing locations of playgrounds, bathrooms, paths, parking, campground areas, picnic shelters, events areas;
 - C. The applicant must submit a playground safety plan if a playground is proposed;
 - D. If any of the following are proposed, the applicant must submit a facilities plan that includes bathrooms (or porta-potties), sewage system location and approval, and the well site and water distribution system (including fountains);
 - E. The applicant must submit a parking plan that shows adequate off street parking.
 - F. The applicant must submit a plan for lighting. Lighting must not interfere with neighboring properties, must be full cut off fixtures, and, when feasible, be shut off at night.
 - G. All structures, including signs and fences, are subject to building permit requirements
 - H. Structures, parking, and other features of the park may be subject to the Accessibility requirements of the building code.

- I. Any public parks that have overnight accommodations, want to operate outside of the prescribed hours of operation, that rent space for events, or that charge for admissions require a conditional use permit.
2. Water treatment facilities subject to the following requirements:
 - A. Submittal of approval from the agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a designated flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits for all structures as prescribed by code
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - H. Submittal of plan for fencing and buffering. Fencing may be required to ensure that the public's safety is not compromised.
 - I. Submittal of a plan for parking.

3.03.03 CONDITIONAL USES

The following uses may be permitted by the Zoning Commission upon the issuance of a Conditional Use Permit as provided by Section 7.01:

1. Golf courses, recreational fields, meeting halls, and public parks that have overnight accommodations, that have hours of operation outside of the prescribed hours of operation, that rent space for events, or that charge for admissions. Public parks are subject to Section 3.03.02.1.B through 3.03.02.1.I of this code as well as any other conditions as set in an approved conditional use permit.
2. Public buildings and utility structures and uses.
3. Child day care facilities.
4. Veterinary clinics with associated boarding facilities.
5. Waste water treatment facilities.

6. Cemeteries, churches, museums, and schools.
7. Retail stores with less than 2,000 square feet of inventory display space.
8. A single building office or professional clinic with less than 2,000 square feet.
9. A single apartment building (containing three or more dwelling units) with no more than three stories, or one dwelling unit with more than two rooms for rent.
10. Single Residential Wind Turbine.
 - A. The applicant shall place the wind turbine in a location that will have the least negative effect upon neighboring properties.
 - B. A maximum of one per each residence. Each wind turbine and any repairs require a building permit.
 - C. The proposed wind turbine shall be set back a minimum of 150% the height of the wind turbine from any public road, public right-of-way, or property line. The proposed wind turbine shall be setback a minimum of 300% the height of the wind turbine from any residential public or commercial structure. The Zoning Commission may waive such setbacks if it deems such to be appropriate and if the following criteria are met:
 1. The applicant must file with the Planning Department a signed notarized form, approved by the Planning Department, from all owners of record of all such property and structures consenting to the location of the wind turbine;
 2. Each form shall be recorded in the Latah County Recorder's Office prior to submission to the Planning Department; and
 3. For property line waivers, the form(s) shall be accompanied by a current legal survey of the property line(s) relevant to the setback.

Setbacks from any public road or public right-of-way shall not be waived.
 - D. Residential wind turbines shall not be lit.
 - E. Wind turbines shall not be operated from 5:30 PM to 10PM Monday through Fridays. Wind turbines shall not be operated from 7 AM to 10 PM on Saturday and Sunday.
 - F. Wind turbines shall be no higher than 50 feet high unless otherwise authorized by the Zoning Commission.
 - G. Wind turbines shall have a blade size no larger than 4 feet.

- H. Wind turbines shall be designed and installed to have an automatic and a manually powered shut off that is available at ground level in the event the wind turbine becomes defective or there is a high wind event.
- I. Defective or Abandoned Wind Turbine : Any wind turbine found by the building official to be unsafe, abandoned, or defective shall be repaired by the landowner to meet federal, state and local safety standards and the Latah County Building Code. Such wind turbine shall be shut off immediately upon notification of the building official to the owner of the property and shall remain off until the building official has verified the structure has been repaired and is no longer unsafe or defective. The County shall have the authority to pursue legal action if necessary.

3.03.04 SIZE AND SETBACK REQUIREMENTS

Minimum eligible parcel size is 12,000 square feet. When a public water system and a public sewer system are provided, the minimum eligible parcel size is 9,600 square feet. Each eligible parcel shall have at least 70 feet of continuous frontage on a dedicated public right-of-way. All structures shall be a minimum of 10 feet from any property line and shall be a minimum of 20 feet from the boundaries of any public right-of-way or 60 feet from the center line of any road placed within the boundaries of a public right-of-way, whichever is greater. When the setback distance is disputed, the Planning Department may require the property owner to have the property line established by a professional surveyor licensed in the State of Idaho. Fences, bridges, retaining walls, roads, driveways, in ground scales, poles, signs, access ramps, and mailboxes (respecting rights of way and easements) are exempt from setback requirements.

3.03.05 SIGN RESTRICTIONS

No sign shall exceed 10 square feet in display area and no sign for advertising or commercial purposes shall be allowed unless it pertains only to a permitted use engaged on the property. Directional signs that indicate the location of a business, residence, public structure or park, or similar location, shall not be larger than 6 inches by 24 inches, shall be made of a hard material, cannot bear a legend giving a command such as “stop, stop ahead, turn, caution” etc., or any legend that in any way imitates a standard or commonly used traffic signal device or sign, or displays telephone numbers or commercial advertising, and can only be posted at each corner of road intersections where the direction of travel to the intended location changes. There cannot be more than one 4x4 pressure treated post used for all directional signs located at each corner of road intersections and the height of any directional sign cannot exceed 10 feet above the road surface. To place any item or sign in the public right of way approval must be gained from the appropriate highway agency, and any sign located in the public right of way must be far enough out of the roadway to allow for plowing, ditching and all other road maintenance. Directional signs are required to be removed if the item they are describing no longer is at the location as directed by the signs. No sign or item used to post a sign may impair the sight of drivers traveling on public roads. No sign greater than two square feet shall be lighted and such lighting shall be directed onto the sign, shall be of a full-cut off fixture, and shall not impair the sight of drivers. Signs installed

by the Idaho Transportation Department, local highway district, or other governmental agency for purposes of traffic safety or road information, are exempt from these restrictions.

SECTION 3.04 COMMERCIAL ZONE

The Commercial Zone is shown on the "Official Zoning Map of Latah County". This zone is established to achieve the purposes of this ordinance and the goals and policies of the Latah County Comprehensive Plan by providing opportunities for commercial development in areas appropriate for business activity. Uses allowed in this zone include service, retail, professional offices and other commercial activity, limited residential, and uses which will not conflict with other commercial operations.

3.04.01 PERMITTED USES

The following uses are permitted in this zone as a right of property ownership:

1. Home occupations, as provided by Section 4.02.
2. Subdivisions as regulated by this ordinance in Article 8 and Article 9 (residential development requires a conditional use permit as specified by Section 3.04.03.1).
3. Accessory buildings and uses required to conduct, and normally associated with, the uses permitted in this zone.

3.04.02 PERMITTED USES REQUIRING AN ADMINISTRATIVE ZONING PERMIT

The following uses require an "Administrative Zoning Permit" prior to being allowed. All such uses shall conform to the conditions set by this code and set in the permit. The application must be approved and inspection(s) shall be conducted to ensure any use listed conforms to the conditions of the permit prior to the use being enacted.

In addition to the requirements listed below, all of the following uses must submit the following documents/information as part of their permit application when applicable (applicability is determined as having the item or needing the item because of other items on the parcel):

- parking including spaces, accessibility, approach points
- stormwater runoff
- landscaping for shading and buffering
- lighting (lighting must be a full cutoff fixture and shall be directed away from existing residences)
- fire protection
- water system (public when required, water right when required; the Planning Department shall check to ensure necessary permits have been issued for the water source)

- sewer system (the applicant shall provide approval from the health department for any new septic system, any connection or modification to an existing septic system, and approval from any City or sewer district showing an approved connection for the proposed use)
 - outdoor storage
 - hours of operation
 - building permit
 - wastewater management
1. Retail businesses, restaurants and drinking establishments, catering facilities, enclosed entertainment facilities, clubs, public or private clinics, offices, banks, repair shops, other retail or service uses not listed and not including manufacturing and other service related businesses and activities.
 2. Public or private off-street parking (not including sales lots) no more than three stories not to exceed 39 feet in height.
 3. Hotels and motels, recreational resorts, concert and event venues and amusement/theme parks.
 4. Public buildings, not including warehouses and service yards, and museums.
 5. Veterinary clinics with associated boarding facilities.
 6. Mortuaries and crematoriums.
 7. Mini-storage facilities
 8. Motor vehicle, recreational vehicle, boat, motorcycle, farm equipment and other similar sales and service facilities.
 9. Warehouses and service yards.
 10. Water treatment facilities subject to the following requirements:
 - A. Submittal of approval from the agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a designated flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits for all structures as prescribed by code

- F. If a facility for workers is proposed, plans for that structure must be submitted.
- G. Submittal of plan for fencing and buffering. Fencing may be required to ensure that the public's safety is not compromised.

11. RV parks subject to the following requirements:

Construction plans designed by an engineer registered in the State of Idaho are required that indicate the following. The Planning Department can waive the requirement for engineering if the park is small enough or environmental conditions do not pose any problems for the site.

- A. Location of all existing and proposed structures within the development;
- B. Location and precise nature of landscaping and its contents and a statement regarding the proposed maintenance program;
- C. Location of lots or spaces subject to the following requirements:
 - a. Minimum space size shall be 40' x 20'; however, up to forty percent (40%) of the spaces may be a minimum of 25' x 20'.
 - b. Design of spaces shall be such that minimum space between recreational vehicles is ten feet (10').
- D. Location of toilet facilities. Toilet facilities and potable water shall be provided in all parks that allow recreational vehicles which are not self-contained.
- E. Location of trash receptacles. Trash receptacles shall be provided, and shall be located no further than one hundred fifty feet (150') away from any recreational vehicle or campground space.
- F. Alignment and grade for any storm sewer and streets;
- G. Space numbering;
- H. Location and specific nature of open areas and playground equipment, if any;

12. Unlit communication towers and transmission facilities lower than 50' high subject to the following requirements:

- A. Towers are subject to Section 4.05, changing "Conditional Use Permit" to "Administrative Zoning Permit" and changing "Zoning Commission" to "Planning Department".
- B. Towers shall not be lit.

C. Towers shall not be higher than 50 feet high.

13. Small scale manufacturing conducted in a fully enclosed structure that is no larger than 5000 square feet.

3.04.03 CONDITIONAL USES

The following uses may be permitted by the Zoning Commission upon the issuance of a Conditional Use Permit as provided by Section 7.01. When applicable to the use, at a minimum, the following uses must meet the requirements set forth in the introductory paragraph of Section 3.04.02:

1. Single and multi-family residential dwellings.
2. Waste water treatment facilities subject to, at a minimum, the requirements set forth in 3.01.03.22.
3. Dams and Power Plants, and other utility structures and uses.
4. Churches and schools.
5. Wind turbines

A. The following documents must be attached and submitted along with the application:

1. A survey of the parcel of land on which the proposed wind turbine(s) is to be located. This survey shall include all real property described on the deed of conveyance most recently recorded for that parcel that complies with this ordinance.
2. A detailed drawing of each wind turbine with the height and location specified.
3. If monopole towers are to be used, information on noise reduction methods that will be used to reduce the noise.
4. The amount of energy to be produced by each wind turbine.
5. Documents demonstrating to the satisfaction of the Zoning Commission that the necessary easements have been obtained, as well as plans showing how vehicle access will be provided.
6. If any proposed wind turbine is less than 2,000 feet from any residence or commercial or public building, and/or less than 300% the height of the wind

turbine to any property line, the applicant shall submit a signed notarized form, approved by the Planning Department, from all owners of record of such residential, commercial, or public structures and all owners of record of such property consenting to the location of the wind turbine. Each form shall be recorded in the Latah County Recorder's Office prior to submission to the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.

7. All property owners of record located within 2,000 feet of any proposed wind turbine, as well as all adjacent property owners, shall be notified by regular mail at the last address listed in the Latah County Assessor's Office records by the Planning Department 15 days prior to the hearing.

B. Each wind turbine and any repairs require a building permit.

C. The following are required conditions for any wind turbine and for the approval of the construction of such and shall appear in any CUP approved for such use. These in no way limit the Zoning Commission from setting additional conditions to ensure that the wind turbine(s) is (are) in compliance with the criteria.

1. Any proposed wind turbine shall be set back a minimum of 300% the height of the wind turbine from any public road, public right-of-way, property line, residential, public, or commercial structure. At a minimum, the wind turbine shall be at least 1000 feet away from any residential, public, or commercial structures. The Zoning Commission may waive such setbacks if it deems such to be appropriate. To request to waive such setbacks, the applicant must file with the Planning Department a signed notarized form, approved by the Planning Department, from all owners of record of all such property or structures consenting to the location of the wind turbine. For property line waivers, this form shall be accompanied by a current survey approved by the Latah County Surveyor of the property line relevant to the setback. This form shall be recorded in the Latah County Recorder's Office by the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.
2. Vibrations shall not be produced that will be humanly perceptible beyond the property boundary.
3. If equipment enclosures will be located on the ground, a six to seven foot high fence of wood, masonry or privacy slats completely surrounding the equipment enclosure is required to secure and screen the equipment and structure.
4. A warning sign no larger than three square feet and no smaller than two square feet must be placed on the fencing access/gate. It must contain the

name of the owner and operator of the facility, and a phone number for cases of emergency as well as any other information required by law.

5. Any wind turbine/structure shall be finished in a non-reflective neutral color or as otherwise specified by the Zoning Commission.
 6. No ladder rungs or climbing pegs on any wind turbine shall be allowed within 20 feet of the ground.
 7. The maximum wind turbine lighting is a low intensity red light as defined by the Federal Aviation Administration. No wind turbine shall be higher than can accommodate a low intensity red light.
 8. Wind turbines and all accompanying equipment enclosures or ancillary facilities shall be camouflaged to fit into their immediate surroundings at the discretion of the Zoning Commission.
 9. Compliance at all times with any applicable laws or regulations including the Latah County Land Use Ordinance and the Latah County Building Code Ordinance.
 10. All wind turbines must have an approval by the Idaho Department of Fish and Game (IDFG), based on a determination of the impact the proposed wind turbine will have on local and migratory birds. If the IDFG does not provide a written response to the Planning Department within 45 days of the IDFG receipt of the request for review, then IDFG approval of the site will be assumed by the Planning Department.
 11. Wind turbines shall be designed and installed to have an automatic and a manually powered shut off that is available at ground level in the event the wind turbine becomes defective, makes noise, or there is a high wind event.
 12. Each wind turbine and associated structure and any replacements or repairs are required to get building permits.
- D. In addition to the conditional use permit criteria set out in Section 7.01, the Zoning Commission shall take the following considerations into account when deciding whether to grant a conditional use permit for wind turbine :
1. Whether the height, design, and any proposed future modification of the wind turbine , will reduce or eliminate visual obtrusiveness to the greatest extent feasible and practical;
 2. Whether it has been demonstrated the wind turbine will have a negative impact on nearby property;

3. Whether the existing land use of the proposed site is unique to that land; and
4. Whether any aspect of the wind energy operation may pose an unreasonable nuisance at the proposed site, including but not limited to lighting and noise.

E. Removal or Repair of Defective Wind Turbine

Any wind turbine found by the building official to be unsafe, abandoned, defective or causing an undue amount of noise heard on any nearby property shall be repaired by the landowner to meet federal, state and local safety standards, the Latah County Building Code, and to not create nuisance noise. Such wind turbine shall be shut off immediately upon notification of the building official to the owner of the property and shall remain off until the building official has verified the structure has been repaired and is no longer unsafe, defective, or a nuisance. If the wind turbine is not legally repaired within 120 days, it will be considered to be abandoned. At the end of the 120 days, the owner shall immediately take down the wind turbine. If the owner does not immediately take down the wind turbine, legal proceedings as set forth in Section 3.04.03.5.F. shall commence to ensure the wind turbine is taken down.

F. Abandoned Wind Turbine

1. In addition to the provisions set forth in Section 3.04.03.5.E, any wind turbine that has been turned off or not working for a period of 120 days shall be considered abandoned. The wind turbine owner or landowner thereof shall take down any such wind turbine(s) and any accompanying equipment enclosure within 60 days.
2. The Planning Department, upon determining that wind turbine has been abandoned, shall serve notice by certified mail of its determination of abandonment upon the owner of the system and to the land owner, to the address on file with the Latah County Assessor's Office. The notice shall contain the reasons why the wind turbine has been deemed abandoned, the owner's obligation to remove the wind turbine pursuant to this Section, and the owner's right to appeal the determination of abandonment.
3. The wind turbine owner or landowner may, during the 60 days, apply, and for good cause shown, have granted, an extension of time on such terms as the Planning Department shall determine.
4. If such structure and equipment enclosure are not so removed within said 60 days or any extension thereof, then the County has the right without further notice to enter upon the land and remove and abate such structures at the expense of the wind turbine owner or landowner by any remedy available at law or in equity. In the event Latah County exercises its right

hereunder, any and all salvage rights shall inure to, and become property of Latah County at the County's sole option.

5. The Planning Department's determination of abandonment may be appealed pursuant to Section 1.02.17.
6. Manufacturing conducted in a fully enclosed structure that is larger than 5,000 square feet but smaller than 10,000 square feet.

3.04.04 SIZE AND SETBACK REQUIREMENTS

Minimum eligible parcel size is 12,000 square feet. All structures shall be a minimum of 10 feet from any property line not zoned Commercial and a minimum of 10 feet from any public right-of-way. When the setback distance is disputed, the Planning Department may require the property owner to have the property line established by a professional surveyor licensed in the State of Idaho. If a building is built within three feet of the property line it must meet the opening protection and fire resistance ratings of the adopted building code. If a building is built within six feet of another building, both buildings must meet the most current opening protection and fire resistance ratings of the adopted building code. Fences, bridges, retaining walls, roads, driveways, in ground scales, poles, signs, access ramps, and mailboxes (respecting rights of way and easements) are exempt from setback requirements.

3.04.05 SIGN RESTRICTIONS

No sign shall exceed 100 square feet in display area or impair the sight of drivers traveling on public roads. Signs may be lighted, but not blinking, flashing, or moving. Signs installed by the Idaho Transportation Department, local highway district, or other government jurisdiction for purposes of traffic safety or road information are exempt from these restrictions.

SECTION 3.05 INDUSTRIAL ZONE

The Industrial Zone is shown on the "Official Zoning Map of Latah County". This zone is established to achieve the purposes of this ordinance and the goals and policies of the Latah County Comprehensive Plan by providing opportunities for industrial development in areas appropriate for manufacturing activity. Uses allowed in this zone include manufacturing and processing facilities, and uses which will not conflict with other commercial manufacturing operations. All uses in this zoning designation are subject to the requirements set forth in Section 9.03.

3.05.01 PERMITTED USES

The following uses are permitted in this zone as a right of property ownership:

1. Agronomy and all uses normally associated with raising, harvesting, and selling of crops, including trees and other plants.

2. Forestry and all uses normally associated with raising and harvesting, and selling of timber and other forest products.
3. Agricultural or forestry related commercial or industrial business uses. All natural mineral resource developments that are related to or used for agriculture or forestry uses shall be subject to Section 3.05.03.8 of this ordinance.
4. Accessory buildings and uses required to conduct, and normally associated with, the uses permitted in this zone and accessory retail/wholesale sales for the products manufactured on-site.
5. Manufacturing with all phases.
6. Warehousing and storage.
7. Service yards and stations.

3.05.02 PERMITTED USES REQUIRING AN ADMINISTRATIVE ZONING PERMIT

The following uses require an “Administrative Zoning Permit” prior to being allowed. All such uses shall conform to the conditions set by this code and set in the permit. The application must be approved and inspection(s) shall be conducted to ensure any use listed conforms to the conditions of the permit prior to the use being enacted.

1. Caretaker Housing.

The intent of this Section of the ordinance is to enable the placement of one accessory housing unit, for use as a caretaker residence for industrial uses, provided that such accessory housing is not rented or occupied for gain. At a minimum, the accessory housing unit shall have the following conditions placed upon it:

- A. Any new structure must meet all other zoning requirements, the owner of such property must obtain a valid building permit prior to any construction, the building must pass all inspections, and the building must receive a certificate of occupancy. Park model RV’s and other recreational vehicles can be used as a caretaker residence if it is not the primary residence of the caretaker.
- B. Any existing structure must be brought into compliance with all current zoning requirements, building codes, and occupancy ratings for a residence, the owner of such property must obtain a valid building permit prior to making any changes or commencing construction, the building must pass all inspections, and the building must receive a certificate of occupancy.
- C. When appropriate, septic system and domestic water supply for accessory cottage housing shall be inspected and approved by the North Central District Health Department.

- D. The square footage for caretaker housing shall be the minimum allowed by the building code and a maximum of 900 square feet.
 - E. The maximum separation between the principal structure and the accessory caretaker housing shall be 100 feet unless it is physically impractical to do so, in which case it must be located as close as is physically practical to the principal structure.
 - F. A deed restriction shall be recorded prior to issuance of a building permit indicating that the accessory caretaker housing is not to be a leasehold interest or be rented. This restriction shall also state that this accessory housing unit shall forevermore be tied to the principal building and shall not be separated or put on its own parcel for sale or any other purpose.
2. Water treatment facilities subject to the following requirements:
- A. Submittal of approval from the agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a designated flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits for all structures as prescribed by code
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - H. Submittal of plan for fencing and buffering. Fencing may be required to ensure that the public's safety is not compromised.
 - I. Submittal of a plan for parking.
3. Unlit communication towers and transmission facilities lower than 50' high subject to the following requirements:
- A. Towers are subject to Section 4.05, changing "Conditional Use Permit" to "Administrative Zoning Permit" and changing "Zoning Commission" to "Planning Department".
 - B. Towers shall not be lit.

- C. Towers shall not be higher than 50 feet high.
4. Utility structures and uses, not including dams, power plants, or very similar structures
- A. Submittal of approval from the agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits must be obtained for any structures as prescribed by code
 - F. If a facility for workers is proposed, plans for that structure must be submitted.
 - G. When applicable, the facility must have an odor control plan
 - H. Landscape buffers shall be provided for utility structures that are a visual nuisance. Fencing shall be provided for utility structures that are a hazard to public health. A plan shall be submitted, and once approved, the landscaping and fencing shall be installed prior to occupancy.
 - I. Submittal of a stormwater drainage plan;
 - J. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
 - K. Submittal of a plan for parking.
5. Waste water treatment facility.
- A. Submittal of approval from the state agency in charge of approval of the facility
 - B. Submittal of a plan for chemical storage and handling
 - C. If in a flood hazard area, the facility must meet all of the requirements of Section 5.01 that area applicable, including Section 5.01.04.8;
 - D. Submittal of a map of power, gas and other utility plans for the facility
 - E. Building permits must be obtained for any structures as prescribed by code
 - F. If a facility for workers is proposed, plans for that structure must be submitted.

- G. Must submit an odor control plan;
- H. Must submit plans for a landscape buffer around the facility and after approval, install the landscaping. The buffer should adequately shield any nearby uses that involve people from the facility;
- I. Must submit a stormwater drainage plan for the waste water treatment facilities;
- J. Must submit a plan for any locations for any composting areas. Composting areas shall have a landscape buffer that shall meet the requirements of item H.
- K. Submittal of plan for lighting, if any lighting is proposed. All lighting must be directed away from neighboring residences and must be full cut off fixtures.
- L. Submittal of plan for fencing. All wastewater treatment plants that have open sources of water or sewage shall have a protective fence ensuring the safety of the public.
- M. Submittal of a plan for parking. All parking lots must be constructed prior to occupancy.

3.05.03 CONDITIONAL USES

The following uses may be permitted by the Zoning Commission upon the issuance of a Conditional Use Permit as provided by Section 7.01:

- 1. Feedlots, animal husbandry and all of the uses normally associated with the raising, feeding, and selling of livestock, dairies, continuous confined animal management operations or other types of similar facilities with more than 250 animal units.
 - A. Any containment of animals must be situated at least 35 feet from any perennial stream shown on a USGS 7.5 minute map.
 - B. At the time of application, the applicant shall show proof that plans and permits for water, nutrient management, and odor management will be approved by the relevant regulatory or permitting agency such as the Idaho Department of Water Resources, the Idaho Department of Agriculture, and/or the Idaho Department of Environmental Quality, and shall name the agency and contact person, or the applicant shall show proof that no such permit is required. Copies of these permit approvals must be provided to the Planning Department prior to any commencement of activities on the permitted property. The Board of Latah County Commissioners may request a review as per Idaho Code Section 67-6529E, the results of which shall be in the possession of the County prior to the public hearing being held.

- C. Anyone, regardless of their property's distance from the site of the permit or regardless of whether they own property, may testify at the required public hearings.
- 2. Agricultural or forestry processing or production facilities and slaughterhouses with more than 25 full-time equivalent employees.
- 3. Other retail.
- 4. Salvage, wrecking, and junk yards.
- 5. Chemical storage and manufacture.
- 6. Wind Turbine.
- A. The following documents must be attached and submitted along with the application:
 - 1. A survey of the parcel of land on which the proposed wind turbine(s) is to be located. This survey shall include all real property described on the deed of conveyance most recently recorded for that parcel that complies with this ordinance.
 - 2. A detailed drawing of each wind turbine with the height and location specified.
 - 3. If monopole towers are to be used, information on noise reduction methods that will be used to reduce the noise.
 - 4. The amount of energy to be produced by each wind turbine.
 - 5. Documents demonstrating to the satisfaction of the Zoning Commission that the necessary easements have been obtained, as well as plans showing how vehicle access will be provided.
 - 6. If any proposed wind turbine is less than 2,000 feet from any residence or commercial or public building, and/or less than 300% the height of the wind turbine to any property line, the applicant shall submit a signed notarized form, approved by the Planning Department, from all owners of record of such residential, commercial, or public structures and all owners of record of such property consenting to the location of the wind turbine. Each form shall be recorded in the Latah County Recorder's Office prior to submission to the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.

7. All property owners of record located within 2,000 feet of any proposed wind turbine, as well as all adjacent property owners, shall be notified by regular mail at the last address listed in the Latah County Assessor's Office records by the Planning Department 15 days prior to the hearing.
- B. Each wind turbine and any repairs require a building permit.
- C. The following are required conditions for any wind turbine and for the approval of the construction of such and shall appear in any CUP approved for such use. These in no way limit the Zoning Commission from setting additional conditions to ensure that the wind turbine(s) is (are) in compliance with the criteria.
1. Any proposed wind turbine shall be set back a minimum of 300% the height of the wind turbine from any public road, public right-of-way, property line, residential, public, or commercial structure. At a minimum, the wind turbine shall be at least 1000 feet away from any residential, public, or commercial structures. The Zoning Commission may waive such setbacks if it deems such to be appropriate. To request to waive such setbacks, the applicant must file with the Planning Department a signed notarized form, approved by the Planning Department, from all owners of record of all such property or structures consenting to the location of the wind turbine. For property line waivers, this form shall be accompanied by a current survey approved by the Latah County Surveyor of the property line relevant to the setback. This form shall be recorded in the Latah County Recorder's Office by the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.
 2. Vibrations shall not be produced that will be humanly perceptible beyond the property boundary.
 3. If equipment enclosures will be located on the ground, a six to seven foot high fence of wood, masonry or privacy slats completely surrounding the equipment enclosure is required to secure and screen the equipment and structure.
 4. A warning sign no larger than three square feet and no smaller than two square feet must be placed on the fencing access/gate. It must contain the name of the owner and operator of the facility, and a phone number for cases of emergency as well as any other information required by law.
 5. Any wind turbine/structure shall be finished in a non-reflective neutral color or as otherwise specified by the Zoning Commission.
 6. No ladder rungs or climbing pegs on any wind turbine shall be allowed within 20 feet of the ground.

7. The maximum wind turbine lighting is a low intensity red light as defined by the Federal Aviation Administration. No wind turbine shall be higher than can accommodate a low intensity red light.
 8. Wind turbines and all accompanying equipment enclosures or ancillary facilities shall be camouflaged to fit into their immediate surroundings at the discretion of the Zoning Commission.
 9. Compliance at all times with any applicable laws or regulations including the Latah County Land Use Ordinance and the Latah County Building Code Ordinance.
 10. All wind turbines must have an approval by the Idaho Department of Fish and Game (IDFG), based on a determination of the impact the proposed wind turbine will have on local and migratory birds. If the IDFG does not provide a written response to the Planning Department within 45 days of the IDFG receipt of the request for review, then IDFG approval of the site will be assumed by the Planning Department.
 11. Wind turbines shall be designed and installed to have an automatic and a manually powered shut off that is available at ground level in the event the wind turbine becomes defective, makes noise, or there is a high wind event.
 12. Each wind turbine and associated structure and any replacements or repairs are required to get building permits.
- D. In addition to the conditional use permit criteria set out in Section 7.01, the Zoning Commission shall take the following considerations into account when deciding whether to grant a conditional use permit for wind turbine :
1. Whether the height, design, and any proposed future modification of the wind turbine , will reduce or eliminate visual obtrusiveness to the greatest extent feasible and practical;
 2. Whether it has been demonstrated the wind turbine will have a negative impact on nearby property;
 3. Whether the existing land use of the proposed site is unique to that land; and
 4. Whether any aspect of the wind energy operation may pose an unreasonable nuisance at the proposed site, including but not limited to lighting and noise.
- E. Removal or Repair of Defective Wind Turbine

Any wind turbine found by the building official to be unsafe, abandoned, defective or causing an undue amount of noise heard on any nearby property shall be repaired by the landowner to meet federal, state and local safety standards, the Latah County Building Code, and to not create nuisance noise. Such wind turbine shall be shut off immediately upon notification of the building official to the owner of the property and shall remain off until the building official has verified the structure has been repaired and is no longer unsafe, defective, or a nuisance. If the wind turbine is not legally repaired within 120 days, it will be considered to be abandoned. At the end of the 120 days, the owner shall immediately take down the wind turbine. If the owner does not immediately take down the wind turbine, legal proceedings as set forth in Section 3.05.03.6.F. shall commence to ensure the wind turbine is taken down.

F. Abandoned Wind Turbine

1. In addition to the provisions set forth in Section 3.05.03.6.E, any wind turbine that has been turned off or not working for a period of 120 days shall be considered abandoned. The wind turbine owner or landowner thereof shall take down any such wind turbine(s) and any accompanying equipment enclosure within 60 days.
2. The Planning Department, upon determining that wind turbine has been abandoned, shall serve notice by certified mail of its determination of abandonment upon the owner of the system and to the land owner, to the address on file with the Latah County Assessor's Office. The notice shall contain the reasons why the wind turbine has been deemed abandoned, the owner's obligation to remove the wind turbine pursuant to this Section, and the owner's right to appeal the determination of abandonment.
3. The wind turbine owner or landowner may, during the 60 days, apply, and for good cause shown, have granted, an extension of time on such terms as the Planning Department shall determine.
4. If such structure and equipment enclosure are not so removed within said 60 days or any extension thereof, then the County has the right without further notice to enter upon the land and remove and abate such structures at the expense of the wind turbine owner or landowner by any remedy available at law or in equity. In the event Latah County exercises its right hereunder, any and all salvage rights shall inure to, and become property of Latah County at the County's sole option.
5. The Planning Department's determination of abandonment may be appealed pursuant to Section 1.02.17.

7. Landing strips, heliports, and airports.

8. Mineral resource developments subject to Section 4.03.
9. Communication towers and transmission facilities that are lit and/or that are over 50 feet high, subject to Section 4.05.
10. Dams and Power Plants, and other very similar utility structures
11. Solid waste disposal facilities.

3.05.04 SIZE AND SETBACK REQUIREMENTS

Minimum eligible parcel size is one acre. All structures, exterior storage, and exterior activities shall be a minimum of 50 feet from any property line not zoned Industrial and a minimum of 50 feet from any public right-of-way. When the setback distance is disputed, the Planning Department may require the property owner to have the property line established by a professional surveyor licensed in the State of Idaho. If a building is built within three feet of the property line it must meet the opening protection and fire resistance ratings of the adopted building code. If a building is built within six feet of another building, both buildings must meet the most current opening protection and fire resistance ratings of the adopted building code. Fences, bridges, retaining walls, roads, driveways, in ground scales, poles, signs, access ramps, and mailboxes (respecting rights of way and easements) are exempt from setback requirements.

3.05.05 SIGN RESTRICTIONS

No sign shall exceed 100 square feet in display area or impair the sight of drivers traveling on public roads. Signs may be lighted, but not blinking, flashing, or moving. Signs installed by the Idaho Transportation Department, local highway district, or other government jurisdiction for purposes of traffic safety or road information are exempt from these restrictions.

ARTICLE 4

GENERAL LAND USE REGULATIONS

SECTION 4.01 NONCONFORMING USES

4.01.01 DEFINITION AND PURPOSE OF REGULATION

A nonconforming use is a parcel, use, or structure which was legal when commenced or built, but which does not conform to subsequently enacted or amended regulations. It is the purpose of this Section to allow, but not encourage, the continuation of nonconforming uses. Nonconforming uses shall not be allowed to expand in size or increase in intensity except as provided by this Article.

4.01.02 CONTINUATION AND EXPANSION OF USE

A nonconforming use may be continued indefinitely. Unless they become a conforming building or use, nonconforming buildings or uses shall not be enlarged or expanded except as permitted under Section 4.01.05 of this ordinance. Enlargement or expansion includes, but is not limited to, any alteration to the original building or use which would increase its size or intensity of use. The existence of a nonconforming use shall not be adequate justification for permitting other uses prohibited by this ordinance.

4.01.03 DISCONTINUANCE OF USE

Property with nonconforming uses discontinued for more than one year shall thereafter only be used for conforming uses. An intent to resume operation of a nonconforming use without actual operation of the non-conforming use shall not be sufficient by itself to allow resumption of a nonconforming use after one year of nonuse of the nonconforming use. Evidence must be provided by the individual of the last date the use occurred prior to an interrupted use being allowed to resume. If an illegal intervening use occurs, the nonconforming use will not be allowed to continue at any time. Legally built unused buildings or improvements designed for a purpose which subsequently became nonconforming are subject to the provisions of Idaho Code Section 67-6538. Nonconforming uses may not be converted to other illegal or nonconforming uses at any time.

4.01.04 REPAIR AND RESTORATION

After obtaining the proper building permits, ordinary repair work is permitted on any nonconforming structure, provided that the size of the structure is not increased and that the repair work does not result in an increase in the nonconformity of the building or use, subject to Article 5 of this ordinance. After obtaining the proper building permits, a nonconforming building or building containing a nonconforming use which has been damaged or destroyed by natural causes may be restored to its former size and use, provided such restoration work is started within one year of damage and the building permit is not subsequently abandoned or does not expire prior to completion, subject to Article 5 of this ordinance. A nonconforming building or building containing a nonconforming use that is intentionally moved or torn down cannot be replaced;

except nonconforming dwellings may be replaced as provided by Section 4.01.05, subject to Article 5 of this ordinance.

4.01.05 REPLACEMENT OF NONCONFORMING DWELLINGS

Nonconforming single family dwellings that exceed the permitted residential density may be expanded or replaced, regardless of size, if the new or enlarged single family dwelling unit conforms to all other provisions of this ordinance. A residence may only be replaced or expanded if it has been permanently occupied for at least one year immediately prior to replacement or if the residence meets the standards for a residential building under the provisions of the Uniform Housing Code adopted by Latah County.

4.01.06 DWELLINGS ON NONCONFORMING PARCELS AND LOTS

Existing parcels, as defined in Section 8.01.01 of this ordinance, or lots platted and approved by the Board of Latah County Commissioners prior to adoption of this ordinance which do not meet the size or frontage requirements for their present zoning designation shall be considered nonconforming parcels. Single family dwellings may be placed on nonconforming eligible parcels provided that the new residence meets the zone's setback requirements. Adjacent parcels in the same ownership may be combined to provide adequate setbacks for new residences. Single family dwellings may be placed on nonconforming eligible parcels, where setbacks cannot initially be met, provided that the owner of the non-conforming parcel completes one or more boundary line adjustments in accordance with Section 8.05 of this ordinance to make the parcel meet the size, setback, and frontage requirements of its zoning designation. A single family dwelling on a non-conforming parcel shall not be considered a non-conforming building provided it meets all setback requirements of the zone.

SECTION 4.02 HOME OCCUPATIONS

4.02.01 DEFINITION AND PURPOSE

Home occupations are commercial or business uses conducted in a residence or residential accessory building. For a use to be permitted as a home occupation, the commercial or business activity shall meet the standards of Section 4.02.02 of this ordinance. It is the purpose of this Section to accommodate the needs of small-scale businesses which could not be initiated if separate facilities were required. As a small business expands beyond the scope of the home occupation standards, it is the intent of this Section to have the operations moved to a suitably zoned location.

4.02.02 HOME OCCUPATION STANDARDS

Upon written request of the operator or other affected person, the Planning Department shall determine if commercial or business activity located within a residence or existing residential accessory building conforms to the following standards:

1. The enclosed floor space required for the commercial or business activity, if located in a residence, shall not exceed 50% of the living space of the residence or, if located in an accessory structure, shall not exceed the floor space of the residence.
2. The building shall retain the character of a residence or residential accessory building. One sign to identify the business, unlighted and no larger than two square feet, shall be permitted. No additional outside signs, displays or other decorations shall be used to indicate that the residence is used for commercial or business purposes.
3. No outside commercial or business activity or outside storage of materials related to the home occupation shall be permitted. All parking associated with the activity shall be off the public right-of-way.
4. The commercial or business use shall be operated by the person(s) occupying the residence, and this residence must be their primary residence, and no more than six persons, not residing on the property, may be employed at a home occupation.

If the activities do not conform to these standards, the Planning Department shall order the activity to cease immediately.

SECTION 4.03 MINERAL RESOURCE DEVELOPMENT

4.03.01 DEFINITION AND PURPOSE

Mineral resource development is any land use related to the excavation, crushing, washing, sizing and screening, asphalt batching, cement and concrete processing, other processing, and surface stockpiling (excavated on site) of topsoil, peat, sand, gravel, rock, clay, aggregate, metallic, non-metallic and industrial minerals, gemstones, or other mineral resource. The purpose of this Section is to regulate the operation of these developments to minimize their impact on surrounding property and to provide definitions and standards to existing mineral resource developments, new mineral resource developments, and exempt uses of mineral resources.

4.03.02 EXISTING MINERAL RESOURCE DEVELOPMENTS

All existing mineral resource developments without current Conditional Use Permits that do not meet the exemptions set forth in Section 4.03.04 shall comply with the following requirements:

1. Hours of operation are limited to 8AM to 6 PM daily. An operator may vary from this requirement by applying for a conditional use permit under the provisions of Section 7.01 of this ordinance.
2. Written verification of compliance with the Idaho Surface Mining Act, including filing of any reclamation plan required by the Idaho Surface Mining Act.

3. The excavation site, any overburden and stockpiles, and a 50 foot buffer strip surrounding these areas shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent.
4. The operator shall provide, by certified mail, written notification to all residences within one mile of any blasting. The notification shall be distributed and in the possession of the occupants of these residences at least 72 hours prior to any blasting. The notification shall give the date and time of the planned blast.
5. Blasting shall be restricted to the hours of 9:30 AM to 4:30 PM, Monday through Friday. No blasting shall occur on Saturdays, Sundays, or the following holidays: January 1, Memorial Day, Labor Day, Thanksgiving Day, and December 25.
6. An owner or operator may request, and the Director may grant, an exception to provide for additional hours of operation for a mineral resource development when additional hours of operation are needed to alleviate a public emergency. Public emergencies include the following:
 - A. Damage to public roads or structures that require immediate repair.
 - B. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.
7. Signs, upon approval of the signs by the Planning Department, warning of truck entrances shall be posted within one-quarter ($\frac{1}{4}$) mile of the site's entrance onto a public road.
8. The mineral resource development shall be marked by warning signs posted 200 feet from mine operations.
9. A plan to retain storm water runoff within the mineral resource development boundaries.

4.03.03 NEW MINERAL RESOURCE DEVELOPMENTS

Any mineral development which is not registered as an existing development or does not qualify to be registered as an existing development, not exempt as per Section 4.03.04 of this ordinance, or does not have an existing conditional use permit, shall be considered a new development. Prior to operation, all new developments must obtain a conditional use permit under the provisions of Section 7.01 of this ordinance. In addition the Zoning Commission shall, as a minimum, place the requirements of Section 4.03.02 upon any newly permitted mineral development, unless making specific findings supporting the omission or alteration of the requirements of Section 4.03.02. Mineral resource developments which have been granted a valid conditional use permit prior to one year after adoption of this ordinance shall be considered permitted and shall observe all conditions previously established. New mineral resource developments shall be exempt from the provisions of Section 7.01.07 of this ordinance. The following are requirements for operation of all new mineral resource developments:

1. Activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form, approved by the Planning Department, from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development. Each form shall be recorded in the Latah County Recorder's Office by the Planning Department. Approval of a distance less than 1000 feet shall be within the discretion of the Zoning Commission, even if all owners of residential buildings within 1000 feet approve of the location of the development.
2. The operator of a mineral resource development must provide at least a 75 foot undisturbed or natural buffer on the perimeter of mineral resource development operations. The buffer and the area of mineral resource development operations shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent. Frontage on a public road does not require a buffer. Activities associated with a mineral resource development shall not be allowed within the 75 foot buffer area. Location and specifications for access road(s) shall be determined by the Zoning Commission.
3. To protect aquatic and terrestrial habitat and other biological resources, all mineral resource developments and mineral resource development operations shall be set back at least 75 feet from perennial streams and 30 feet from any intermittent streams shown on USGS 7.5 minute maps; except for stream crossings that are regulated by a state or federal regulatory system and those activities permitted under the Idaho Placer and Dredge Mining Protection Act from the Idaho Department of Lands, a Stream Channel Alteration Permit from the Idaho Department of Water Resources, a Dredge and Fill Permit from the U.S. Army Corps of Engineers, a Development Permit from the Latah County Planning Department, and / or a National Pollution Discharge Elimination System permit from the U.S. Environmental Protection Agency. Applicable permit documentation shall be provided to the Zoning Administrator prior to onset of mineral resource development.
4. The applicant shall prepare and submit the following plans with the application for a conditional use permit:
 - A. Dust abatement plan to include mineral resource development operations and all access roads.
 - B. A plan for coordination with County response units for hazardous materials transport and use and emergency spill response.
 - C. A plan for procedures and protocols for spill containment and storage of oil, fuels, and/or chemicals; and documentation of compliance with the state and federal laws or documentation of exemption from requirements.

- D. A plan for fire suppression and response, including an inventory of tools stored on-site to implement planned suppression and response.
- 5. The applicant may be required to post a bond with the Latah County Planning Department to assure full compliance with the proposed plans and provisions of this section. The amount of the bond shall be determined by the Latah County Zoning Commission.

4.03.04 USES EXEMPT FROM CONDITIONAL USE PERMITS

Mineral resources excavated from or stockpiled on the parcel by the property owner for construction uses, excavation for residential and accessory building construction for which a valid building permit has been issued; construction and maintenance of driveways, roadways, and rights-of-way; grading; landscaping; leveling; ponds and shallow water areas for wildlife; and cemetery operations are exempt from conditional use permits under this section, provided one of the following applies. No product produced by an exempt use may be sold, bartered, or traded.

1. The mineral resource is less than 1,000 feet from adjacent property boundary, use of the mineral resource disturbs one acre or less, and the mineral resource and associated use are located on the same parcel or adjacent parcels under the same ownership. Blasting, crushing or any other processing is not allowed on-site.
2. The mineral resource is greater than 1,000 feet but less than one mile from adjacent property boundary or structures on state or federal lands (when applicable), and use of the mineral resource disturbs one acre or less. The mineral resource may be transported for use off-site to a different parcel owned by the same landowner. Blasting, crushing or any other processing is not allowed on-site.
3. The mineral resource is greater than one mile from adjacent property boundary and the mineral resource development disturbs less than five acres. The mineral resource may be transported for use off-site to a different parcel owned by the same landowner. Blasting, crushing, and processing are allowed on-site.

SECTION 4.04 TEMPORARY DWELLING FOR DEPENDENT PERSONS

Upon written request of the owner of the affected property and for which this is a request for their personal situation, the Board of Latah County Commissioners may permit the placement of one temporary dwelling in excess of that permitted within the property's zoning designation. The applicant's request must explain why the existing dwelling on the property is inadequate for the care of a dependent person, must establish that the dependency is the result of the physical or health needs of the dependent, and that other provisions of this ordinance will not allow the placement of the additional dwelling on the affected property. If the Board of Latah County Commissioners finds that the request meets these standards and the dwelling is required to provide regular care for the dependent person, the Board of Latah County Commissioners may grant the applicant's request upon the condition that the approval must be reconsidered annually. For annual renewal of the temporary dwelling, the Board of Latah County Commissioners must find that the facts supporting

original approval still exist. Building or installation permits and compliance with setbacks are required for temporary dwellings. Dwellings approved under the provisions of this Section shall be no further than 100 feet from the existing residence. If it is physically impractical to locate the home within 100 feet of the existing residence and the applicant can provide proof of this to the Planning Department, the distance to the new temporary home may exceed the 100 foot limit, but the new home must be located as close as is physically practical to the existing residence.

SECTION 4.05 WIRELESS TELECOMMUNICATION TOWERS AND TRANSMISSION FACILITIES

4.05.01 PURPOSE

The purpose of this Section is to regulate the placement of wireless telecommunication facilities in a manner consistent with the provisions of applicable law and the Latah County Comprehensive Plan.

4.05.02 DEFINITIONS

1. **ANTENNA.** A device used in the sending and receiving of electromagnetic waves.
2. **CO-LOCATION.** The use of a single wireless telecommunication tower or other support structure by more than one wireless telecommunications service provider.
3. **EQUIPMENT ENCLOSURE.** A small structure, shelter, cabinet, box or vault designed for or used to house or protect the electronic equipment necessary and/or desirable for processing wireless telecommunications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.
4. **SUPPORT STRUCTURES.** Any structure designed or used to support wireless telecommunication transmission or reception devices, including “towers” as further defined herein.
5. **TOWER.** Any structure or device designed, constructed and/or erected and used to attach or otherwise affix an antenna(s) that exceeds 20 feet in height from the base of the structure. Residential, commercial, agricultural, or utility buildings and utility poles shall not be considered towers; however, “towers” shall include structures or devices erected on or attached to such buildings, poles, or structures which increase the total height by more than 20 feet.
6. **WIRELESS TELECOMMUNICATIONS FACILITY.** A facility for the transmission and/or reception of radio frequency signals, usually composed of an equipment structure, a support structure, transmission and/or reception devices consisting of linear or parabolic or other antennas, and related equipment.

7. **WIRELESS TELECOMMUNICATIONS PROVIDER.** Any person or entity that provides wireless telecommunications service through the use of wireless telecommunications facilities, whether or not such facilities are owned by or under the control of such provider.
8. **WIRELESS TELECOMMUNICATION SERVICE.** The providing of transmittal and reception of voice, data, image, graphic, and other information by the use of wireless telecommunications facilities. This term includes any personal wireless telecommunication services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

4.05.03 DUTIES OF WIRELESS TELECOMMUNICATION PROVIDERS

All wireless telecommunication providers operating or using wireless telecommunication facilities in Latah County shall file a statement with the Latah County Planning Department by December 31 of each year. The report shall state whether the wireless telecommunication provider is continuing to use its facilities and, if so, verify that it remains in compliance with all applicable federal/state rules and conditions set forth in any applicable conditional use permit. This annual report shall also include the number of antennas and the location of each antenna in Latah County, and documentation demonstrating that the provider is licensed in good standing by the Federal Communications Commission (FCC). Failure to comply with these duties shall be subject to the provisions of Section 4.05.11 for any uses subject to a conditional use permit issued after February 25, 2001.

4.05.04 USE OF EXISTING STRUCTURES

1. All wireless telecommunication providers shall make reasonable attempts to co-locate on legally existing support structures before applying for a conditional use permit to build a tower. The installation or location of antennas on legally existing support structures shall be considered a permitted use in the agricultural/forest zone provided that:
 - A. The use of the equipment does not exceed radio frequency emission [RF] standards as set by the FCC;
 - B. The installation does not exceed 20 feet in height above the existing support structure; and
 - C. The antenna(s) and/or support structure does not require additional lighting by the Federal Aviation Administration (FAA), and will not be illuminated or have any lights thereon.
2. Placement of transmission or reception devices on legally existing support structures shall comply with the following:

- A. Prior to installation or operation of the equipment, the applicant must complete and return the application form provided by the Planning Department along with the required application fee and the following documents:
 - 1. Documents demonstrating that landowner authorization and necessary easements have been obtained;
 - 2. Plans showing how vehicle access will be provided;
 - 3. Documentation demonstrating that no additional lighting is required by the FAA; and
 - 4. Map showing the area of coverage that will be provided by the transmission of the proposed antenna(s).

- 3. Prior to use of the antenna(s):
 - A. Documentation demonstrating the provider is licensed in good standing by the Federal Communications Commission (FCC) must be provided to the Planning Department;
 - B. If equipment enclosures will be located on the ground, a six to seven foot high fence constructed of wood, masonry or privacy slats shall completely surround the equipment enclosure to secure and screen the equipment and structure; and,
 - C. A warning sign no larger than three square feet and no smaller than two square feet must be placed on the fence or the access/gate. It must contain the name of the owner and operator of the facility, a phone number for cases of emergency and any other information required by law.

4.05.05 VERIFICATION THAT USE OF EXISTING SUPPORT STRUCTURES IS NOT POSSIBLE

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Commission that no legally existing support structure is available or can accommodate the proposed antenna(s) based on:

- 1. Testimony or written verification:
 - A. By a professional engineer licensed in the State of Idaho that the legally existing support structures located within the geographic area are not of sufficient size or structural strength to meet applicant's reasonable engineering requirements;
 - B. That no legally existing support structure is located within the geographic area which meets the applicant's reasonable engineering requirements;

- C. That use of the legally existing structure would cause electromagnetic interference with the existing antennas or the proposed antenna(s);
- D. That co-locating on a legally existing support structure would violate the RF emissions set by the FCC;
- E. That there are other limiting factors that render legally existing support structures unsuitable; or
- F. That the fees, costs, or contractual provisions required by the owner of an existing support structure are unreasonable.

4.05.06 CONSTRUCTION OF NEW WIRELESS TELECOMMUNICATION TOWERS

1. A conditional use permit is required for the following:
 - A. The construction of a tower.
 - B. The installation of an antenna that would require lighting by the FAA.
2. Conditional use permits for wireless telecommunication towers or support structures are subject to the provisions of Section 7.01 and the following standards and requirements:
 - A. All applicants must complete a conditional use permit application for the construction of a wireless telecommunication tower as provided by Section 7.01. The application must be signed by all legal landowners of the property, the applicant, and proposed tower owner.
 - B. The following documents must be attached and submitted along with the application:
 1. A legal description of the parcel of land on which the proposed tower is to be located. This legal description shall include all real property described on the deed of conveyance most recently recorded for that parcel that complies with this ordinance.
 2. A detailed drawing of the tower with the height specified.
 3. The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
 4. A signed agreement with Latah County stating that the applicant will allow co-location with other users and that any future owners or operators will allow co-location on the tower. This agreement will be recorded in the Latah County Recorder's Office by the Planning Department.

5. Documents demonstrating to the satisfaction of the Zoning Commission that the necessary easements have been obtained, as well as plans showing how vehicle access will be provided.
 6. FAA form 7460-1 as well as a diagram showing the placement and type of lighting that will be used if required by the FAA, or documentation demonstrating that the applicant has complied with FAA requirements that no lighting is required and verifying that none will be used.
 7. Evidence satisfactorily demonstrating to the Zoning Commission that use of an existing support structure is not possible pursuant to Section 4.05.05.
 8. A map showing the area of coverage provided by the transmission of the proposed antenna(s).
 9. If the proposed tower is less than 1,000 feet from any residence or commercial building, and/or less than 150% the height of the tower to any property line, the applicant shall submit a signed notarized form, approved by the Planning Department, from all owners of record of such residential or commercial buildings and all owners of record of such property consenting to the location of the tower. This form shall be recorded in the Latah County Recorder's Office by the Planning Department. Setbacks from any public road or public right-of-way shall not be waived.
3. Notification shall follow the requirements of Idaho Code Section 67-6512, and all property owners of record located within 1,000 feet of the proposed tower shall be notified by regular mail at the last address listed in the Latah County Assessor's Office records by the Planning Department 15 days prior to the hearing.

4.05.07 FACTORS TO BE CONSIDERED BY THE ZONING COMMISSION

In addition to the conditional use permit criteria set out in Section 7.01, the Zoning Commission shall take the following considerations into account when deciding whether to grant a conditional use permit for a wireless telecommunication tower:

1. Whether the wireless telecommunication provider has attempted in good faith to co-locate or use an existing structure in the County;
2. Whether the height, design, and any proposed future modification of the wireless telecommunication facility, will reduce or eliminate visual obtrusiveness to the greatest extent feasible and practical;
3. Whether it has been demonstrated the tower will have a negative impact on nearby property;
4. Whether the existing land use of the proposed site is unique to that land; and

5. Whether any lighting required by law may pose an unreasonable nuisance at the proposed site.

4.05.08 REQUIRED CONDITIONS FOR TOWERS

The following are required conditions for the approval of the construction of towers and shall appear in any CUP approved for such use:

1. All towers must be built so as to allow for a total of at least three wireless telecommunication providers on the tower. The Zoning Commission may waive this requirement if greater consistency with the Latah County Comprehensive Plan may be achieved thereby.
2. All towers must be set back a minimum of 150% the height of the tower from any public road, public right-of-way or property line, and a minimum of 1,000 feet from any residence or commercial building. If consents pursuant to Section 4.05.06.2.B.9 are filed with the Planning Department, the Zoning Commission may waive such setbacks. Setbacks from any public road or public right-of-way shall not be waived.
3. If equipment enclosures will be located on the ground, a six to seven foot high fence of wood, masonry or privacy slats completely surrounding the equipment enclosure is required to secure and screen the equipment and structure.
4. A warning sign no larger than three square feet and no smaller than two square feet must be placed on the fencing access/gate. It must contain the name of the owner and operator of the facility, and a phone number for cases of emergency as well as any other information required by law.
5. Any tower/structure shall be finished in a non-reflective neutral color or as otherwise specified by the Zoning Commission.
6. No ladder rungs or climbing pegs on towers shall be allowed within 20 feet of the ground.
7. No towers with guy wires are allowed.
8. No lighting of antennas or antenna support structures except as required by the Federal Aviation Administration. The maximum tower lighting is a low intensity red light as defined by the Federal Aviation Administration.
9. Transmission towers and all accompanying equipment enclosures or ancillary facilities shall be camouflaged to fit into their immediate surroundings at the discretion of the Zoning Commission.

10. Prior to turning on or using the antenna(s), the applicant must submit documentation demonstrating the provider is licensed in good standing by the Federal Communications Commission (FCC).
11. Compliance at all times with any applicable laws or regulations including the Latah County Land Use Ordinance.
12. All applicants granted a permit under this Section shall cooperate and negotiate in good faith with other providers or tower owners in efforts to co-locate. Such good faith shall include sharing technical information to evaluate the feasibility of co-location. Such technical information is limited to necessary information to evaluate the feasibility of co-location.
 - A. If a provider is denied the opportunity to co-locate by a tower owner or operator with a conditional use permit granted under Section 4.05, the denied party shall obtain a technical study showing whether co-location is possible from an independent third party prior to consideration for a permit. If the study concludes co-location may occur without impairment to the existing operator(s), the tower owner shall be charged the expense of the study and co-location shall be permitted at a reasonable fee.
 - B. In the event that the parties are unable to agree as to what is fair market value, the parties shall notify the Planning Department of such in writing and shall then select a certified general appraiser in the State of Idaho to determine the fair market value and notify the County of the same within 30 days. If the parties do not agree on the selection of an appraiser and so notify the Planning Department, the Planning Department may arrange for an appraiser, at the expense of both parties. The determination of fair market value by any such appraiser shall be binding on the parties.
 - C. Failure of a tower owner to allow co-location at a reasonable fee and on reasonable terms shall result in the immediate revocation of the owner's conditional use permit.

4.05.09 AUTOMATIC LIEN

In order to enable Latah County to better enforce the provisions of Section 4.05.10, relating to the abandonment and removal of towers, an automatic lien in favor of Latah County may be created for a conditional use permit pursuant to this section. By filing an application for a conditional use permit pursuant to this section, the property owner consents to the creation of this lien. The lien created by this Section shall be perfected upon recording in the Latah County Recorder's Office and such lien shall have a priority date as of the date of the issuance of the conditional use permit. Enforcement by lien is non-exclusive and in addition to any and all other remedies available at law or in equity.

4.05.10 ABANDONMENT & REMOVAL

1. Any tower that has had no antenna mounted upon it for a period of 120 consecutive days, or if the antennas mounted thereon are not operated for a period of 120 successive days, shall be considered abandoned. The tower owner or landowner thereof shall:
 - A. Remove any such tower and any accompanying equipment enclosure within 90 days of abandonment; and
 - B. Bring the location of the removed facility back to its original state, or better.
2. The Planning Department, upon determining that a tower has been abandoned, shall serve notice by certified mail of its determination of abandonment upon the owner of the tower, to the address contained in the most recent statement required to be filed with the Planning Department, pursuant to Section 4.05.03, and to the land owner, to the address on file with the Latah County Assessor's Office. The notice shall contain the reasons why the tower has been deemed abandoned, the owner's obligation to remove the tower pursuant to this Section, and the owner's right to appeal the determination of abandonment.
3. The tower owner or landowner may during the 90 days, apply, and for good cause shown, have granted, an extension of time on such terms as the Planning Department shall determine.
4. If such structure and equipment enclosure are not so removed within said 90 days or any extension thereof, then the County has the right without further notice to enter upon the land and remove and abate such structures at the expense of the tower owner or landowner, which may be collected through any automatic lien created in Section 4.05.09 and/or by any other remedy available at law or in equity. In the event Latah County exercises its right hereunder, any and all salvage rights shall inure to, and become property of Latah County at the County's sole option.
5. The Planning Department's determination of abandonment may be appealed pursuant to Section 1.02.17.
6. In the event that more than one wireless telecommunications provider is using the support structure, then this provision shall not become effective until all users cease transmitting from the structure.

4.05.11 FAILURE TO COMPLY WITH ALL CONDITIONS

In addition to any other enforcement proceedings available under this ordinance, failure to comply with any conditions set forth in this Section, all applicable Sections, or federal and state laws will result in immediate revocation of the wireless telecommunication provider's Conditional Use Permit and require removal of their antennas, tower, and/or related equipment if applicable in accordance with Section 4.05.10. Procedures for appeals are set out in Section 1.02.17 of this ordinance.

SECTION 4.06 PERMANENT LIVING QUARTERS

Nothing within this ordinance shall be construed to allow a camping trailer, tent, yurt, licensed vehicle or trailer, recreational vehicle, or any other vehicle, accessory structure, or item as a permanent dwelling. No parcel can be used for temporary living quarters for a period of more than six months in a 12 month period, unless permitted for use as specified under a conditional use permit for a campground or recreational vehicle park.

SECTION 4.07 MANUFACTURED HOME PARKS

Manufactured home developments must be located in the suburban residential zone (see Section 3.03). Those that have four or fewer lots are subject to Section 8.02 of this ordinance and those that have five or more lots are subject to Section 8.03 of this ordinance. In lieu of a plat, manufactured home developments must submit a scaled drawing/map by an engineer or surveyor licensed in the State of Idaho of the manufactured home development showing all easements, numbered lots, lengths of boundaries of each lot, exterior property boundaries, internal streets, alleys, and drives with widths and courses clearly shown, and all of the other required attributes, such as the water system or the buffer yards, set forth in either Section 8.02 or Section 8.03 of this ordinance. Manufactured home developments subject to Section 8.03 of this ordinance that have all manufactured buildings smaller than 1,600 square feet will be allowed to develop sites that are sized at 7,260 square feet of land or more exclusive of easements. Existing manufactured home parks must be brought into compliance with Section 8.03 of this ordinance if they wish to alter or expand the park, including moving spaces or adding new spaces.

ARTICLE 5

OVERLAY ZONES

An overlay zone is created by superimposing the overlay zone's lines on the zoning map for a hazard area, a special resource area, or a development area that has provisions that apply in the overlay area in addition to all other provisions of this ordinance. Overlay zones create a framework for protection of persons and property, conservation, or development of special geographical areas.

SECTION 5.01 FLOOD HAZARD AREAS

5.01.01 AUTHORITY AND PURPOSE

Title 67, Chapter 65, Idaho Code, delegates the responsibility to every county to adopt regulations designed to promote the public health, safety and general welfare of its citizens. Therefore, to minimize the threat of flood damage and achieve the purpose established in this Section, the Board of Latah County Commissioners adopts the provisions for flood hazard reduction specified in this Article.

The purpose of this article is to: 1) protect human life and health; 2) minimize expenditure of public money for costly flood control projects; 3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; 4) minimize prolonged business interruptions; 5) minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, roads and bridges located in flood hazard areas; 6) help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize future flood blight areas; 7) provide that developers are notified that property is in a flood hazard area, and; 8) ensure that those who occupy the flood hazard areas assume responsibility for their actions.

5.01.02 GENERAL PROVISIONS FOR FLOOD HAZARD AREA REGULATION

1. **BASIS FOR ESTABLISHING FLOOD HAZARD AREAS** - This article shall apply to all flood hazard areas within unincorporated Latah County. The flood hazard areas are identified and defined by a scientific and engineering report entitled "Flood Insurance Study, Latah County, Idaho (Unincorporated Areas)" dated February 1980 and revised September 1, 1983 and April 15, 2002. This document, the accompanying Flood Insurance Rate Maps, the Flood Boundary-Floodway Maps and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is available for review at the Latah County Planning Department.

2. **NON-COMPLIANCE** - No structure in a flood hazard area shall hereafter be constructed, located, or altered and no land shall be excavated or filled without full compliance with the terms of this ordinance. In addition to any other enforcement remedies available under this ordinance, any violation of this section shall result in notification being sent to the Federal Emergency Management Agency.

3. **WARNING AND DISCLAIMER OF LIABILITY** - The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. This article does not imply that land outside the flood hazard area or uses within such areas will be free from flooding or flood damages. This article shall not create liability on the part of Latah County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.
4. **ADMINISTRATION** - The Planning Department shall administer and implement this article by granting or denying floodplain development permits in accordance with its provisions. The Department shall maintain all records pertaining to the provisions of this ordinance for public inspection.
5. **PROHIBITION ON NEW ACTIVITIES** - There shall be no new construction of dwellings or placement of manufactured housing in the floodplain or floodway, or new construction or placement of accessory buildings in the floodway, unless an applicant can show that there is no other portion of their parcel available for their intended purpose that is outside of the floodplain. Parcels created after the date of adoption of this ordinance shall only be allowed to develop on portions of these parcels that are outside of the designated floodplain. If an act of nature destroys a residence, and the infrastructure for that residence is still useable, the residence may be replaced at that location so long as the remaining portions of the old structure, the new structure, and any additional improvements that need to be made are brought into compliance with this ordinance, and so long as its location is not in the floodway.
6. **DEVELOPMENT** - For the purposes of this Section of the ordinance, development is defined as new construction, a substantially improved structure, placement of a manufactured home or building, mining, dredging, filling, grading, excavating, roads, bridges, culverts, altering or relocating stream channels, storage of materials including gas or liquid storage tanks, stockpiling, septic systems, drainfields, and sewage lagoons.

5.01.03 FLOODPLAIN DEVELOPMENT PERMIT

1. **ESTABLISHMENT AND PURPOSE OF PERMIT** - A floodplain development permit and fee is hereby established and required for all construction and other development to be undertaken in areas of special flood hazard in Latah County. It shall be a violation of this ordinance to undertake any development in a flood hazard area, as shown on the maps identified in Section 5.01.02.1, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Planning Department and may require reports and drawings which the Department deems necessary to issue the permit.
2. **APPLICATION FOR A FLOODPLAIN DEVELOPMENT PERMIT** - The applicant shall provide the following information when applicable:

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of any new or substantially improved structure to be located in flood hazard areas. Upon completion of the lowest floor, the permittee shall submit to the Planning Department the as-built elevation of the lowest floor (including basement) certified by a professional surveyor or professional engineer licensed in the State of Idaho. If no base flood elevation data are available the permittee shall submit to the Planning Department verification that the as-built elevation of the lowest floor is three feet above the highest adjacent ground elevation.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Planning Department the as-built floodproofed elevation, certified by a professional surveyor or a professional engineer licensed in the State of Idaho. If no base flood elevation data are available the permittee shall submit to the Planning Department verification, certified by a professional surveyor or professional engineer licensed in the State of Idaho, that the elevation of flood-proofing is three feet above the highest adjacent ground elevation.
- C. A certificate from a professional engineer licensed in the State of Idaho that any non-residential floodproofed structure will meet the criteria of Section 5.01.04.
- D. A technical analysis, by a professional engineer licensed in the State of Idaho, which shows whether a proposed development to be located in a flood hazard area may result in physical damage to any property.
- E. In Flood Zone A, when no base flood elevation data are available, base flood elevation data from a professional engineer licensed in the State of Idaho shall be provided by the permit applicant for subdivision proposals or manufactured home parks with more than four lots and other proposed developments that are larger than five acres.
- F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a professional engineer licensed in the State of Idaho must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must provide legally binding commitments that the conveyance capacity of the altered or relocated stream segment will be maintained. The applicant must also provide the Federal Emergency Management Agency with all documentation it deems necessary to revise the documents listed in Section 5.01.02.1 of this ordinance.
- G. The applicant shall notify adjacent communities, the Army Corp of Engineers, the Idaho Department of Environmental Quality, and the Idaho Department of Water Resources prior to any alteration or relocation of a watercourse, and submit

evidence of such notification to the Planning Department and to the Regional Director of the Federal Emergency Management Agency.

- H. When base flood elevation data have not been provided by the study or maps listed above, the Planning Department, in order to administer this article, may review and reasonably utilize information presented to them from the applicant that has been verified by a professional engineer licensed in the State of Idaho regarding any base flood elevation and floodway data available from a Federal, State, or other qualified source, in order to administer this Article.
3. **PERMIT APPLICATION REVIEW AND ISSUANCE** - Prior to issuance of a development permit, the Planning Department shall review each application to verify the completeness of information required by Section 5.01.03.2 and submission of plans indicating compliance with the standards of this ordinance as provided in Section 5.01.04. As a condition of development permit issuance, the permittee shall receive all necessary permits from those Federal, State, or local governmental agencies from which approval is required. The Planning Department shall also notify the Idaho Department of Water Resources and the U.S. Army Corps of Engineers for their determination if any additional permits are necessary.
4. **PERMIT ADMINISTRATION** - Upon issuance of a development permit the Planning Department may make periodic inspections of the site to monitor compliance with permit conditions and shall issue stop work orders for any floodplain development found ongoing without a permit or noncompliant with the provisions of this ordinance or the conditions of the development permit.

5.01.04 FLOODPLAIN MANAGEMENT STANDARDS

1. **ENCROACHMENTS** - Within flood hazard areas where the base flood elevation has been determined but the floodway has not been determined, no new construction, substantial improvement, or other development (including fill) shall be permitted unless a technical evaluation by a professional engineer licensed in the State of Idaho demonstrates that the proposed development along with existing development will not increase the base flood elevation more than one foot above the base flood elevation as indicated by the Flood Insurance Rate Map.

Within a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless a technical evaluation (a no rise certification that includes both a step-backwater analysis and a conveyance compensation computation) by a professional engineer licensed in the State of Idaho demonstrates that the proposed development will not result in any increase in base flood elevation as indicated by the Flood Insurance Rate Map.

All residential and non-residential structures in the floodplain and all development in the floodway shall be designed or reviewed and approved by a professional engineer licensed in the State of Idaho who shall ensure that all elevations, structural design, and other

requirements of this and the building code ordinances are met and who shall also certify that the completed construction is in compliance with their approved plans.

2. **STANDARDS FOR RESIDENTIAL STRUCTURES** - If base flood elevation data are given on the Flood Insurance Rate Map, new construction and substantial improvements, together with attendant utility and sanitary facilities, shall have the lowest floor elevated one foot above base flood elevation. If no base flood elevation data are given on the Flood Insurance Rate Map, new and substantially improved structures shall have the lowest floor elevated at least three feet above the highest adjacent ground elevation. Basements for residences are not permitted in flood hazard areas.

Within Flood Zones AH and AO, adequate drainage paths, as designed by a professional engineer licensed in the State of Idaho, are required to guide flood water around and away from proposed structures on slopes.

3. **STANDARDS FOR NON-RESIDENTIAL STRUCTURES** - For a non-residential structure to be eligible for wet-floodproofing, the structure must be a garage/shop or must be used solely for limited storage or parking, and must meet the criteria for wet-floodproofing set forth in Section 5.01.04.05 of this ordinance, as well as other criteria for building in a floodplain as set forth in this ordinance.

If base flood elevation data are given on the Flood Insurance Rate Map, new construction and substantial improvements, together with attendant utility and sanitary facilities, shall have the lowest floor (including basements) elevated one foot above base flood elevation or shall be wet or dry floodproofed so that the structure is watertight up to one foot above the base flood elevation. All structural components located below the floodproofed level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

If no base flood elevation data are given on the Flood Insurance Rate Map, new and substantially improved structures shall have the lowest floor (including basements) elevated three feet above the highest adjacent grade or shall be wet or dry floodproofed so that the structure is watertight up to three feet above the highest adjacent grade. All structural components located below the floodproofed level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

Within Flood Zones AH and AO, adequate drainage paths, as designed by a professional engineer licensed in the State of Idaho, are required to guide flood water around and away from proposed structures on slopes.

4. **MANUFACTURED HOMES AND RECREATIONAL VEHICLES** - Recreational vehicles may be placed in a flood hazard area if the vehicle is fully licensed and ready for immediate highway use, subject to Section 4.06 of this ordinance.

Manufactured homes placed or substantially improved manufactured homes in a flood hazard area shall be elevated on a permanent foundation such that the lowest floor is elevated at least one foot above the base flood elevation or, if no base flood elevation is given, three feet above the highest adjacent grade. The home shall be securely anchored to a permanent, adequately anchored foundation system to resist flotation, collapse and lateral movement.

Manufactured homes placed in existing spaces in a previously established manufactured home park shall be elevated as specified above and attached to and supported by reinforced piers which are adequately anchored to resist flotation, collapse or lateral movement of the manufactured home.

5. **STANDARDS FOR ALL CONSTRUCTION IN FLOOD HAZARD AREAS** - New structures and substantial improvements to structures in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement during the base flood event. The new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, as well as using methods and practices that minimize flood damage.

Spaces below the lowest floor of a new or substantially improved structure shall be used solely for parking of vehicles, building access, or storage. These spaces shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs must meet the following minimum criteria:

- A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - B. The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
6. **STANDARDS FOR UTILITIES IN FLOOD HAZARD AREAS** - All mechanical, electrical, heating, ventilation, air conditioning equipment, plumbing, other utilities, and other service facilities shall be designed so as to prevent water from entering or accumulating within the components during conditions of flooding and shall be elevated one foot above base flood elevation. When located below the base flood elevation or if base flood elevation data is not available all utilities shall be designed or reviewed and approved by a professional engineer licensed in the State of Idaho who shall ensure that all elevations, structural design, and other requirements of this ordinance, the building code ordinance, or other state or local regulations are met and who shall also certify that the completed construction is in compliance with their approved plans. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

7. SUBDIVISION PROPOSALS

- A. All subdivision proposals shall be consistent with the need to minimize flood damage;
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- D. Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments where floodplain exists which contain at least 50 lots or 5 acres (whichever is less).

8. CRITICAL FACILITIES

Critical facilities constructed within the floodplain or flood hazard area shall have the lowest floor elevated three feet or more above the level of the 100-year base flood elevation at the site. When base flood elevations have not been provided, they shall be generated. Floodproofing and sealing measures are required to be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes to all critical facilities shall be elevated to or above the level of the base flood to the extent possible.

Critical facilities include, but are not limited to, emergency service facilities and equipment (fire stations, police stations, rescue squads, public works facilities, custodial facilities such as jails and juvenile detention centers, hospitals, and other health care facilities, etc.), communications networks (telephones, emergency service radio systems, repeater sites and base stations, television and radio stations, etc.), water supply system/facilities, waste water treatment facilities, public utilities (power plants, substations, power lines, etc.), transportation networks (roads, bridges, airports, rail terminals), public facilities, or any other similar facilities the planning department deems to be a critical facility.

5.01.05 APPEALS

Any decision made by the Latah County Planning and Building Department regarding Article 5 of this ordinance may be appealed to the Land Use Board of Appeals as per Section 1.02.17 of this ordinance. No appellate decision shall violate any provision of the federal regulations that govern the Flood Insurance Program.

ARTICLE 6

ZONING MAP AMENDMENTS

SECTION 6.01 QUASI-JUDICIAL AMENDMENTS TO THE ZONING MAP (REZONES RECOMMENDED BY THE ZONING COMMISSION)

To allow changes in permitted land uses which are in accordance with the Comprehensive Plan, requests from the owner of the affected property to amend the Zoning Map may be considered. Overlay zones are not eligible for rezone under this section. These requests for rezoning of property must be reviewed by the Zoning Commission and a recommendation forwarded to the Board of Latah County Commissioners for a final decision. This review shall determine the extent and nature of the requested amendment, including any effects of the zone change upon the delivery of services by entities providing public services, including school, road, public safety, sewer, water, and other relevant services.

6.01.01 APPLICATION

Application for rezoning shall be made by the owner of the affected property. The completed application form, fee, and any other information required by the Planning Department shall be submitted to the Department prior to scheduling a public hearing. The applicant shall supply the Planning Department with a surveyed boundary legal description or with a legal description of the proposal in aliquot parts as part of the application. The Department may, after discussion with the County Surveyor, accept an alternate legal description if it is adequate to ensure accurate boundaries on the Official Zoning Map of Latah County.

6.01.02 REZONE CRITERIA

The Zoning Commission may recommend the Board of Latah County Commissioners approval of a rezone application if the Zoning Commission finds that the proposed rezone conforms to each of the following criteria:

1. The rezone is in accordance with the goals and policies of the Comprehensive Plan.
2. The rezone, and the uses it permits, shall not be detrimental to or incompatible with the surrounding area, and the uses permitted in that area.
3. The rezone must provide some public benefit that exceeds any costs imposed upon the public.
4. The rezone shall not impose a significant burden to any public services.
5. The rezone shall not be a spot zone.

The Zoning Commission may recommend approval for rezone proposals that do not initially meet these criteria, if the applicant can provide substantial mitigation through a written development agreement as provided by Section 6.01.03.4 of this ordinance. The Zoning Commission may also recommend approval for applications not meeting the criteria listed above if the Zoning Commission finds that the rezone is essential to the public health, safety, or welfare.

6.01.03 PUBLIC HEARINGS AND PROCEDURES

1. A public hearing before the Zoning Commission shall be held on each complete application received by the Planning Department within six months of receiving the complete application. In the event that the applicant does not want a hearing to be held within this six month period, at the end of the six month period the application will be returned to the applicant, with a refund of 80% of the application fee if the hearing has not been noticed. The applicant can withdraw an application at any time, with a refund of 80% of the application fee if the hearing has not been noticed.
2. Notice for the public hearing shall be given as set forth in Idaho Code Section 67-6511, or when notice is required to 200 or more property owners notice shall be given as set forth in Section 6.02.01 of this ordinance.
3. The Zoning Commission shall determine whether the proposal conforms to the rezone criteria set forth in Section 6.01.02. Based on its determination, the Zoning Commission shall recommend the Board of Latah County Commissioners approve or deny the application for rezone.
4. The Zoning Commission may recommend, as a condition of approval, that the Board of Latah County Commissioners require the owner or developer to make a written development agreement concerning the use or development of the subject parcel as provided by Idaho Code Section 67-6511A. The creation, form, recording, modification, enforcement, and termination of conditional commitments are governed as follows:
 - A. The Board of Latah County Commissioners may require the developer to make a written commitment regarding the specific use and development of the subject property. If required by the Board of Latah County Commissioners, these commitments or conditions shall be considered part of the basis for approval.
 - B. The terms of the written agreement shall be specified in the Board of Latah County Commissioners' written decision. If the Board of Latah County Commissioners adopts the decision of the Zoning Commission, it shall also adopt the Zoning Commission's recommended conditions for approval. The conditions imposed shall be limited to requirements necessary to ensure that the application meets the criteria of Section 6.01.02.
 - C. Prior to adoption of the zoning map amendment, the agreement shall be submitted to the Board of Latah County Commissioners as a written development agreement

that enumerates and describes the conditions for approval. This agreement must include the following:

1. The responsibility of current and subsequent property owners to comply with the terms and conditions.
 2. The statement that failure to meet those terms will result in enforcement proceedings against the applicant and / or reversion of the property to its former designation.
 3. The statement that this agreement shall be deemed written consent that upon determination by the County that the conditions of approval are not being met, the property be reverted to its original zoning designation and all uses not consistent with that designation shall be considered a violation of this ordinance.
 4. Notarized signatures of the applicant and the property owner(s).
 5. Notarized signature of the chairperson of the Board of Latah County Commissioners. The Board of Latah County Commissioners shall only authorize the Chairman to sign the document if it is determined that the document meets the terms specified for the written agreement as well as the requirements specified in this paragraph.
- D. Once signed by all parties, the applicant shall have the document recorded in the Latah County Recorder's Office. The Board of Latah County Commissioners shall not adopt the zoning map amendment until the document has been recorded by the applicant. Once recorded, the Board of Latah County Commissioners shall adopt, by ordinance, an amendment to the zoning map. This amendment shall reference the development agreement and shall provide that the zoning map be designated in a manner that indicates that the new zoning designation has been assigned specific conditions.
- E. The agreement shall remain in effect until formally modified or terminated by the Board of Latah County Commissioners, or the property is rezoned. The agreement may be terminated or modified by the Board of Latah County Commissioners with the written permission of the current property owner. Prior to termination or modification, at least one public hearing shall be conducted in accordance with the notice and procedural provisions for a rezone application. Nothing in this Section shall prevent the Board of Latah County Commissioners from rezoning a property subject to these agreements after four years from the date of approval, or under the restrictions set forth in Title 67, Chapter 65, Idaho Code.
5. The Zoning Commission shall announce its decision and approve findings of fact and conclusions of law within forty days of closing the public hearing. Once the Zoning Commission has approved its written findings of fact and conclusions of law, the Board of

Latah County Commissioners may adopt the Zoning Commission's written findings and conclusions or conduct its own public hearing regarding the application. If the Board of Latah County Commissioners chooses to conduct its own hearing, the Board of Latah County Commissioners shall follow the same criteria and procedures as the Zoning Commission, except that the Board of Latah County Commissioners' decision shall be considered final. If the Board of Latah County Commissioners chooses to make a material change in the recommendation, it shall conduct its own public hearing. If the Board of Latah County Commissioners adopts the Zoning Commission's recommendation for approval or otherwise approves the request for rezone, the Board of Latah County Commissioners shall also adopt by ordinance the approved amendments to the Latah County Zoning Map. If an ordinance is not adopted within one year after the rezone approval because the applicant does not provide adequate information to complete the rezone, the rezone shall be void.

SECTION 6.02 LEGISLATIVE AMENDMENTS TO THE ZONING MAP (REZONES RECOMMENDED BY THE PLANNING COMMISSION)

Legislative amendments to this ordinance which are in accordance with the Latah County Comprehensive Plan may be made after review by the Planning Commission. The Planning Commission shall conduct a public hearing prior to any recommendation for amendment to the Board of Latah County Commissioners. The Board of Latah County Commissioners shall conduct its own public hearing upon receipt of the Planning Commission's recommendation and prior to adoption of any legislative amendment to this ordinance.

6.02.01 LEGISLATIVE ZONING MAP AMENDMENTS

The Planning Commission shall conduct public hearings for amendments to the Zoning Map when that rezone is not initiated by an applicant. The Planning Commission, Zoning Commission, or Planning Department may propose Zoning Map amendments. Notification for a legislative amendment to the Zoning Map shall be advertised as provided for by Idaho Code Section 67-6511. Individual notice shall also be mailed to property owners of the land being considered or property owners within 300 feet of the external boundaries of the affected property. Notice shall also be posted on the property being considered for rezone one week prior to the public hearing. However, when notice is required for more than 200 property owners, in lieu of the individual notice and the notice posted on the property, the County shall place one advertisement in the official newspaper or newspaper of general circulation. This advertisement shall appear in the newspaper one week prior to each public hearing related to the rezone and shall be in a different format than the legal notice which preceded it. The advertisement shall be titled "Attention Property Owners of Latah County" and shall include a general description of the affected property, the phone number and address of the Planning Department and the time and place of the public hearing. To recommend approval or approve a legislative amendment to the zoning map, the Planning Commission and Board of Latah County Commissioners shall find that the proposed amendment is in accordance with the Latah County Comprehensive Plan.

ARTICLE 7

CONDITIONAL USE PERMITS AND VARIANCES

SECTION 7.01 CONDITIONAL USE PERMITS

To comply with the purposes of this ordinance, specific land uses within a particular zone require special consideration prior to their being permitted in that zone. These conditional uses must be reviewed and approved by the Zoning Commission prior to initiation or development. This review shall determine the compatibility of the proposed use with the surrounding area and particularly with permitted uses in that zone. The approval may provide specific conditions which ensure that the proposed use will be compatible with the permitted uses. The listing of a particular use as a conditionally permitted use does not give the property owner a property right in that use.

7.01.01 APPLICATION

Application for a conditional use permit shall be made by the owner of the affected property. The completed application form, fee, and any other information required by the Planning Department shall be submitted to the Department prior to scheduling a public hearing.

7.01.02 PERMIT CRITERIA

1. A conditional use permit shall be granted if the Zoning Commission finds that the proposed use conforms to each of the following criteria:
 - A. The use is not detrimental to the health or safety of those in the surrounding area.
 - B. The use will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone.
 - C. The use will not require facilities or services with excessive costs to the public.
2. If the Zoning Commission finds that a proposed use is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.
3. The Zoning Commission shall have the authority to set an expiration date for any conditional use permit so long as the reasons for such are included in their findings of fact and conclusions of law.

7.01.03 PUBLIC HEARINGS AND PROCEDURES

1. A public hearing before the Zoning Commission shall be held on each complete application received by the Planning Department within six months of receiving the complete application. In the event that the applicant does not want a hearing to be held within this six month period, at the end of the six month period the application will be returned to the

applicant, with a refund of 80% of the application fee if the hearing has not been noticed. The applicant can withdraw an application at any time, with a refund of 80% of the application fee if the hearing has not been noticed.

2. Notice for the public hearing shall be given as set forth in Idaho Code Section 67-6512(b), or when notice is required to 200 or more property owners notice shall be given as set forth in Section 6.02.01 of this ordinance.
3. The Zoning Commission shall determine whether the proposal conforms to the permit criteria set forth in Section 7.01.02. Based on its determination, the Zoning Commission may approve or deny the application for the permit.
4. The Zoning Commission may require such changes or impose such reasonable conditions for the proposed use which are in its judgment necessary to ensure conformity with Section 7.01.02. Each approved permit shall conform to the specifications of the proposal except as explicitly modified by the Zoning Commission. Conditional use permits may be temporary so that the period of approval for a particular use is limited.
5. The Zoning Commission shall approve findings of fact and conclusions of law and notify the applicant of its decision within forty days of closing the public hearing.

7.01.04 RECONSIDERATION PROCEDURE

All final decisions of the Zoning Commission may be reconsidered, as set forth in Section 1.02.18 of this ordinance.

7.01.05 EFFECTIVE DATE

No conditional use permit shall become effective nor shall any building or installation permit be issued until the reconsideration period has elapsed or until the Board of Latah County Commissioners has made a decision upon reconsideration.

7.01.06 EXPANSION OF CONDITIONAL USES

Expansion, enlargement, or alteration of an approved conditional use shall be reviewed by the Planning Department upon written request by the permit holder. If the Department determines that the alteration, expansion, or enlargement is beyond the scope of action allowed by the original permit, the Department shall require the permit holder to apply for the review and approval of the Zoning Commission under the provisions of Section 7.01.03.

7.01.07 EXPIRATION OF A CONDITIONAL USE PERMIT

A conditional use permit shall expire if the use allowed by the permit is not initiated within one year of the effective date or if the use is initiated and then ceases for a period of one year unless otherwise specified by the Zoning Commission. A one-time extension of no more than one year may be granted by the Director for good cause.

7.01.08 FAILURE TO COMPLY

Failure to comply with the conditions of approval or the provisions of Section 7.01 may result in revocation of the conditional use permit and/or any other formal or informal enforcement action at the discretion of the Director. The Director may revoke a conditional use permit if the permittee fails to comply with the conditions of approval. Upon revocation the Director shall issue a written notice of revocation including the reasons therefore. This notice shall be sent to the permittee by certified mail or shall be hand delivered. This revocation is appealable pursuant to Section 1.02.17 of this ordinance. No revocation shall take effect until the expiration of the appeal period contained in Section 1.02.17, or, if an appeal is filed, until a decision has been made upon appeal.

SECTION 7.02 VARIANCES

A variance shall only be used to modify setbacks, building height, yard or frontage requirements, and parking requirements on a lot or parcel of land prescribed by this ordinance. Variances are not a property right and shall be reviewed by the Zoning Commission prior to construction. This review shall determine if the variance is in conflict with the public interest and that compliance with the specified ordinance restrictions would deny the property owner an otherwise permitted use on the property.

7.02.01 APPLICATION

Application for a variance shall be made by the owner of the affected property. The completed application form, fee, and any other information required by the Planning Department shall be submitted to the Department prior to scheduling a public hearing.

7.02.02 VARIANCE CRITERIA

A variance may be granted if the Zoning Commission finds that the proposed variance meets each of the following criteria:

1. The variance will not be detrimental to the public interest or other property in the vicinity of the proposed variance.
2. Compliance with setbacks, building height, yard or frontage requirements, and parking requirements prescribed would deny the property owner an otherwise permitted use on the property due to the parcel's peculiar physical characteristics.

If the Zoning Commission finds that a variance is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.

7.02.03 PUBLIC HEARINGS AND PROCEDURES

1. A public hearing before the Zoning Commission shall be held on each complete application received by the Planning Department within six months of receiving the complete application. In the event that the applicant does not want a hearing to be held within this six month period, at the end of the six month period the application will be returned to the applicant, with a refund of 80% of the application fee if the hearing has not been noticed. The applicant can withdraw an application at any time, with a refund of 80% of the application fee if the hearing has not been noticed.
2. Notice for the public hearing shall be given as set forth in Idaho Code Section 67-6516.
3. The Zoning Commission shall determine whether the proposal conforms to the variance criteria set forth in Section 7.02.02. Based on its determination, the Zoning Commission shall approve or deny the application for the variance.
4. The Zoning Commission shall announce its decision and approve findings of fact and conclusions of law within forty days of closing the public hearing. A copy of the signed findings of fact and conclusions of law will be mailed to the applicant within 48 hours of them being signed.

7.02.04 RECONSIDERATION PROCEDURE

All final decisions of the Zoning Commission may be reconsidered, as set forth in Section 1.02.18 of this ordinance.

7.02.05 EFFECTIVE DATE

Upon approval, the variance shall become effective, but if there is an application to reconsider the variance, any use and any associated building permits must immediately discontinue until the reconsideration is decided. Any initiation of a use that required the variance or obtaining of building permits related to the use is at the risk of the applicant. Until the reconsideration/appeal period has elapsed or until the Board of Latah County Commissioners/court of law has made a decision upon reconsideration/appeal, no variance is guaranteed. No refunds will be issued for building permits that are suspended because an application for reconsideration has been made or an appeal has been filed or a variance has been overturned by the Board of Latah County Commissioners or by a court of law. If a variance is overturned, any improvements associated with the variance must be removed from the property within 30 days.

7.02.06 EXPIRATION OF A VARIANCE

A variance shall expire if the structure allowed by the variance is not physically established within one year of the effective date.

ARTICLE 8

DIVISIONS OF PROPERTY

SECTION 8.01 LAND DIVISIONS

Land divisions are only allowed in the Agriculture/Forest Zone. Land divisions are allowed only if the requirements as listed in this Section of the ordinance are met.

8.01.01 DEFINITION OF EXISTING AND NEW PARCELS

All parcels of land recorded or approved by the Planning Department on or before January 1, 1997 shall be considered existing parcels. "Parcels of land recorded" is defined as a contiguous quantity of land recorded as the property of persons or entities, each of which is named in a single instrument conveying ownership thereof, and which has been separately conveyed from any adjoining quantity of land, whose boundaries are defined in the last recorded instrument of conveyance of such parcel which was recorded prior to January 1, 1997. Conveyance of title, or contracts which provide for conveyance of title, to portions of existing parcels which are executed after January 1, 1997, shall be deemed to create new parcels, except when transferred as a boundary line adjustment in accordance with Section 8.05 of this ordinance. To be eligible for one residential building permit or commercial building permits under Sections 3.01.01, 3.01.02, and 3.01.03 of this ordinance, these new parcels shall be created in compliance with the provisions of this ordinance. Roads that cross parcels that are listed in the Assessor's database as a category 19 or that are owned or maintained by the North Latah County Highway District or South Latah Highway District do not divide a parcel into separately eligible building sites and are themselves not parcels. Highways and freeways owned by the State of Idaho or the United States that existed prior to January 1, 1997 divide eligible parcels, creating two eligible parcels, if the highway or freeway deeds show a "fee simple" ownership by the State or Federal Government or if parcels on either side were transferred prior to January 1, 1997 and defined the property boundary as the highway or freeway. Highways and freeways owned by the State of Idaho or the United States that were developed or rerouted after January 1, 1997 do not divide a parcel and in no case create separately eligible building sites or eligible parcels. To be eligible for building permits, existing parcels that are listed as having undivided interest or percentages of interest between parties must be divided in accordance with Section 8.01 of this ordinance, including by the owners that have interest in the parcel.

8.01.02 DEFINITION OF PRODUCTIVE SOIL TYPES

For purposes of this Article, productive soil types are defined as those mapped soils from the 1981 "Soil Survey of Latah County Area, Idaho", U.S. Department of Agriculture, and any subsequent amendments or updates of this survey as published by the U.S. Department of Agriculture, including soil type # 3, 4, 8, 12, 13, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 44, 45, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 and soils on all lands not included in that soil survey. All maps are located in the Latah County GIS system. Less productive soil types are defined as all remaining soil types.

8.01.03 ELIGIBILITY FOR LAND DIVISION IN THE AGRICULTURE/FOREST ZONE BASED ON SIZE OF EXISTING PARCEL

Existing parcels of at least 10 acres, regardless of soil type, are eligible for one division. Existing parcels of at least 160 acres, regardless of soil type, are eligible for one additional land division for each 160 acre portion of the existing parcel.

8.01.04 ELIGIBILITY FOR LAND DIVISION IN THE AGRICULTURE/FOREST ZONE BASED ON SOIL TYPE

Existing parcels with 40 or more acres of less productive soil types are eligible for one additional land division.

8.01.05 REQUIREMENTS FOR APPROVAL

For a land division to be approved by the Planning Department and for any parcel that is a product of a land division to be eligible for one residential building permit or commercial building permits under Sections 3.01.01, 3.01.02, or 3.01.03 of this ordinance, the following requirements must be met:

1. Submittal of a completed application form and fee shall be made by the owner of the affected property to the Planning Department;
2. The number of proposed new parcels cannot exceed the number allowed by Section 8.01.03 and 8.01.04 of this ordinance;
3. The proposed new parcel(s) and the remnant parcel must be at least one acre in size;
4. Each proposed new parcel and the remnant parcel shall have a building site outside of a designated flood hazard area that will accommodate the placement of a residence, any accessory buildings, a well, and a sewage disposal system;
5. The applicant must show that adequate sewage disposal facilities can be located on each new parcel and the remnant parcel by submitting to the Planning Department written approval from the North Central District Health Department;
6. Each new parcel and remnant parcel shall have a designated building site that is no larger than 2 acres where all residential structures shall be placed. The building site and all structures shall be placed in a manner to preserve productive farm land, commercial timber stands, streams, riparian areas, and other unique natural features to ensure the rural nature of Latah County is preserved, that agriculture and forest industries are protected from residential growth, and to ensure that natural resources are protected as set forth as goals and policies in the comprehensive plan. When it is unfeasible to create a parcel that will preserve such features, the applicant shall work with the Planning Department to create a building site that will be the most consistent with the goals and policies set forth in the Latah County Comprehensive Plan;

7. The applicant must show that adequate access is provided to each new parcel and the remnant parcel by having frontage to a public road, or by an easement, at least 25 feet in width, approved by the Latah County Surveyor, which connects to a public road. Any easement used to meet this requirement shall be located such that it will allow conformance with Section 9.01 of this ordinance. Any easement used to meet this requirement shall be recorded prior to approval of the land division. To limit access points onto roadways, shared easements (shared driveways) are required when feasible. The applicant shall work with the Planning Department and the appropriate jurisdiction owning or maintaining the public road to determine the location of shared driveways. No division may include driveways entering directly onto state highways maintained by the Idaho Transportation Department unless there is no other option. When there is no other option, the applicant shall use a single access point and obtain multi-use access approval from ITD. If there is no feasible way to use a single access point, the applicant may apply for one or more additional access points onto the State highway, but must first obtain a variance from the Zoning Commission to do so following the procedures set forth in Section 8.02.01.5.A through 8.02.01.5.C of this ordinance. Written approval for each access point, either direct or by easement, from the jurisdiction owning or maintaining the public road is required. In addition to meeting the requirements of Section 9.01.02.4, all shared private driveways shall have a graveled or paved surface of at least 20 feet wide. A driveway map must be submitted to the Planning Department and approved prior to approval of the division;
8. The legal description must be approved by the Latah County Surveyor on a form provided by the Planning Department and recorded upon the Planning Department's final approval. If any required easement crosses property owned by the same person the easement may be included and recorded on this form. If a parcel is not able to be divided into aliquot parts and described via an aliquot description, a legal description shall be created and a survey may be required at the discretion of the county surveyor;
9. Any approved “new” buildable parcel shall become an “existing parcel” 30 years after it was created;
10. The applicant shall provide to the Planning Department a site plan for each parcel drawn to scale. The site plan shall include the size, dimensions, and location of each parcel and building site, the potential or actual location and plans for the wells or water system, septic systems, residences, other structures, easements, driveways and regulatory setbacks. Each 2-acre building site shall be placed so it will accommodate all regulatory setbacks, the septic system, a residence, any accessory structures related to the residential use, and such that it will be in compliance with Section 8.01.05.4 of this ordinance.

8.01.06 CHANGES IN PREVIOUSLY APPROVED PARCELS

The Planning Department may approve changes to the boundaries of an approved parcel, driveway plan or building site only if the changed parcel, driveway plan, building site, any other parcels that were a result of this land division, and the remnant parcel meet all of the requirements of Section 8.01 of this ordinance. The applicant must submit new signed agency approval forms from the

jurisdiction owning or maintaining the accessed public road for each access point, North Central District Health Department, and Latah County Surveyor for the adjusted parcel to the Planning Department. Road access and septic approvals may be waived by the Planning Department if the site conditions for which the previous approvals were based remain unaffected by the boundary line changes. Latah County Surveyor approval shall not be waived.

8.01.07 EXISTING HOMES ON ELIGIBLE PARCELS

When application for a land division is made for an existing parcel that has one or more existing homes located on it, the existing non-conforming homes must come into conformance with Section 3.01.01.5 of this ordinance, unless prior to the land division the individual receives approval(s) under Section 3.01.02.1, Section 3.01.02.2 or Section 3.01.03.14 of this ordinance to allow more than one home on one of the new parcels.

8.01.08 DIVISION OF PARCELS, NON-COMPLIANCE, AGRICULTURE/FOREST ZONE

The parcel(s) created from the division of a new parcel, or the parcel(s) created from the division of an existing parcel not eligible for division under the provisions of Sections 8.01.03 or 8.01.04 of this ordinance, shall not be eligible for residential or commercial building permits unless the owner of the new parcel receives County approval for rezoning and a subdivision plat.

If an existing eligible parcel that is not eligible for division under the provisions of Sections 8.01.03 or 8.01.04 of this ordinance is divided outside of the provisions of this ordinance, and a residential building permit has not been issued for the existing eligible parcel, the owner of the existing eligible parcel may be eligible for one residential building permit on the portion of the parcel they retain, so long as that portion meets the size and setback requirements, or they may relinquish the one residential building permit eligibility to one of the new parcels, so long as the new parcel meets the size and setback requirements.

If an existing parcel is divided without making application to the Planning Department and without complying with this ordinance, and that division was completed in such a manner that it could comply with the provisions of this ordinance, and the existing parcel was eligible for a land division under this ordinance at the time the division was completed, a land division application may be made by all current owners of the properties previously involved to retroactively bring this division into compliance with this ordinance.

8.01.09 DEADLINE FOR COMPLETION OF APPLICATION

The applicant for land division shall have all approvals required by Section 8.01 returned to the Planning Department within six months of initial application. The Planning Department may provide one extension not to exceed six months upon written request of the applicant.

8.01.10 COMPLIANCE WITH DESIGN STANDARDS

All parcels, buildings, improvements, and driveways located in an approved land division shall comply with Section 9.01 of this ordinance. Failure to comply with these design standards will make the affected parcels ineligible for building permits.

8.01.11 NON-CONTIGUOUS SAME OWNERSHIP PARCELS

Non-contiguous parcels in the Agriculture / Forest zoning designation under the same ownership may move residential building permits and land divisions subject to the following:

1. Any parcel that is located in the Agriculture/Forest zoning designation that is eligible for a land division or a building permit is considered a conveying parcel.
2. Any parcel owned by the same person(s) as the conveying parcel in the Agriculture/Forest zoning designation is considered an acquiring parcel.
3. Any parcel that is located in the Agriculture/Forest zoning designation that is eligible for a land division (conveying parcel) or a building permit may use that land division or building permit on property owned by the same person(s) (acquiring parcel) in the Agriculture/Forest zoning designation subject to the following conditions:
 - A. Ownership of both the conveying and acquiring parcels must have been established prior to the approval of this ordinance. For the purposes of this section, same person/ownership means a person having at least 5% interest in the conveying and the receiving parcels;
 - B. Submittal of a completed application form and fee shall be made by the owner of the affected properties to the Planning Department. Such fee shall be the same as for a land division under Section 8.01 of this ordinance;
 - C. The conveying and acquiring parcels cannot be in a platted subdivision;
 - D. The conveying parcel must have areas that would enhance or protect the goals of the Comprehensive Plan to preserve the rural character of Latah County, conserve streams, floodplains, wetlands, wooded areas, and other areas of natural significance, open space, protect wildlife habitat, preserve recognized sites and areas with cultural, scenic, or natural significance, to move development away from hazardous areas, enhance contiguity to agricultural lands suitable for long-range farming and ranching operations, and/or protect and preserve active farm and forest grounds;
 - E. The area of the acquiring parcel where the building site or division is conveyed shall not consist of active farm, ranch or forest grounds, areas including floodplain, wetlands, and natural hazard areas, shall be in a location that has an established rural fire district or will be provided fire protection by enacting a written agreement

with a municipal or established rural fire district, shall be in locations such as to preserve the rural character of Latah County, and shall be placed in a manner to allow contiguity for farming and other land operations;

- F. No more than one building permit and one division, or two divisions, may be conveyed from any existing parcel or eligible remnant parcel (conveying parcel) to an acquiring parcel. No acquiring parcel can accept more than one building permit and one division, or two divisions;
- G. For a building permit or land division transfer to be approved by the Planning Department and for any parcel that is a product of a transfer to be eligible for one residential building permit or commercial building permits under Sections 3.01.01, 3.01.02, or 3.01.03 of this ordinance, the requirements of this section and of Section 8.01.05 must be met;
- H. Any transfers made under this section shall be required to obtain final approval, contingent on compliance with Section 8.01.11 of this ordinance, by the Latah County Planning Department. In order for the acquiring parcel to obtain building permit eligibility, a “record of transfer” shall be recorded with the County Recorder. A form for such shall be provided by the Latah County Planning Department. No “record of transfer” shall be recorded without final approval from the Latah County Planning Department.

SECTION 8.02 SHORT PLATS

A short plat is the division of a parcel of land into four or fewer lots. Division of a parcel previously divided by short plat shall not be permitted if the total number of lots created from the original short plat plus any new short plat exceeds four lots, except by application for a full plat. Short plats shall not be permitted in the Agriculture/Forest Zone. Except lots that qualify under Section 4.07 of this ordinance, no lot so created shall be less than the minimum lot size in each allowed zone, exclusive of easements, and may be required to be larger than the minimum lot size in the zone to accommodate wells, setbacks, septic systems, or the requirements of Section 8.02.01.4. Lots shall also meet the requirements set forth in any development agreement as per Section 6.01 of this ordinance.

8.02.01 PRELIMINARY SHORT PLAT APPROVAL

The Planning Department shall approve short plats meeting the following criteria:

1. Submittal of a completed application form and fee shall be made by the owner of the affected property.
2. Written and signed acknowledgment from the fire district, Latah County Sheriff, and school district serving the affected parcel stating that the service requirements for the proposed short plat will not have an adverse effect upon existing service capabilities or finances of the jurisdiction.

3. Written and signed approval from the North Central District Health Department that each proposed lot has an approved sewage disposal site or approval from the appropriate agency for a shared sewer or septic system.
4. Each proposed lot shall have a building site outside of a designated flood hazard area. The plat must include a development restriction prohibiting the placement of any residences, accessory buildings, wells or sewage disposal systems within the designated flood hazard area.
5. Each lot shall have at least 25 feet of frontage on a public road or at least 50 feet of frontage onto one 50 foot easement that is a shared private driveway that accesses a public road. Each access onto the public road must be approved in writing by the jurisdiction maintaining the public road. No short plat may include new public roads or shared private driveways, unless required and approved in writing by the responsible highway district in the interest of public safety. As part of a development agreement via the rezone, the Board of Latah County Commissioners can require the private driveway be built to highway district standards for a public road. In addition to meeting the requirements of Section 9.01.02.4, all shared private driveways in a short plat shall have 20 feet of graveled or paved surface. The shared private driveway meeting the previous requirements shall be built to completion prior to issuance of any building permit for said short plat.

Unless the following requirements are met, no short plat may include driveways entering directly onto state highways maintained by the Idaho Transportation Department. All new lots created via a short plat, and rezones which will ask for a subsequent subdivision, must be designed to meet this requirement.

- A. An applicant for a short plat may request a hearing before the Zoning Commission, applying the general procedures set forth in Section 7.02 of this ordinance, excepting 7.02.02 and using the criteria set below, to ask for permission to use an existing residential access approach (existing residential access approach defined as approval from Idaho Transportation Department for a residential access approach given prior to the adoption of this section) to a state highway maintained by the Idaho Transportation Department if no reasonable lot configuration can meet the requirement and one of the following applies:
 1. The original parcel from which a rezone was created does not touch any other public roadway.
 2. An area rezoned prior to the adoption of this provision does not touch any other public roadway.
 3. It is physically impractical for the new or existing parcel to gain access to a public roadway that is not a state highway maintained by the Idaho Transportation Department that touches that parcel.

- B. The Zoning Commission shall use the following criteria in making its decision:
 - 1. The proposed access is not detrimental to the health or safety of those in the surrounding area or the safety of the public at large.
 - C. If the existing residential access approach is approved by the Zoning Commission, the applicant shall be required to:
 - 1. Gain approval from the Idaho Transportation Department for access for each new residential lot prior to the short plat being approved by the Planning Department.
 - 2. Make any additional improvements as required by the Idaho Transportation Department to the driveway or approach prior to issuance of any building permit for said short plat, in addition to the requirements listed under Section 8.02.01.5 of this ordinance.
6. Plans for a water system or a statement that individual wells will be used shall be submitted to the Planning Department by the applicant.
 7. The applicant shall provide to the Planning Department a map with each lot in the short plat drawn to scale that shows the size and dimensions of each lot and the potential location of the wells, septic systems, residences, other structures, easements, and regulatory setbacks. Regardless of minimum lots sizes in its zoning designation, each lot shall be sized so it will accommodate the well, all regulatory setbacks, the septic system, a residence, any other relevant structures, and such that it will be in compliance with Section 8.02.01.4 of this ordinance.
 8. Submittal to the Planning Department of the plat prepared in accordance with the specifications of Title 50, Chapter 13, Idaho Code.

8.02.02 STANDARDS FOR SHORT PLATS

All lots, buildings, improvements, and driveways located in an approved short plat shall comply with Section 9.01 of this ordinance. Failure to comply with these design standards will make the affected lots ineligible for building permits.

8.02.03 FINAL SHORT PLAT APPROVAL

Upon written approval of the short plat by the Planning Department, but not prior to the expiration of the appeal period of the Land Use Board of Appeals, the applicant shall, in the following order:

1. Submit the application to the Latah County Surveyor for review and approval;
2. Gather all signatures as required on the plat and by Title 50, Chapter 13, Idaho Code, under the guidance of the Latah County Surveyor; and

3. Record the plat in the Latah County Recorder's Office under the guidance of the Latah County Surveyor and according to Title 50, Chapter 13, Idaho Code. The applicant shall record the plat within one year of approval by the Planning Department. If the applicant fails to record the plat within one year of approval, the short plat application shall expire and the applicant shall resubmit a completed application form and fee that shall be made by the owner of the affected property and shall provide new approvals as set forth in Sections 8.02.01.2, 8.02.01.3, and 8.02.01.5 to the Planning Department.

SECTION 8.03 FULL PLATS

A full plat is the subdivision of a parcel of land into five or more lots. Full plats shall not be permitted in the Agriculture/Forest Zone. Except lots that qualify under Section 4.07 of this ordinance, no lot so created shall be less than the minimum lot size in each allowed zone, exclusive of easements, and may be required to be larger than the minimum lot size in the zone to accommodate wells, setbacks, septic systems, other required improvements, or the requirements of Section 8.03.01.8. Lots shall also meet the requirements set forth in any development agreement as per Section 6.01 of this ordinance.

8.03.01 FULL PLAT APPLICATION

Applications for full plat subdivisions must meet the following standards prior to consideration by the Zoning Commission:

1. Application for a full plat subdivision shall be made by the owner of the affected property. The completed application form, fee, and any other information required by the Planning Department shall be submitted to the Department prior to scheduling a public hearing.
2. Full plat subdivisions shall only be permitted in water and sewer districts as created under the provisions of Title 42, Chapter 32, Idaho Code or where services will be provided by a municipality. The applicant shall provide the Planning Department with written verification of approval by the majority of water and sewer district board members at a duly noticed public hearing of that district or a letter from the municipality that they will be receiving services with no contingencies. The approval shall explicitly state that the proposed subdivision is presently within the water and sewer district or will be receiving services from the municipality and that the district or municipality has approved an agreement with the applicant to provide adequate water and sewer service to each lot being approved for development. The verification document and written agreement shall be submitted to the Planning Department with the application. Full plats with fewer than 10 lots that are greater than 5 acres each are not required to comply with this Section, but must comply with Section 8.02.01.3 and Section 8.02.01.6 of this ordinance.
3. No more than two lots in a full plat subdivision may have private driveway access to an existing highway district system road, unless additional lots are approved for private driveway access by the responsible highway district in the interest of public safety. The Board of Latah County Commissioners is not limited in its authority to require limits to

access as part of the subdivision approval. All other lots in a full plat subdivision must have direct access to a new public road that has been accepted on the subdivision plat as a public road by the responsible highway district. No private driveways shall enter a state highway maintained by the Idaho Transportation Department. Written approval is required from the Idaho Transportation Department for any new public road maintained by the Idaho Transportation Department. The applicant shall provide a map showing the proposed lots, location of the new public road and all private driveway accesses. The applicant must obtain written approval of the responsible highway district verifying:

- A. That the new public road has been accepted as part of the highway district's highway system:
- B. That each lot has approved direct access to a public road; and
- C. That the applicant, their successors and/ or assigns have agreed the highway district's conditions necessary to ensure proper construction and maintenance of all public road improvements.

All approval documents and agreements shall be submitted to the Planning Department with the application.

- 4. Full plat subdivisions shall be located within an existing fire district. The applicant shall provide the Planning Department with written verification of approval by the majority of fire district Commissioners at a duly noticed public hearing of that district. The approval shall explicitly state that the proposed full plat subdivision is within the fire district and that the district has approved an agreement with the applicant to provide adequate fire protection. The agreement shall specify any fire protection improvements that may be required by the district prior to issuance of building permits in the new subdivision. The verification document and written agreement shall be submitted to the Planning Department with the application.
- 5. The applicant shall provide to the Planning Department a verification document from the school district that the district will be able to accommodate the proposed subdivision with services.
- 6. The applicant shall provide to the Planning Department a verification document from the Latah County Sheriff that the Sheriff's Department will be able to accommodate the proposed subdivision with services.
- 7. All utility services shall be provided through underground utility easements shown on the plat.
- 8. Each proposed lot shall have a building site outside of a designated flood hazard area. The plat must include a development restriction prohibiting the placement of any residences, accessory buildings, wells or sewage disposal systems within the designated flood hazard area.

8.03.02 STANDARDS FOR FULL PLAT SUBDIVISIONS

To ensure public safety and comply with the provisions of the Latah County Comprehensive Plan, and in addition to any other applicable provision of this ordinance, full plats approved in accordance with Section 8.03.01 of this ordinance shall meet the following standards:

1. Prior to the final plat being signed by the Board of Latah County Commissioners and prior to any improvements being made upon the property:
 - A. A surface drainage and runoff plan, submitted by a professional engineer licensed in the State of Idaho, shall certify that the subdivision, when developed in accordance with the engineered plan, will not permit any surface drainage or runoff which exceeds the drainage or runoff from the site prior to subdivision approval.
 - B. The applicant shall provide a financial guarantee, bond or escrow account, in an amount approved by the Board of Latah County Commissioners. The applicant shall provide an amount recommended by a professional engineer licensed in the State of Idaho for the needed drainage control improvements, road work, utilities, and bike paths or sidewalks.
 - C. No gated communities will be allowed.
 - D. For all full plats with lots smaller than or equal to two acres in size, land shall be dedicated to the County, free of all liens and encumbrances, prior to the signing of the final plat, in order that adequate sites for public parks may be properly located and preserved as the County develops. The amount of land dedicated shall be in the amount of 5% of the total land in the plat not to exceed 10 acres. All lands designated for parks shall be approved by the Latah County Parks and Recreation Department.
2. Prior to the issuance of any building permits within the subdivision:
 - A. The plat prepared in accordance with the specifications of Title 50, Chapter 13, Idaho Code and the requirements of this ordinance shall be recorded by the applicant or applicant's authorized agent within one year of the effective date for full plat approval. Plat approval expires if the applicant fails to record the plat as specified; the applicant must then reapply for a full plat.
 - B. All lots in a plat shall have a minimum of a 100 foot greenbelt buffer between the plat and a non-residential zone. No residences shall be permitted within this buffer area. This buffer can be eliminated if the zoning on the adjacent property is changed to residential.
 - C. All roads shall be built to the current highway district road standards and shall be subject to highway district use standards and regulations.

- D. All lots shall have off-street parking for at least four vehicles.
- E. All utilities, approved water systems, and approved sewer systems shall be installed and shall be approved by the agency with oversight.
- F. A paved path system must be created and maintained so that the system accesses each house and goes to all bus stops and any required park. If adjacent to a road, there must be a
- G. The surface runoff plan shall be implemented.
- H. If the improvements are not made upon the property within one year of final approval of the full plat then the County may use the bond or escrow account to make the improvements.

8.03.03 PUBLIC HEARINGS AND PROCEDURES

1. A public hearing before the Zoning Commission shall be held on each complete application received by the Planning Department within six months of receiving the complete application. In the event that the applicant does not want a hearing to be held within this six month period, at the end of the six month period the application will be returned to the applicant, with a refund of 80% of the application fee if the hearing has not been noticed. The applicant can withdraw an application at any time, with a refund of 80% of the application fee if the hearing has not been noticed.
2. Notice for the public hearing shall be given as set forth in Idaho Code Section 67-6512(b), or when notice is required to 200 or more property owners notice shall be given as set forth in Section 6.02.01 of this ordinance.
3. The Zoning Commission shall determine whether the proposal conforms to the full plat criteria set forth in Section 8.03. Based on its determination, the Zoning Commission shall issue a preliminary approval or denial of the application for the full plat. The Zoning Commission shall require a written agreement to ensure that the criteria set forth in Section 8.03.02.2 shall be met. The written agreement shall, for any improvements, include costs for any improvements as determined by a professional engineer licensed in the State of Idaho, and the applicant shall provide a financial guarantee for such improvements in the form of a bond or escrow account.
4. The Zoning Commission shall announce its decision and approve findings of fact and conclusions of law within 40 days of closing the public hearing. If the Zoning Commission denies the application, that decision shall be considered final and it may be reconsidered as per Section 1.02.18 of this ordinance.
5. If the Zoning Commission approves the application, the application shall be forwarded to the Board of Latah County Commissioners. The Board of Latah County Commissioners

may either approve or deny the application. If the Board of Latah County Commissioners denies the application, the Board shall adopt written findings of fact and conclusions of law setting forth the basis for the denial.

6. After the Board of Latah County Commissioners approves the application, the applicant shall have one year from the expiration date of the reconsideration period to complete and record the plat, in accordance with Title 50, Chapter 13, Idaho Code, the requirements set forth in Section 8.03.02.1 of this ordinance, and any relevant provisions of the written agreement set forth in Section 8.03.03.3 of this ordinance.
7. Once the applicant has completed the plat as set forth above and provided notice of completed plat to the Planning Department and the Latah County Surveyor, the Planning Department shall verify the compliance of this plat and then forward it to the Board of Latah County Commissioners. The Board of Latah County Commissioners shall then ensure the requirements of Title 50, Chapter 13, Idaho Code are met, the applicant has complied with and completed the requirements set forth in Section 8.03.02.1 of this ordinance and any relevant provision of the written agreement set forth in Section 8.03.03.3 of this ordinance, and then shall sign the plat. After the Board of Latah County Commissioners signs the plat, the applicant shall record the plat in the Latah County Recorder's Office. Plat approval shall expire if the applicant fails to record the plat; the applicant must then reapply for a full plat.

8.03.04 FULL PLAT CRITERIA

A full plat shall be approved if the Zoning Commission finds that the proposed full plat meets each of the following criteria:

1. The proposed subdivision will not be detrimental to the public interest or other property in the vicinity of the proposed full plat.
2. The proposed subdivision will not require facilities or services with excessive costs to the public.
3. The proposed subdivision is not in conflict with the goals and policies of the Comprehensive Plan.
4. The proposed subdivision has met the applicable requirements of Section 8.03 of this ordinance and Title 50, Chapter 13, Idaho Code.

SECTION 8.04 OTHER DIVISIONS OF PROPERTY

Any court distributions of property, allocations of land in the settlement of an estate, or any other type of property distribution that is not otherwise addressed in this Section must be in compliance with the provisions of this ordinance to be eligible for any residential or commercial building permits.

SECTION 8.05 BOUNDARY LINE ADJUSTMENTS

Any transfer(s) of property between adjacent properties will be considered a boundary line adjustment unless the property being transferred is a product of an approved land division or subdivision. Lots created through a subdivision are not eligible for boundary line adjustments unless the subdivision is amended, changes meet all of the requirements of this ordinance, and the property is re-platted.

Boundary line adjustments are allowed so long as the resulting parcels and existing uses on those parcels do not violate any Section of this ordinance or other requirements that were set upon approval of the lots or uses. Boundary line adjustments for parcels that were part of a land division are subject to the requirement of Section 8.01.06 of this ordinance. Boundary line adjustments do not transfer the rights or privileges of one parcel to another parcel, but may extend or decrease the allowed uses on a parcel depending on how its boundaries are adjusted.

A parcel that is subject to a boundary line adjustment after January 1, 1997 may still be eligible for a land division under Section 8.01 of this ordinance. The land division eligibility is set forth in Section 8.01 of this ordinance; however, in the event that the parcel of land is smaller than the previously defined boundaries of the existing parcel of land, the eligibility shall be based upon the most recent deed. Any boundary line adjustment performed after January 1, 1997 shall not increase, but may decrease, the number of allowed land divisions for any existing parcel, as defined in Section 8.01.

Any strip of land used to connect an existing parcel to more property that is being boundary line adjusted shall be at least 25' in width.

ARTICLE 9

DESIGN STANDARDS

SECTION 9.01 DESIGN STANDARDS FOR ALL CONSTRUCTION

9.01.01 DESIGN STANDARDS FOR ALL CONSTRUCTION PRIOR TO ISSUANCE OF A BUILDING PERMIT

To ensure public safety and comply with the provisions of the Latah County Comprehensive Plan, all new construction shall meet the following requirements, in addition to the requirements contained in the Building Code Ordinance, prior to issuance of a building permit for any structure:

1. No sediment, stormwater run-off, or construction water may flow outside the disturbed area of a construction site, including temporary driveway(s), private driveway(s) or road(s). The land owner is responsible for taking whatever steps are necessary to retain sediment within the disturbed area.
2. To protect aquatic and terrestrial habitat and other biological resources, all buildings shall be setback at least 100 feet from perennial streams shown on USGS 7.5 minute maps. Any structure within this setback that is in existence upon the date of adoption of this ordinance shall be exempt from this section. When this setback would prohibit the construction of a building without a variance, the Planning Department shall permit the building to be constructed as far from the stream as possible while meeting all other setback requirements of the zone.

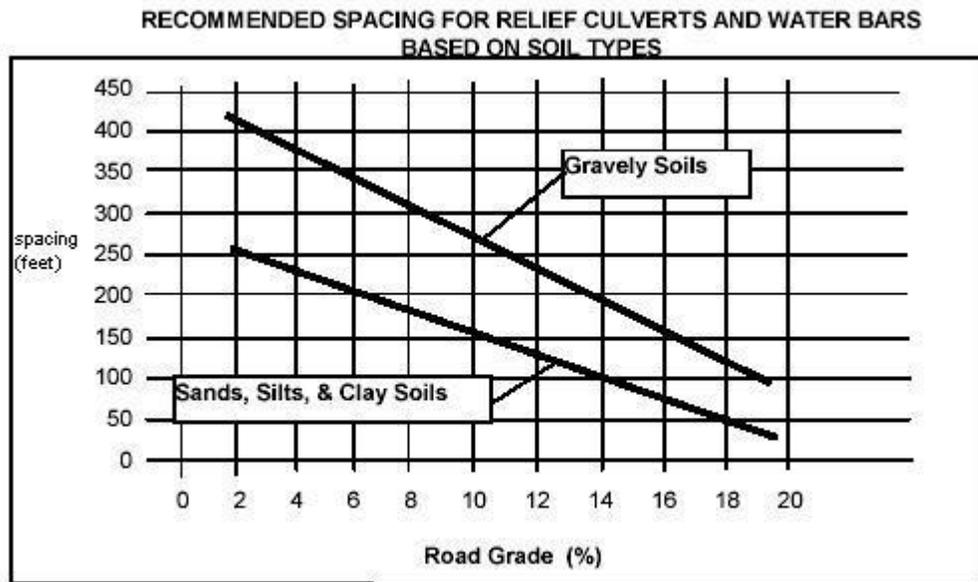
9.01.02 DESIGN STANDARDS FOR ALL CONSTRUCTION PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

To ensure public safety and comply with the provisions of the Latah County Comprehensive Plan, all new construction shall meet the following requirements, in addition to the requirements contained in the Building Code Ordinance, prior to issuance of a certificate of occupancy for any structure:

1. All residential roof coverings shall be made of fire resistive material.
2. Utility easements shall receive written approval from the appropriate electric/gas utility provider. The utility provider shall indicate that the easement at the time of occupancy is adequate for minimizing damage to utility lines.
3. All cut and fill slopes and other disturbed areas on construction sites must be seeded using species mixtures, seeding techniques, and scheduled as recommended by the Natural Resources Conservation Service until such time that permanent vegetation is established. Alternative methods that control weeds, runoff and erosion may be utilized. Cut and fill slopes and other disturbed areas shall not be left to over-winter without appropriate treatment.

Please check with the Planning Department prior to starting driveway construction to see if your development approval (as per another section of this code) required that your driveway have a 20' width

4. All driveways shall:
- A. Have a graveled or paved width of at least 10 feet, with a turnaround at the residence, building or structure which allows a safe opposite change of direction for emergency equipment 40 feet long and 15 feet high.
 - B. Have graveled or paved turnouts, 50 feet long and 10 additional feet wide for every 1000 lineal feet of driveway, except where line of site is obstructed in which case such turnouts shall be located every 500 feet.
 - C. Have a turning radius for all curves which will accommodate emergency equipment 40 feet long.
 - D. Have side slopes (cut or fill slopes) re-vegetated using species mixtures, seeding techniques, and scheduled as recommended by the Natural Resources Conservation Service until such time that permanent vegetation is established. Alternative methods that control weeds, runoff and erosion may be utilized. Side slopes shall not be left to over-winter without appropriate treatment.
 - E. Have water breaks or water bars or culverts constructed at the recommended spacing based on the graph below:



- F. Have driveway plans designed by a professional engineer licensed in the State of Idaho when any one of the following conditions will result from construction:

1. Driveways cross any stream shown on a U.S. Geological Survey 7.5 Minute Series Topographic map.
 2. Driveways that have a grade that will exceed 10% for more than 100 feet.
 3. Driveways with side slopes (cut or fill slopes) that exceed two horizontal to one vertical on heights of four feet or more.
- G. Have access approved in writing by the responsible highway district and be constructed in accordance with highway district standards.

SECTION 9.02 DESIGN STANDARDS FOR PARKING LOTS / PARKING LOTS REQUIRED

Accessory off-street parking and loading facilities shall be provided to accommodate the use and occupancies for all buildings and structures and every land use established, in all zones, after the effective date of this ordinance. When required, parking lots shall comply with all accessibility requirements as set forth in the adopted Building Code Ordinance.

SECTION 9.03 DESIGN STANDARDS FOR ALL USES IN THE INDUSTRIAL ZONE

All developments in the industrial zoning designation shall meet each of the requirements listed under Section 9.03.01.

9.03.01 STANDARDS

1. Development and continued maintenance of an approved buffer yard of not less than 20 feet in width within the setback area. The buffer yard must extend along any public right-of-way and any perimeter property line which is adjacent to land not zoned Industrial.
2. Prior to issuance of a building permit or initiation of any activity that does not require a building permit the applicant shall provide a signed statement that an available water source adequate for the needs of the proposed facility has been developed. The Planning Department shall check to ensure necessary permits have been issued for the water source.
3. Prior to issuance of a building permit or initiation of any activity that does not require a building permit, the Department of Environmental Quality (D.E.Q.) shall be consulted and if necessary, prior to a certificate of occupancy, provide written approval for a waste water management plan that is created by and submitted to the D.E.Q. by the applicant or their representative. The applicant will have to meet whatever standards the D.E.Q. requires for the submittal. The applicant shall comply with the requirements of the approved plan prior to the certificate of occupancy being issued.
4. A stormwater management program shall be implemented to ensure that no increase in runoff from the property results from the new development. This program shall be developed and submitted to the Planning Department for review prior to issuance of a

building permit or initiation of any activity that does not require a building permit. If adequate, the plan shall be approved by the Planning Department. Any necessary site improvements must be made and verified prior to the issuance of the certificate of occupancy for the facility.

If the use will require outdoor watering, may have hazardous or other chemicals that could be discharged during a rain event, or if there are any hazardous chemicals that if released could be a safety hazard to the public, the Planning Department can require this plan be designed by a professional engineer licensed in the State of Idaho and the engineer shall certify that the program has been implemented (including physical improvements).

5. The hours of operation shall be restricted to the period from 6 a.m. to 9 p.m. for exterior activities. Operation outside these hours shall require a conditional use permit as provided by Section 7.01 of this ordinance.
6. Prior to issuance of a building permit or initiation of any activity that does not require a building permit, a plan for parking must be submitted that includes spaces, accessibility, and approach points. All approach points must be approved by the appropriate highway agency.
7. Prior to issuance of a building permit or initiation of any activity that does not require a building permit, a plan for any lighting must be submitted. All lighting must be a full cutoff fixture and shall be directed away from existing residences.
8. Prior to issuance of a building permit or initiation of any activity that does not require a building permit, a plan for fire protection must be submitted.
9. Prior to issuance of any building permit or initiation of any activity that does not require a building permit, the applicant shall provide approval from the health department for any new septic system, any connection or modification to an existing septic system, and approval from any City or sewer district showing an approved connection for the proposed use.
10. Prior to issuance of any building permit or initiation of any activity that does not require a building permit a plan for any outdoor storage must be submitted.

SECTION 3: SEVERABILITY

Should any word, clause, phrase, sentence, paragraph, subsection, or other part of this ordinance or any particular application thereof be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 4: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

DATED this 16th day of August, 2006.



John A. "Jack" Nelson
Chair



Paul J. Kimmell
Commissioner

ATTEST:

KRicket 8-16-06
Clerk/Deputy Clerk


Tom S. Stroschein
Commissioner