



PLANNING AND ZONING COMMISSION MEETING AGENDA

October 06, 2026 at 6:00 PM

Council Chambers at City Hall - 1123 W. Lake St. Sandpoint, Idaho

Call to Order, Roll Call and Pledge of Allegiance

Consent Calendar

- 1.** Approval of the Minutes from the Commission's September 1, 2026, Meeting - **action item**

Matters from the Public - General Comments

Public Hearing

Old/Unfinished Business

- 2.** Discussion: Comp Plan Future Land Use Map update and Zoning Administration Chapter

New Business

Matters from City Staff

Matters from the Commission / Commissioners Roundtable

Adjourn

Public Participation Notice

Before the meeting, comment in writing: Email cityclerk@sandpointidaho.gov or deliver to City Hall.
Attend in person: See above for meeting location. Seating available on first-come, first-served basis.
Attend remotely: Register at <https://www.sandpointidaho.gov/meetings>.
After the meeting, view the recording on YouTube: <https://www.youtube.com/c/CityofSandpoint>.
For questions or requests for special accommodation: At least 48 hours prior to the meeting, send a message to the email address above or call (208) 263-3310.



PLANNING AND ZONING COMMISSION MEETING MINUTES

September 1, 2026 at 5:30 PM

Council Chambers at City Hall - 1123 W. Lake St. Sandpoint, Idaho

Call to Order, Roll Call and Pledge of Allegiance

Vice Chairman Wayne Benner called the regular meeting of the Sandpoint Planning and Zoning Commission to order at 5:30 p.m. on Tuesday, September 1, 2026, in Council chambers at City Hall, 1123 W. Lake St., Sandpoint, Idaho.

PRESENT

Commissioner Wayne Benner, Vice Chair
Commissioner Grant Simmons
Commissioner Scott Torpie
Commissioner Reid Weber

ABSENT

Commissioner Mose Dunkel, Chair
Commissioner Ivan Rimar
Commissioner William Mitchell

Vice Chairman Benner led all present in the Pledge of Allegiance.

There were no other general announcements or reports from the Commissioners.

Consent Calendar

There were no questions regarding the Consent Calendar, and it was approved as presented by a unanimous vote of the Commissioners present.

Motion made by Commissioner Weber, Seconded by Commissioner Simmons.

Voting Yea: Commissioner Benner, Commissioner Simmons, Commissioner Torpie, Commissioner Weber

1. **Approval of the Minutes from the Commission's August 18, 2026, Meeting**
2. **Approval of the Written Decision Appeal 56 Bridge St PAPL26-0001**

Matters from the Public - General Comments

Vice Chairman Benner recited the rules and procedure for general public comment, followed by an opportunity for comments from the public regarding items on the agenda not related to a public hearing and other topics relevant to the business of the City of Sandpoint. Information only; no Commission action.

Public Hearing

Old/Unfinished Business

New Business

3. **Discussion: Draft Zoning Administration**

Deputy Community Planning & Development Director Bill Dean presented the draft Zoning Administration chapter, which is intended to establish a clear and consistent framework for administering the City's zoning regulations, including application procedures, permit administration, approval authority, appeals, required findings, and the roles of staff, the Planning & Zoning Commission, and City Council. The Commission and staff discussed various provisions of the draft, including Conditional Use Permits, Site Plan Review Permits, variances, zoning compliance, home occupations, enforcement, development agreements, legislative actions, overlay districts, and effective dates. Discussion also focused on creating more objective and consistent standards while allowing appropriate flexibility when warranted.

The Commission discussed how the Zoning Administration chapter will work with the broader zoning code update and the importance of clear, consistent information for applicants. Dean noted that additional revisions and cleanup would occur before the anticipated October 20, 2026, public hearing on the zoning code update. The Commission also discussed the October 6, 2026, open house at Community Hall as part of the City's zoning code outreach efforts. No action was taken.

4. Discussion: Zoning Code Update Outreach Letter

Deputy Community Planning & Development Director Bill Dean presented the proposed outreach letter for the City's zoning code update, noting that approximately 1,200 letters would be mailed to property owners affected by proposed zoning changes across approximately 17 areas. The Commission discussed the purpose of the letter, including notifying property owners of proposed changes to zoning district names and development standards, providing clear information, and encouraging community participation. Discussion also included the planned October 6, 2026, open house at Community Hall, where property owners and community members can ask questions and speak with City staff, as well as the anticipated October 20, 2026, public hearing on the zoning code update and opportunities for additional public participation before the matter is considered by City Council.

The Commission discussed the importance of making the outreach materials understandable and accessible to property owners, particularly those who may be unfamiliar with zoning regulations or their current zoning designation. Staff explained that the outreach is intended to provide information, answer questions, and encourage participation throughout the update process. The Commission also discussed the connection between the zoning code update and the City's adopted Comprehensive Plan. No action was taken.

Matters from City Staff

Matters from the Commission / Commissioners Roundtable

There were no topics for discussion during the Commissioners Roundtable.

Adjourn

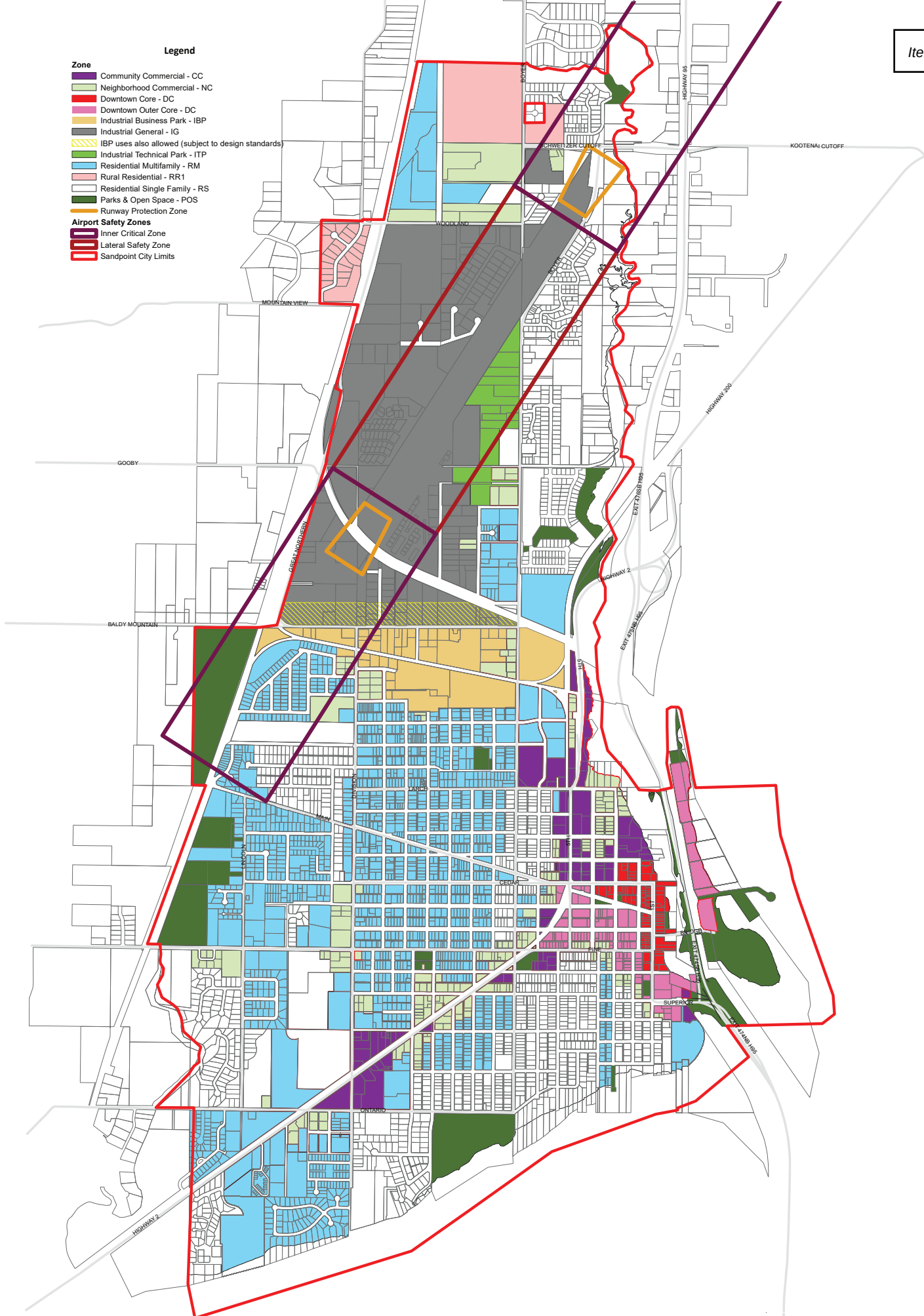
With no further business before the Commission, the meeting was adjourned at 7:20 p.m.

I presided over this meeting and can confirm that the foregoing minutes, prepared by the Board Clerk, were approved by the Commission during their meeting held _____, 2026.

Wayne Benner, Vice Chair

Attest: Mandy Brown, Board Clerk

- Zone**
- Community Commercial - CC
 - Neighborhood Commercial - NC
 - Downtown Core - DC
 - Downtown Outer Core - DC
 - Industrial Business Park - IBP
 - Industrial General - IG
 - IBP uses also allowed (subject to design standards)
 - Industrial Technical Park - ITP
 - Residential Multifamily - RM
 - Rural Residential - RR1
 - Residential Single Family - RS
 - Parks & Open Space - POS
 - Runway Protection Zone
- Airport Safety Zones**
- Inner Critical Zone
 - Lateral Safety Zone
 - Sandpoint City Limits





Land Use Map

DRAFT 2

 Sandpoint City Limits

Future Land Use Categories

 Low Density Clustered Residential

 Low Density Residential

 Medium Density Residential

 High Density Residential

 Neighborhood Mixed Use

 Mixed Use Corridor

 Downtown

 Public/Quasi Public

 Heavy Commercial/Industrial

 Parks and Open Space

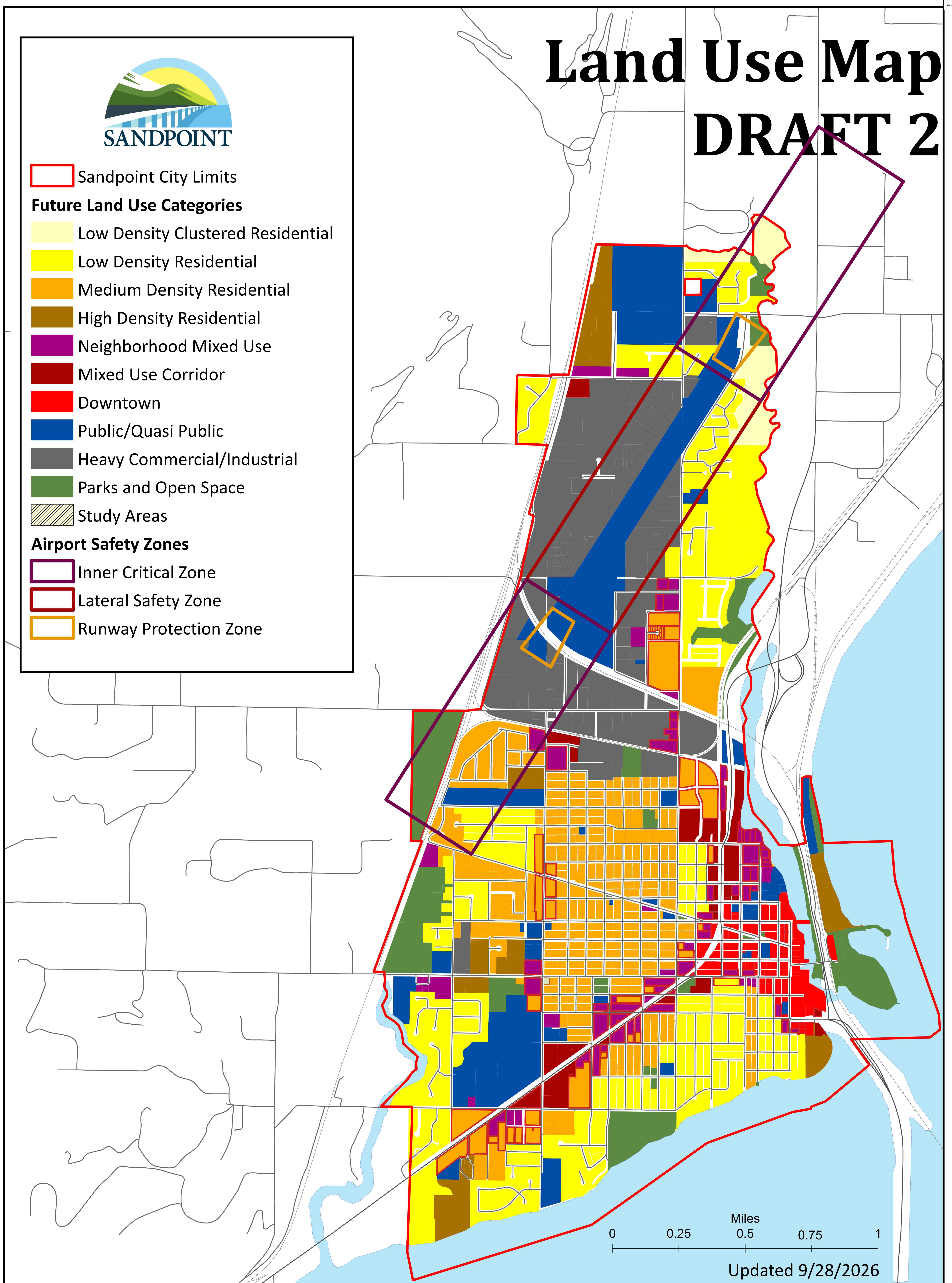
 Study Areas

Airport Safety Zones

 Inner Critical Zone

 Lateral Safety Zone

 Runway Protection Zone



Miles
0 0.25 0.5 0.75 1

Updated 9/28/2026

CHAPTER 9 ZONING ADMINISTRATION

Sections:

- 9-9-1: Purpose and Authority
- 9-9-2: Permit Application Filing, Fees, and Initial Processing
- 9-9-3: Permit and Approval Implementation, Time Limits, Expirations, and Extensions
- 9-9-4: Nonconforming Provisions
- 9-9-5: Public Hearings
- 9-9-6: Appeals
- 9-9-7: Zoning and Land Use Permits
- 9-9-8: Administrative Permits and Approvals
- 9-9-9: Enforcement and Penalties
- 9-9-10: Legislative Actions
- 9-9-11: Development Agreements
- 9-9-12: Reserved

9-9-1: Purpose and Authority:

- A. Purpose: The purpose of this Chapter is to describe the organization, powers, duties of the offices and governing bodies responsible for administration of Title 9, Zoning. The following procedures have been adopted pursuant to and consistent with Idaho Code title 50, and title 67, chapter 65. This chapter provides procedures and requirements for the preparation, filing, and processing of the land use permit applications and approvals required by this code, identified in Table 9-9-1 (Permits and Approvals), below. This section establishes whether public notice and pre-submittal activities are required, the role of the City review and decision-making bodies, and whether public hearings are required during each process.
- B. Authority for Land Use and Zoning Decisions: Table 9-9-2 (Review Authority), below, identifies the review authority responsible for reviewing and making decisions on each type of application or approval required by this code.
- C. Director Decision-Making: The duties and responsibilities of the Director may be formally delegated to City officials in subordinate positions to the Director.

Table 9-9-1 Required Permits and Approvals

Paths for review and approval generally fall within one of two types. Refer to Table 9-9-1, Required Permits and Approvals, to identify each approval or application type. Each of the permits and/or approvals are required as further described in Table 9-9-1, below.

Table 9-9-1 Required Permits and Approvals

<u>Name of Permit/Approval</u>	<u>Code Chapter/Section</u>	<u>Applicability of Permit</u>
<u>Land Use Permits and Approvals</u>		
<u>Conditional Use Permit</u>	<u>9-9-7</u>	<u>A Conditional Use Permit is required to authorize proposed land uses specified by Chapters 1, 2,3, and 4 as being allowable in the applicable zone, subject to the approval of a Conditional Use Permit</u>
<u>Site Plan Review Permit</u>	<u>9-9-7</u>	<u>A Site Plan Review Permit is required before issuance of a building permit for construction of any structure erected in any zone, as specified in Table 9-9-2.</u>
<u>Certificate of Appropriateness</u>	<u>9-14-6</u>	<u>A Certificate of Appropriateness is intended to protect structures, improvements, natural features, and objects, of historic significance including but not limited to, areas of architectural, cultural, economic, historic, political, and social importance from any alteration, demolition, or removal which would have an adverse effect thereon.</u>
<u>Variance</u>	<u>9-9-7</u>	<u>A Variance may be requested to allow an adjustment from any of the development standards required by this code. A Variance shall not be used to approve a change to the allowance or not of any land use within any zone.</u>
<u>Sign Permit</u>	<u>9-6-1</u>	<u>A Sign Permit is required to allow the installation or remodeling of a sign.</u>
<u>Home Occupation Permit</u>	<u>9-11</u>	<u>A Home Occupation Permit is required to allow for home occupations that are conducted within a dwelling located in a residential zone, and are clearly incidental and secondary to the use of the dwelling for residential purposes and compatible with surrounding residential uses as specified in Chapter 9-11.</u>
<u>Zoning Compliance Review</u>	<u>(To be added in)</u>	<u>A Zoning Compliance Review is a review of Building Permit, Grading, or other construction permit applications, or home occupation and/or business license permits and is required to verify a proposed land use or structure complies with the list of activities allowed in the applicable zone and the development standards applicable to the use or structure.</u>

Legislative Actions and Approvals

<u>Comprehensive Plan Change</u>	<u>9-9-12</u>	<u>A Comprehensive Plan Change is a modification or addition of policy or land use category.</u>
<u>Zoning Text Change</u>	<u>9-9-12</u>	<u>A Zoning Text Change is a modification or addition of language or regulations within the Zoning Ordinance.</u>
<u>Rezone</u>	<u>9-9-12</u>	<u>A Rezone is a reclassification of one or more properties from one zone district to another. A site-specific rezone shall be considered a quasi-judicial action and shall adhere to the requirements of Idaho Code 67-6535.</u>
<u>Overlay District</u>	<u>9-9-12</u>	<u>An Overlay District is a zoning tool that adds a layer of specific regulations to an existing zoning area.</u>
<u>Historic Preservation Designation</u>	<u>9-9-12 and 9-14</u>	<u>Designation of a property by the City as either an Historic Landmark or within an Historic District.</u>
<u>Development Agreement</u>	<u>9-9-11</u>	<u>A Development Agreement is a written commitment between the city and one or more property owners concerning the use or development of land, entered into as a condition of rezoning property, as established by Idaho Code 67-6511, et seq.</u>

Note: Planned Unit Developments are subject to requirements in Title 10, Land Subdivisions, of the Sandpoint City Code.

Table 9-9-2 Review Authority				
		Role of Review Authority ¹		
Type of Permit/Approval	Code Section	Director	Planning and Zoning Commission	Council
Land Use Permits and Approvals				
Conditional Use Permits		Analysis	Decision	Appeal
Site Plan Review Permits ^{2,4}		Decision	Appeal	Appeal
Certificates of Appropriateness		Arts, Culture, and Historic Preservation Commission instead of Director	Appeal	Appeal
Variances		Analysis	Decision	Appeal
Sign Permits		Issuance	Appeal	Appeal
Home Occupation Permits		Issuance	Appeal	Appeal
Zoning Compliance Review		Decision	Appeal	Appeal
Legislative Actions and Approvals				
Comprehensive Plan Change	9-9-12	Recommend	Recommend	Decision
Zoning Text Change	9-9-12	Recommend	Recommend	Decision
Rezoning	9-9-12	Recommend	Recommend	Decision
Overlay Zone District ³	9-9-12	Recommend	Recommend	Decision
Historic Preservation Designation	9-14	Analysis	Recommend ³	Decision

Development Agreement	9-9-11	Analysis	Recommend	Decision
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1 "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the permit; "Appeal" means that the review authority may consider and decide upon appeals of an earlier decision-making body, in compliance with section 9-9-6 (Appeals); "Analysis" means that the review authority presents a detailed explanation and examination of the request with a special focus on policy and code compliance and significance of the action.

2 The Director may defer action and refer the request to the Planning and Zoning Commission for consideration and final action.

3. May require Arts, Culture, and Historic Preservation Commission review and/or action prior to action by the Planning and Zoning Commission in conformance with Chapter 14, Historic Preservation Code.

4. A Site Plan and Design Review Permit may be combined into a conditional use permit when a conditional use permit is also required for the same project, pursuant to the regulations in section 9-9-2, and pursuant to Idaho Code 67-6522.

9-9-2: Permit Application Filing, Fees, and Initial Processing:

- A. Purpose: The purpose of this section is to provide uniform application processing procedures for land use permits and decisions identified in this chapter. These procedures are intended to apply to applications made by non-city officials. Legislative actions initiated by the Director, Planning and Zoning Commission, City Council, or, in the case of historic preservation overlay zones, the Arts, Culture, and Historic Preservation Commission shall be exempt from these procedures, and shall be processed in accordance with section 9-9-12, Legislative Actions.
- B. Application Preparation and Filing
 1. Pre-application conference: A prospective applicant is encouraged to request a pre-application conference with the director before completing and filing a land use permit application. The purpose of this conference is to generally:
 - a. Inform the applicant of city requirements as they apply to the proposed project;
 - b. Review the city's review process, possible project alternatives, or modifications, and
 - c. Identify information and materials that the city will require with the application, and any necessary technical studies and information necessary to complete reviews on the project's potential impacts on utility, roadway, and other infrastructure.
 2. Application contents: Each application for a permit, or amendment, identified in Table 9-1, or other matter pertaining to this title shall be filed with the department on a city application form, together with all required fees and/or deposits and all other information and materials specified in the department handout for the specific type of application and/or as specified by the director.
 3. Eligibility for filing:
 - a. The application shall be signed by the property owner of record or by an authorized agent.
 - b. Authorized agents shall provide written authorization signed by the property owner. Such authorization may have to include corporate resolutions or operating resolutions identifying that the signatory has such authorization.
 4. Report by expert consultants: The city may require of the applicant, at the applicant's sole expense, evidence and clarification as may be necessary to establish that the proposed development will conform to the applicable regulations and standards specific in this code.

5. Multiple permit applications:

- a. Concurrent filing: An application for a development project that requires the filing of more than one application (e.g. zoning map amendment and a conditional use permit, etc.) shall file all related applications concurrently, together with all application fees required by section 9-9-3-C (Application Fees), below, unless the concurrent filing requirements are waived by the director.
- b. Combining of applications: Where practical, the combining of related permit types will be permitted at the discretion of the director for the purposes of reducing redundancy in permitting (e.g. combining Site Plan Review Permit into a Conditional Use Permit when both are required by this code, and where submittal requirements and findings for approval overlap). In such cases, only one application and one application fee shall be required (the higher of the fees), however the application is required to include a statement identifying which applications are being combined. The combining of applications shall have no effect on the permit expiration or validity as established in 9-9-3, below.

C. Application Fees

1. Fee Schedule: The city council shall establish a schedule of fees for the processing of applications required by this code, hereinafter referred to as the fee schedule. The fee schedule may be evaluated and/or amended as often as deemed necessary by the city council.
2. Projects subject to time and materials charges.
 - a. Projects that do not fit any category in the fee schedule or which are otherwise extraordinary may be charged on a time and materials basis at the director's sole discretion.
 - b. Staff time required on a project, post entitlement, and not part of another formal application (e.g. final plat, conditional use permit, etc.) will be recovered on a time and materials basis at the director's sole discretion.
 - c. The fees specified in the fee schedule reflect standard processing time. Projects requiring excessive review time will be recovered on a time and materials basis.
3. Timing of payment
 - a. Applications shall not be deemed complete, and processing shall not commence on any application until all required fee or deposits have been paid.
 - b. Failure to timely pay supplemental requests for payment or required fees and/or deposits shall be a basis for postponement of any permit or other requested entitlement, notwithstanding any other provisions of this code.
4. Refunds and withdrawals
 - a. No refund due to denial shall be allowed.
 - b. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

D. Application Initial Processing

1. Review for completeness: The Director shall review each application for completeness and accuracy before it is accepted as being complete and officially filed. Within 30 calendar days of application filing, the applicant shall be informed in writing, either that the application is

complete and has been accepted for processing, or that the application is incomplete and that additional information, specified by the Director, shall be provided. The Director's review of any information resubmitted by the applicant shall be accomplished with another 30-day period of review for completeness. The Director's determination of completeness is an application that:

- a. Is in the required application form required by the City's website;
 - b. Contains all the information required including supporting documentation;
 - c. Contains any additional information determined by the Director as required at a pre-application conference, or as may be necessary to determine project conformance to all applicable policies and regulations;
 - d. Contains documentation as may be required by the project's size, or complexity, as determined by the Director, in order to evaluate potential impacts of the proposed development on the surrounding neighborhood, or the City's transportation system, utility, or other public services, or systems; and
 - e. Is accompanied by the fee established for the type of application(s) being submitted.
2. Referral of application to agencies: At the discretion of the Director, or where otherwise required by this code or state or federal law, an application may be referred to any public agency that may be affected by or may have an interest in the proposed project.
 3. Referral of application to interested parties and/or adjacent properties: An application will be referred to adjacent property owners or interested parties in accordance with applicable state laws. The Director shall have the discretion of refer any application to any interested party and/or adjacent or nearby property owner even if not required by state law.
- E. Withdrawal of Application: An application shall be deemed withdrawn, and review terminated if:
1. The applicant requests that the application be withdrawn; or
 2. The applicant fails to respond or resubmit revised plans, reports, or correspondence to the Director for more than 90 days following a request from the Director. The Director may extend the response period for good cause shown by the applicant.
- F. Burden of Proof: The burden of proof to establish the evidence in support of the required finding(s) for any permit or approval in compliance with this code is the responsibility of the applicant.
- G. Concurrent processing: Multiple applications for the same project shall be processed concurrently, and shall be reviewed, and approved or denied by the highest review authority designated by the code for any of the applications (i.e., a project for which applications for a Zoning Map amendment and a Conditional Use Permit are filed shall have both applications decided by the Council, instead of the Planning and Zoning Commission acting upon the Conditional Use Permit as otherwise required by Table 9.2)

(Ord. 842, 6-15-1987)

9-9-3: Permit and Approval Implementation, Time Limits, Expirations and Extensions

- A. Purpose: This section provides requirements for implementation of the permits or approvals required by this code, including time limits and procedures for approving extensions of time.
- B. Conformance to approved plans:

1. Compliance: All work performed under a building permit for which project drawings and plans were approved under a land use permit either by the director, planning and zoning commission or city council, shall be in compliance with the approved drawings and plans, and any conditions of approval imposed by the applicable review authority.
2. Changes: Changes to an approved permit or other approval shall only be approved by the original approval authority through a new application, processed in accordance with this chapter, except that changes to an approved permit or other approval may be authorized by the Director only if the changes:
 - a. Are consistent with all applicable provisions of the code and the spirit and intent of the original approval; and
 - b. Do not involve a feature of the project that was a basis for conditions of approval for the project, a specific consideration by the approval authority, or involve any expansion or intensification of the use or structure.
- C. Effective Dates of Permits: The effective dates of permits and approvals issued under this chapter shall be as shown in table 9-9-3 (Permit and Approval Effective date, Expiration and Validity). Permits and approvals requiring a written decision shall have an effective date 15 days after the written decision, to allow for the appeal process, as established in 9-9-6. The written decision, if required, shall be completed within thirty (30) days of action by the review authority.
- D. Effective dates of plan amendments, zoning changes, and development agreements: Council actions to adopt or amend the Comprehensive Plan, Zoning Ordinance or Official Zoning Map (rezoning), or a development agreement shall become effective on the actual date the decision is rendered by the Council, as shown in Table 9-9-3 (Permit and Approval Effective date, Expiration and Validity), unless otherwise specified in the development agreement.
- E. Expiration and validity of permits or approvals:
 1. Approvals run with the land: Unless otherwise stated for a specific type of permit, application, or decision under this code, or unless otherwise stated on the permit or approval document, permits, approvals and approvals with conditions under this code run with the land and are not affected by changes in ownership, tenancy, or the form of ownership or tenancy of the property. Subsequent owners and tenants of the property have the same rights and obligations with respect to the permit, approval, or decisions as the initial applicant.
 2. Expiration: Unless otherwise indicated, the term of an approval shall be as shown in Table 9-9-3 (Permit and Approval Effective Date, Expiration and Validity), below, unless the property owner has taken action to initiate construction of improvements (including the installation of utilities), initiate the allowed use or activity, or taken actions to use the authority granted in that permit or approval prior to its expiration, as further described in sub-section 3, below.

Table 9-9-3: Permit and Approval Effective Date, Expiration and Validity

Type of Approval	Effective Date	Expiration and Period of Validity
Conditional Use Permit	Written decision plus 15 days	2 years from effective date
Site Plan Review Permit	Written decision plus 15 days	2 years from effective date
Certificate of Appropriateness	Date approval is issued	2 years from effective date
Variance	Written decision plus 15 days	2 years from effective date

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Sign Permit	Date approval is issued	Same expiration as a building permit, if any, or if no building permit required, 1 year from date of issuance
Home Occupation Permit	Date approval is issued	Same expiration as Business License, expires at the end of each calendar year
Zoning Compliance Review	Date approval is issued	Same expiration date as the companion permit the clearance was issued for (e.g building permit)
Comprehensive Plan Change	Date approval is issued	Do not expire
Zoning Text Change	Date approval is issued	Do not expire
Rezone	Date approval is issued, or written decision plus 15 days for site-specific rezones	Do not expire
Development Agreement	Date approval is issued, or as established in the agreement	As set forth in the development agreement

3. Implementation required: All permits and approvals shall comply with the following expiration provisions:
- To ensure continued compliance with the provisions of this code, the permit or approval shall be implemented in compliance with the timeframes established in Table 9-9-3, above, or the permit or approval shall expire and be deemed void, unless an extension is approved by the applicable review authority, in compliance with 9-9-3 subsection F, Time Extensions, below.
 - A permit or approval shall be implemented before its expiration. The permit or approval shall not be deemed implemented until the applicant has:
 - Actually implemented the allowed land use, in its entirety, on the subject property in compliance with the conditions of approval; or
 - Obtained a building permit and continuous on-site construction activity including pouring of foundations, installation of utilities, or other substantial improvement has commenced and diligently pursued toward completion; or
 - Obtained a Grading Permit or Public Infrastructure Permit and has completed a significant amount of on-site grading and/or utility work, as determined by the Public Works Director, in preparation for the work described subparagraph ii, above, and
 - Met all of the applicable requirements as determined by the Director.
4. Effect of expiration: Where the permit or approval has expired and/or has been deemed void:
- No further action is needed by the city;
 - No further reliance may be placed on the previously approved permit or approval;
 - The applicant shall have no rights previously granted under the permit or approval;

F. Time Extensions: All requests for time extensions shall comply with the following:

1. The Director shall have the authority to extend the period specified in Table 9-9-3 (Permit and Approval Effective Date, Expiration and Validity), for up to an additional one-year. The director may instead refer the matter to the Planning and Zoning Commission for review and final decision.
2. The applicant's written request for an extension of time shall be on file with the department before expiration of the permit or approval, together with the required filing/application fee.
3. A public hearing is not required for a director's decision on an extension of time. However, the Commission shall conduct a public hearing in compliance with chapter 9-9-5 on a referral from the director.
4. The filing of written extension request shall suspend the actual expiration of the permit or approval until the extension request has been acted upon by the director.
5. Building or grading permits shall not be issued in compliance with the permit or approval during the period of suspension.
6. No permit or approval shall be extended past a maximum of three years following the original effective date. Any request for extensions in excess of three years from the permit or approval effective date shall instead require the filing of a new application in accordance with section 9-9-2, above.
7. An extension of the permit or approval may be granted only if the applicable review authority first finds that there have been no changes in the Comprehensive Plan, zoning code, or city development policy, that would preclude the review authority from making the findings upon which the original approval was based.

9-9-4: Nonconforming Provisions

- A. Purpose: This section provides regulations for nonconforming land uses, and structures that were lawful before adoption, or amendment of this code, but which would be prohibited, regulated, or restricted differently under the current regulations of this code.
- B. Intent: In order to limit the number and extent of nonconforming uses, and structures created by adoption of this code, it is the city's intent to generally allow nonconformities to continue until they are removed, but not to encourage their long-term survival. It is further the intent of this section that nonconformities shall not be altered, enlarged, expanded, extended, moved, or reestablished after abandonment or discontinuance or restored after involuntary destruction, except in conformance with this chapter.
- C. Proof of nonconformity: The property owner has the burden to prove the claim of nonconformity and the related protected status that comes with that claim as specified in this section. The property owner shall provide sufficient evidence to the satisfaction of the director that the subject property is a legal nonconformity as specified in this section. The City is not responsible for proving the absence of legal nonconformity. The director's determination of legal nonconformity shall be appealable in compliance with section 9-9-6: Appeals.
- D. Restrictions on nonconforming uses: A legal nonconforming land use, as that term is defined in this chapter, may be continued, including transfers of ownership; provided that their continuation shall comply with the requirements of this section, provided below. See also, section F (residential exceptions), below, for exceptions regarding certain residential uses and structures.

1. Change of ownership: Change of management, ownership, or tenancy of a nonconforming use shall not affect its nonconforming status; provided that the use and intensity of use, determined by the director, does not increase.
 2. Additional development: Additional development of any property on which a nonconforming use exists shall require that all new uses be in compliance with the applicable provisions of this code.
 3. Conversion of a nonconforming use: If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed.
 4. Changes to a nonconforming use: A nonconforming use shall not be established or replaced by another nonconforming use, nor shall any nonconforming use be expanded or changed, except as provided for in this section.
 5. Replacement land use within single and multi-tenant structures: A nonconforming use whether operating in a single-tenant or multi-tenant structure may only be replaced by a conforming use or a non-conforming use that is the same or similar to the previous nonconforming use within the tenant space, provided not more than 180-days has passed since the cessation of the previous nonconforming use, and further provided the replacement non-conforming use does not create an increase in intensity of the land use.
- E. Restrictions on nonconforming structures: A legal nonconforming structure, as that term is defined in this chapter, may be continued, including transfers of ownership; provided that their continuation shall comply with the requirements of this section, provided below. See also, section F (residential exceptions), below, for exceptions regarding certain residential uses and structures.
1. Alteration: Nonconforming structures shall not be altered so as to increase the difference between the existing conditions and the development standards specified in the regulations for the zone in which the structure is located.
 2. Moving or enlargement: Nonconforming structures shall not be moved or enlarged unless the new location or enlargement shall conform to the current development standards for the zone in which the structure is located.
 3. Ordinary maintenance and repairs: Nonconforming structures may undergo ordinary maintenance and repairs.
- F. Residential exemptions: An involuntarily damaged or destroyed nonconforming single-or multi-family dwelling unit may be reconstructed or replaced with a new structure with the same footprint (including pre-existing nonconforming setbacks and/or lot coverage), height, and number of dwelling units, in compliance with the current Building and Fire Code requirements and otherwise in compliance with the provisions of this code.
- G. Loss of nonconforming status:
1. Termination by discontinuance: If a nonconforming use is discontinued for a continuous period of 180 or more consecutive calendar days, the use shall lose its legal nonconforming status, and the continued use of the property shall be required to be in compliance with the applicable provisions of this code.
 2. Termination by destruction: Nonconforming status shall terminate if a nonconforming structure or a conforming structure occupied by a nonconforming use, is involuntarily damaged or destroyed as a result of an accident or by fire, flood, or other act of nature, except as provided in section F (residential exemptions), above, and except as follows.

- c. 50 percent or less. If the cost of repairing or replacing the damaged portion of the structure is 50 percent or less of the appraised value of the structure immediately before the damage, the structure may be restored to no more than the same size and use, and the use continued, if the restoration is started within one-year of the date of damage and can be completed within two years following initiation of the restoration.
- d. Exceeds 50 percent. If the cost of repairing or replacing the damaged portion of the structure exceeds 50 percent of the appraised value of the structure immediately before the damage, or the structure is voluntarily razed or is required to be razed, the structure shall not be restored except in full compliance with the applicable regulations for the zone in which it is located and the nonconforming use shall not be resumed.
- e. All appraised values referred to in this section shall be determined by a licensed appraiser and confirmed by the building official. Estimates of repairing or replacing the damaged portion of the structure for purposes of this section shall be made by or shall be reviewed and approved by the building official and shall be based on the minimum cost of construction in compliance with the building code.

H. Effect of conditional use permit requirements

- 1. Absence of a conditional use permit: A use lawfully existing without the approval of a conditional use permit that would be required by this code shall be deemed conforming only to the extent of its previous lawful use (e.g. maintaining the same site area boundaries, hours of operation, etc). Any expansion of the use in size or hours of operation would require the approval of a conditional use permit.
- 2. Previous conditional use permit: A use that was authorized by a conditional use permit but is not allowed by this code in its current location may continue, but only in compliance with the original conditional use permit and any associated conditions of approval.

9-9-5: Public Hearings

- A. Purpose: This section provides procedures for public hearings required by this code. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in accordance with this section.
- B. Notice of hearing: when this code requires a noticed public hearing before a decision on a permit, or for another matter, the public shall be provided notice of the hearing in compliance with Idaho State Code and as required by this section.
 - 1. Content of notice: Notice of a public hearing shall include all the following information, as applicable:
 - a. Hearing information. The date, time, and place of the hearing, and the name of the review authority, and the phone number, street address, and website of the Department, where an interested person could call or visit to obtain additional information.
 - b. Project information. The city's filing number (application number) and project name, if any, and the name of the applicant; a general explanation of the matter to be considered, and a general description, in text and/or diagram, of the location of the property that is the subject of the hearing.
 - 2. Method of notice: Notice of a public hearing required by this chapter for a permit, amendment, appeal, or other approval shall be given as follows.

- a. Mailing. Notices shall be mailed or delivered at least 15 calendar days before the scheduled hearing to the following:
 - i. Project site owners and the applicant, including the owner's authorized agent, if any.
 - ii. Local agencies expected to provide roads, schools, environmental review, or other essential facilities or services to the property which is the subject of the application, whose ability to provide those facilities and services may be significantly affected.
 - iii. All owners of real property, as shown on the latest adopted tax roll of the county, located within a radius of a minimum of 300 feet of the exterior boundaries of the parcel (lot) that is the subject of the hearing. The director shall have the authority to extend the radius of the notice at the director's sole discretion. Notice for structures taller than 100 feet shall adhere to additional notice provisions established in state law.
 - iv. Any person who has filed a written request for notice with the director.
 - v. Any other person whose property might, in the judgment of the director, be affected by the proposed project.
 - b. Alternative to mailing. If the number of property owners to whom notice would be mailed in compliance with subsection (a) above is more than 200, the notice of public hearing published in a newspaper of general circulation, as set forth in subsection (c), below, shall be considered adequate in lieu of mailed notices.
 - c. Publication and posting. Notice shall be published at least once in a newspaper of general circulation in the city at least 15-days before the scheduled hearing. Additionally, notice shall be posted at least 15-days before the scheduled hearing in at least one public place within the city in addition to one on the project site.
 - d. Additional notice: In addition to the types of notice required above, the director may provide any additional notice with content or using a distribution method (e.g. posting on the city's website, using another newspaper, social media, television or radio stations serving the City for use as a public service announcement) as the director deems is necessary or desirable.
- C. Time and place of hearing: the hearing shall be held at the date, time, and place for which notice was given.
1. Continued hearing. Any hearing may be continued from time to time without further notice; provided, the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- D. Action and Notice of Decision
1. The applicable decision-making body shall consider the application, relevant support materials, staff report, and any evidence and public comments from the public hearing.
 2. The applicable decision-making body shall approve, approve with conditions, or deny the application based on applicable review criteria listed in the application-specific procedures.
 3. The review authority may announce a tentative decision and defer their action on a final decision until appropriate findings and/or conditions have been prepared.
 4. Written notice of decision. Following a decision on an application, the review authority shall produce a written decision accompanied by a reasoned statement which shall contain

applicable findings, conditions of approval, and procedure for appeal, if any, and any information as required by Idaho Code 67-6535.

9-9-6: Appeals

- A. Purpose: This section establishes procedures for the appeal and calls for review of determinations and decisions rendered by the director, planning and zoning commission, and if applicable to land use applications, the arts, culture and historic preservation commission.
 2. Zoning code administration and interpretation: The following determinations and actions of the director, department staff, and the arts, culture and historic preservation commission may be appealed to the planning and zoning commission and then to city council:
 - a. Interpretations: Any determination on the meaning or applicability of the regulations contained in this code that are believed to be in error, and cannot be resolved with the director; and
 - b. Enforcement actions. Any enforcement action filed in compliance with section 9-9-9 (penalties and enforcement).
 3. Planning permit and approval decisions.
 - a. Director's decisions. Any decision of the director may be appealed to the arts, culture, and historic preservation commission or the planning and zoning commission, as applicable.
 - b. Arts, Culture and Historic preservation commission decisions. Any applicable decision of the arts, culture, and historic preservation commission may be appealed to the planning and zoning commission.
 - c. Planning and zoning commission decisions. Any decision of the planning and zoning commission may be appealed to the city council.
- B. Filing and processing appeals:
 1. Eligibility: An appeal may be filed by any aggrieved person, except that in the case of a decision that followed a public hearing, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing. Additionally, any action or decision by the arts, culture, and historic preservation commission, planning and zoning commission, or director may be appealed by a city council member acting as an individual.
 2. Timing and form of appeal.
 - a. The appeal shall be filed with the city clerk within 15 days following the actual date the decision was rendered, or date the written decision was approved, as applicable, identified in section 9-9-3 and table 9-3.
 - b. The pertinent facts and the basis for the appeal shall include, at a minimum, the specific grounds for the appeal, where there was an error or abuse of discretion by the review authority in the consideration and action on the matter being appealed, and/or where the decision was not supported by the evidence on the record.
 - c. Appeals shall be accompanied by the filing fee identified in the fee schedule.
 - d. Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the applicable review authority.
 3. Report and schedule of hearing:

- a. When an appeal has been filed, the director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority, identified in section 9-9-3 and table 9-3.
 - b. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with section 9-9-5 (Public Hearings).
 - c. Any interested party may appear and be heard regarding the appeal.
- C. Decision
- 1. In deciding an appeal the review authority considering the appeal shall not hear or consider any evidence of any kind other than the evidence received from the previous review authority, or any argument on the merits of the case other than that contained in the notice of appeal, unless it sets the matter for hearing before itself (e.g. de novo hearing), as provided for in this chapter, and gives the same notice of hearing as is required in compliance with section 9-9-5 (public hearings).
 - 2. In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.
 - 3. A decision of the planning and zoning commission is final and effective after 5:00 pm on the 15th day following the date the written decision is rendered, when no appeal to the decision has been filed in compliance with this section.

9-9-7: Zoning and Land Use Permits

Compliance with chapter required: Building or grading permits or certificates of occupancy shall not be issued until the requirements of this chapter have been met.

A. Conditional Use Permit:

- 1. Purpose: In the various zones, certain land use are permitted, subject to the granting of a conditional use permit. The purpose of a conditional use permit is to provide a process for reviewing land uses that may be appropriate in the applicable zone, but whose effects on a site and surroundings cannot be determined before being proposed for a specific site. Because of their characteristics, these land uses require special consideration so that they may be located properly with respect to the objectives of this title and with respect to their effects on surrounding properties.
- 2. Applicability and when required: A Conditional Use Permit is required to authorize proposed land uses specified by Chapters 2, 3, and 4 as being allowable in the applicable zone, subject to the approval of a Conditional Use Permit, as further identified in Table 9-1.
- 3. Procedures:
 - a. Application Filing: An application for a CUP shall be filed in accordance with the procedures established in section 9-9-2 (Application Filing, Fees, and Initial Processing).
 - b. Review: All applications for a conditional use permit shall be reviewed by the Director to ensure compliance with all applicable requirements of this code.

- c. Hearing Required: The CUP shall be set for public hearing before the planning and zoning commission, as established in section 9-9-5 (Public Hearings).

4. Findings and Decision:

- A. An application for a Conditional Use Permit shall be approved by the review authority established in section 9-9-3 only after first making the following findings that the proposed use:
1. Is consistent with the Comprehensive Plan;
 2. Will constitute a conditional use authorized in the subject zone;
 3. Complies with all other applicable provisions of this code and the municipal code;
 4. Will be designed, situated, sized, and whose operating characteristics will be compatible with the existing and planned future land uses in the vicinity and will not change the essential character of the surrounding area;
 5. Is located on a site that is:
 1. Physically suitable in terms of design, location, operating characteristics, shape, size, topography, and the provision of public and emergency vehicle (e.g. medical and fire) access and public services and utilities;
 2. Served by streets and pedestrian and bike pathways adequate in width and improvement to carry the quantity of vehicle and pedestrian and bike traffic the proposed use would likely generate;
 6. Will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed use;
 7. Will be served adequately by essential public facilities and services including, streets, storm drain systems, potable water facilities, sanitary sewer facilities, police and fire protection;
 8. Will not be detrimental to the economic welfare of the community;
 9. Will not involve uses, activities, processes, materials, equipment or conditions of operation that will cause unreasonable production of traffic, noise, smoke, fumes, glare, odors or other forms of pollution;
 10. Will have vehicular approaches to the property so designed as not to create a detrimental interference with traffic on surrounding public or private streets, or adversely affect the pedestrian environment.
 11. Will provide a safe, convenient, and efficient network that minimizes conflicts between pedestrians, bicyclists, and vehicular traffic by creating a network that includes sidewalks, pathways, and landscaping that promotes and supports active transportation; and
- B. Tentative Decision Allowed: The review authority is not required but may announce a tentative decision and defer their action on a final decision until appropriate findings and/or conditions have been prepared.
- C. Written Notice of Decision. Following a decision on an application for a Conditional Use Permit, within 30 calendar days, the review authority shall produce a written decision and reasoned statement that that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for

the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, and factual information contained in the record. The written decision shall contain applicable findings, upon which the decision was made, the conditions of approval (if any), and procedure for appeal.

5. Combined Conditional Use Permit and Site Plan Review Permit: When a development requiring a Conditional Use Permit also requires a Site Plan Review Permit, pursuant to 9-9-7-B (Site Plan Review Permit), below, the applications may be combined pursuant to 9-9-2 (Application Filing, Fees, and Initial Processing); provided however that the findings for a Site Plan Review Permit shall also be made prior to approval.
6. Conditions of Approval: The Planning and Zoning Commission may, after review of the application and public hearing, require the applicant to meet any specific conditions of approval deemed necessary to protect the public health, safety, and general welfare and environment of the community, and any conditions deemed reasonable and necessary to ensure that the approval will comply with the findings required by section 9-9-7 (4)(A). Such conditions are not limited to, but may include:
 - a) Limitations on the hours of operation of the use;
 - b) Additional landscaping and building beautification;
 - c) Additional or reduced (while maintaining required minimums) off-street parking or transportation improvements;
 - d) Increased setbacks from property lines.
7. Shall be Implemented Before Expiration: A Conditional Use Permit shall be implemented prior to its expiration, as set forth in section 9-9-3, above.

B. Site Plan Review Permit

1. Purpose: The purpose of the Site Plan Review Permit is to provide an efficient process for the review of construction and development projects by combining public facilities capacities review, site and landscaping plan, and architectural design review into one permit prior to the building permit process.
2. Intent: The intent of the Site Plan Review Permit is to ensure that all approved development:
 - a. Promotes the orderly development of the city in compliance with the goals, objectives, and policies of the Comprehensive Plan, applicable master plans, and the standards specified in this code;
 - b. Respects the physical and environmental characteristics of the site;
 - c. Ensures safe and convenient access and circulation for pedestrians and vehicles;
 - d. Ensures adequate provision of utilities consistent with adopted City policies and regulations;
 - e. Exemplifies the best professional high quality design practices through consistency with the City's design standards and guidelines, which may be amended from time to time.
 - f. Allows for and encourages individual identity for specific uses and structures;
 - g. Encourages the maintenance of a distinct neighborhood and/or community identity;

- h. Minimizes undesirable visual impacts by preventing inappropriate designs or development;
 - i. Ensures development of a City having “image and character”, which terms shall include beauty, fitness, harmony, quality, and spaciousness;
 - j. Maintains and increases the desirability of other properties within the vicinity for the uses for which they are zoned;
 - k. Prevents unsightliness which causes a decrease in the value of surrounding properties;
 - l. Results in the maintenance or improvement, or both, of the properties so that improvements on neighboring sites are not discouraged with the result that properties degenerate resulting in an accompanying deterioration of conditions;
 - m. Prevents the decline in the taxable value of real property in the vicinity and the cost of municipal services to these properties;
 - n. Helps to ensure that the property values within the vicinity of new and modified development retain their stability;
 - o. Provides standards that result in the maintenance or improvement, or both, of surrounding properties so that improvements are not discouraged with the result that properties degenerate resulting in an accompanying deterioration of conditions; and
 - p. It is not a purpose or intent of this code to control architectural character so rigidly that individual initiative is stifled in the design of any particular structure. Rather, it is the purpose and intent of this code that any control exercised be necessary to achieve the overall objectives of this chapter, various overlay districts, and the Comprehensive Plan.
3. Applicability and When Required: Before the issuance of a Building Permit or ground disturbance permit (such as a Grading Permit or Public Infrastructure Permit), a Site Plan Review Permit shall be required for all of the following construction or development activities:
- a. All structures requiring a building permit to accommodate any of the land use activities specific to any zone, except for those specified in subsection b (exemptions), below.
 - b. Exemptions: The following are exempt from the requirement for a Site Plan Review Permit, unless located within an Overlay District that establishes the requirement:
 - i. A Single-family detached dwelling, a single family-attached dwelling (duplex), or a triplex, and any addition thereto;
 - ii. Expansion of a commercial or industrial building which increases the size of the building by less than 2,000 square feet;
 - iii. An accessory structure or accessory dwelling unit;
 - iv. Any fence, wall or other dividing structure in any zone erected in compliance with this code.
 - v. Any temporary structure, as defined in the building codes.
 - vi. Any minor repairs.
 - vii. Parking lot revisions, including re-striping of parking lots.
4. Procedures
- A. Application filing: An application for a Site Plan Review Permit shall be filed in accordance with the procedures established in section 9-9-2.

B. Review: All applications for a Site Plan Review Permit shall be reviewed by the Director to ensure compliance with all applicable requirements of this code.

5. Findings and Decision: An application for a Site Plan Review Permit shall be approved by the review authority established in section 9-9-3 only after making the following findings that the project will:
 - a. Be allowed within the subject zone;
 - b. Be designed efficiently such that the project will not be detrimental to the public health, safety, or general welfare, and not detrimental to adjacent property;
 - c. Be served adequately by essential public facilities and services including, streets, storm drain systems, potable water facilities, sanitary sewer facilities, police and fire protection;
 - d. Will provide a safe, convenient, and efficient network that minimizes conflicts between pedestrians, bicyclists, and vehicular traffic by creating a network that includes sidewalks, pathways, and landscaping that promotes and supports active transportation;
 - e. Include architectural design and functional plan of the structure(s) and related improvements that are of reasonable aesthetic quality and compatible with adjacent developments;
 - f. Be designed such that the project's site plan, structures, and architectural design include the following:
 - i. Compliance with this City Code Title 9, this Chapter, and all other applicable City regulations and policies;
 - ii. Compatibility in color, material, and composition of the exterior elevations to neighboring visible structures;
 - iii. Compliance with the standards in any applicable City-adopted Design or Historic Guidelines;
 - iv. Appropriate exterior lighting which provides for public safety and is not of a nature that will constitute a nuisance to adjacent properties, and which is compliant with the City's Dark Sky regulations (Title 8);
6. Written Notice of Decision: The review authority shall produce a written decision and reasoned statement that that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, and factual information contained in the record. The written decision shall contain applicable findings, upon which the decision was made, the conditions of approval (if any), and procedure for appeal.

C. Variances

1. Purpose: The purpose of a variance is to provide limited relief from the requirements of Title 9, Zoning, where strict application of the code would result in undue hardship preventing the use of land otherwise allowed by this code. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front setbacks, side setbacks, rear setbacks, parking space requirements, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots. A variance shall not be granted to allow a land use not permissible under the provisions of this code.

2. Applicability and When Required: A variance is required for any property owner seeking relief from the strict application of the bulk and placement requirements of this code.
 3. Procedures:
 - a. Application filing: An application for a variance shall be filed in accordance with the procedures in 9-9-2.
 - b. Review: All applications for a variance shall be reviewed by the Director to ensure compliance with all applicable requirements of this code.
 4. Findings and Decision: An application for a variance shall be approved by the review authority established in section 9-9-3 only after making the following findings:
 - a. The strict enforcement of the provisions of this code creates an undue hardship to the property owner; however, economic feasibility shall not be considered an undue hardship;
 - b. The variance is necessary because of the unique size, shape, topography, or location of the subject property;
 - c. The subject property is deprived, by the provisions of this code, of rights and privileges enjoyed legally by other properties in the vicinity and under an identical zone;
 - d. The need for the variance is not the result of actions of the applicant or property owner;
 - e. The variance does not create health or safety hazards;
 - f. The variance does not relieve an applicant or property owner from any procedural provisions of this code;
 - g. The variance does not relieve an applicant or property owner from any standard or provision that specifically states the no variance from such standard or provision is permitted;
 - h. The variance does not relieve an applicant or property owner from conditions established from a prior permit;
 - i. the variance does not allow establishment of a use that is not otherwise permitted in the zoning district in which the subject property is located; and
 - j. the variance is the minimum necessary to grant relief to the applicant.
 6. Written Notice of Decision: The review authority shall produce a written decision and reasoned statement that that explains the criteria and standards considered relevant, states the relevant facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, and factual information contained in the record. The written decision shall contain applicable findings, upon which the decision was made, the conditions of approval (if any), and procedure for appeal.
- D. Zoning Compliance Reviews:
1. Purpose: Zoning compliance reviews is a procedure used by the city to verify that a proposed land use or structure complies with the list of activities allowed in the applicable zone and the development standards applicable to the use or structure.
 2. Applicability: A zoning compliance review shall be required at the time of the Director's review of any of the following:
 - a. Building permit, grading permit or other construction permit: A zoning clearance shall be obtained before the city issues a new or modified building permit, grading permit, or other construction related permit;
 - b. Business license or home occupation permit: A zoning clearance shall be obtained before the city issues a business license or a home occupation permit.
 3. Review Procedure: The Director shall issue the Zoning Compliance Review approval after first determining that the request complies with all Title 9 (Zoning) regulations applicable to the proposed use or structure.

4. Form of Approval: The approval may be in the form of a stamp, signature, or other official notification on approved plans, a letter to the applicant, or other certification, approval in permitting software, other certification, at the discretion of the director.

9-9-9: Violations, Enforcement and Penalties

- A. Purpose, Authority and Scope:
 1. This chapter seeks to ensure that the director and police chief are authorized to take such steps as are necessary, including civil or criminal litigation, to abate, penalize, or prevent the use of any unlawful structure, use, or lot. Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of this code, to prevent or rectify illegal subdivisions, to prevent unlawful construction and use of buildings, structures, or premises, to recover damages, to restrain, correct, or abate a violation, or to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described below;
 2. This section provides for an administrative remedy for any violation of this Title 9, chapters 1-15 of this code, including continuing violations related to any provisions of this Title 9, chapters 1-15 of this code;
 3. In any case where any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this title, as determined by the planning director, his/her designee or a code compliance officer or otherwise other proper legal authorities of the city, that authority may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy or use of said building, structure, or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land. In exercising enforcement authority, the city representative shall follow any specific remedial/enforcement sections listed in relevant chapters of this title or, in their absence, adhere to the provisions of this section specifically;
 4. The planning director and their designees, including code compliance officers in the police department, are designated enforcement officials with full authority to investigate, issue notices of violation, issue administrative citations, and secure remedies, including but not limited to injunctive relief, for any violation of title 9 of this code;
 5. Remedies may be exercised in place of, or in addition to, any other administrative, criminal, civil, or equitable remedy allowed by law.
- B. Definitions: See title 9, chapter 1 for definitions. In addition, for the purposes of this chapter, the term "violation" shall mean a violation of any provision of this title 9 (zoning code).
- C. Violations and Penalties:
 1. Violations: It shall be unlawful for any "responsible party(ies)" (defined as any person or persons, landowner, tenant or lessee, subdivider, builder, corporation or other legal entity using or occupying premises) to cause, allow, maintain or permit a violation of this code on any property within the City of Sandpoint. No responsible party shall construct, use, or occupy any building, structure, or improvement upon real property or subdivide land in

violation of this code, or contrary to the terms or conditions imposed on a permit or approval obtained in furtherance of this code. The responsible part(ies) who commits, allows, participates in, assists in, or maintains such violation shall be found guilty of such a violation. Additionally, any use which is established, operated, erected, moved, altered, enlarged, or maintained contrary to the zoning ordinance, excepting approved nonconforming uses and structures, is unlawful and a public nuisance, and may be abated in compliance with this chapter. A separate offence occurs each day or portion of a day during which a violation is committed or continued. Violations of this code also include, but are not limited to:

- a) Using land, buildings, structures, or premises contrary to the provisions of this code;
 - b) Obtaining a permit or approval under this code through submittal of inaccurate or misleading information, or through making inaccurate or misleading statements at a public hearing, regarding the proposed development, the conditions of the land on which the proposed development is located, or conditions on adjacent parcels;
 - c) Obstructing or removing any public notice required to be posted or otherwise given under this code;
 - d) Submitting for recording with Bonner County Recorder and Record of Survey or Subdivision Plat that has not been approved under this code;
 - e) Failing to meet all the requirements of the development permit or approval;
2. Notice of Violation and Order to Abate: Upon the awareness of any violation of any of the provisions of this title the planning director, his/her designee, or, a code compliance officer shall serve notice of such violation and order to abate on the person committing or permitting the same, or if neither is to be found within the city, by mailing a copy to the responsible person or his/her agent at his/her last known address, by regular mail and if such violation has not ceased within such reasonable length of time as the planning director, or his/her designee, or, a code compliance officer may determine, he/she will take action as may be necessary to terminate the violation as specified below. The planning director, or his/her designee, or, a code compliance officer may pursue a written code-compliance agreement with the responsible party to identify a specific timeframe for remedying a violation. Failure to receive any notice does not affect the validity of the proceedings conducted under this section.
 3. Corrective Action: If such violation has not ceased within such reasonable length of time as the planning director, or, his/her designee, or a code compliance officer may determine, then the planning director, or his/her designee or a code compliance officer shall take such action as may be necessary to terminate the violation. This may infer initial issuance of a citation, solicitation of assistance from other local authorities, abatement of a nuisance, posting of some type of cease and desist or stop work order, withholding a certificate of occupancy or building permit, etc., or pursuit of legal remedies.
 4. Penalties: Any person or corporation, whether owner, lessee, principal agent, employee or otherwise, who violates any of the provisions of this chapter or permits any such violation or fails to comply with any of the requirements approved under this chapter shall be subject to administrative citations, fines, and/or imprisonment up to, but not exceeding, the maximum penalties set forth in Idaho Code section 50-302, as amended. Either or both such fines and imprisonment may be imposed. Each day's continued violation shall constitute a separate additional violation.

D. General Enforcement Provisions:

1. Procedure For Service:

- a. Unless otherwise provided, service of a notice of violation that is required by this section may be made by delivery of a copy to the responsible person or his/her agent, or if neither is to be found within the city, by mailing a copy to the responsible person or his/her agent at his/her last known address, by regular mail. Service by mail shall be deemed complete upon mailing. The citing official must, in writing in the case file along with his/her signature, declare the date of mailing or delivery. Failure to receive any notice does not affect the validity of the proceedings conducted under this section.
- b. Unless otherwise provided, service of any other document or notice, such as an administrative citation, required by this section, other than the first notice of violation, may be made by delivery of a copy to the responsible person or his/her agent, or if neither is to be found within the city, by certified mail. Service by certified mail shall be deemed complete upon mailing. The citing official must, in writing in the case file along with his/her signature, declare the date of mailing or delivery, together with the acknowledgment of receipt, signed by the responsible person or his/her agent, if one is obtained. Failure to receive any notice does not affect the validity of the proceedings conducted under this section.

2. Responsibility of Cited Party: Upon service of a notice of violation and order to abate, the responsible person shall comply with said notice and order to remedy the violation within the time specified. Upon service of an administrative citation, the responsible person shall pay the assessed fines and remedy the violation

3. Content of Notice of Violation and Order to Abate: A notice of violation and order to abate shall contain all of the following information:

- a) The location of the violation and the date the violation was first detected. The date of service of the first violation warning, as set forth in subsection D1 of this section, shall be deemed to be the date the violation was first detected, for purposes of this section;
- b) The city code section violated and a description of the violation;
- c) The action required to correct the violation and the date by which such action must be completed;
- d) The consequences of failing to correct the violation, and;
- e) The name and signature of the citing official.

E. Procedure for Enforcement:

1. A notice of violation and order to abate shall be issued for all code violations and shall ordinarily provide thirty (30) days to correct the violation. At the discretion of the citing official and based on immediate dangers to health or safety, a shorter time for correction may be set forth in the notice of violation. Maximum time to correct the violation shall be at the discretion of the citing official and shall be based in part on any immediate dangers to health or safety. The notice of violation shall list the amount of the fine and/or abatement remedies that the City will undertake that will be imposed if there is no compliance with said notice of violation;

2. The City may pursue the use of a written code-compliance agreement, on a form approved by the City Attorney, with the responsible party documenting the timeframe (if other than 30-days) for remedying the violation.
3. An Administrative Citation may be issued for all code violations that have not been corrected within the timeframe identified in the notice of violation and order to abate and/or code-compliance agreement. All Administrative Citations shall include the applicable Administrative Fines, as provided for in this section.

F. Remedies:

1. Notice of Violation and Order to Abate Satisfied: If the citing official determines that all violations specified in the notice of violation and order to abate have been corrected within the time set forth in the notice, no further action under this section shall be taken against the responsible party regarding the violations.
2. Failure To Comply with Notice of Violation and Order to Abate: If the responsible party fails to fully comply with the notice of violation and order and/or code-compliance agreement to abate within the timeframe specified, the citing official may issue an administrative citation as provided in this section. The issuance of the administrative citation does not alleviate or negate the responsible party's obligation to fully comply with the notice of violation and order to abate.
3. Abatement: The City may recover the cost of abatement as allowed under Idaho state code 50-1008 as a lien upon the property or as a City tax for costs incurred in the abatement or cleanup.

G. Content Of Administrative Citation: An administrative citation shall contain all of the following information:

1. The location of the violation and the date the violation was first detected. The date of service of the notice of violation and order to abate, as set forth in subsection (D)3 of this section, shall be deemed to be the date the violation was first detected, for purposes of this section.
2. The code section violated and a description of the violation.
3. An outline of the violation notices issued, and the time frames given within said violation notices and/or code-compliance agreement with the responsible party.
4. The amount of the fine imposed for the violation as well as the time frame within which said fine shall be paid and place of payment for said fine.
5. An order prohibiting another occurrence of the code violation.
6. A description of the administrative citation review process, including the time within which to contest the administrative citation and the place from which to obtain an administrative hearing request form to contest the administrative citation.
7. The name and signature of the citing official.

H. Administrative Fines:

1. For any violation of this chapter the administrative fine shall be three hundred dollars (\$300.00) per day for five (5) days for each day's continued violation. After the first five days of administrative fines, the fine increases to one thousand hundred dollars (\$1000.00) per day. Such fines are in addition to other/subsequent violations occurring within a twelve (12) month period.
 2. Because a new and separate offense occurs under section 9-9-C of this chapter each day during which a violation of any provision or requirement of this code is committed, continued, or permitted, the citing official shall assess fines according to the schedule set forth in subsection G of this section for each day from the date for which compliance was directed in the notice of violation until the date the violation is fully corrected as determined by the citing official or until the maximum fine amount is reached, whichever comes first, subject to the tolling provisions of subsection (L) of this section.
 3. Administrative fines assessed for failing to fully comply with any notice of violation or administrative citation is a debt owed to the city.
- I. Payment Of Administrative Fine: Except as provided in subsections (J) through (L) of this section, the administrative fine shall be paid to the city within thirty (30) days from the date of service of the administrative citation. If, after a hearing requested pursuant to subsection (J) through (L) of this section, the Planning and Zoning Commission determines that the administrative citation should be canceled, the administrative fine shall be refunded.
- J. Request For Administrative Hearing: Any responsible person to whom an administrative citation is issued may contest the citation by:
1. Completing an administrative hearing request form and returning it to the city;
 2. Providing a complete and current mailing address for service of papers, including notices on the responsible party, by mail; and
 3. Depositing with the City, the amount of the administrative fine stated in the administrative citation as of the date of its issuance.
- K. Administrative Hearing Procedures:
1. Request for Hearing: The City must receive a completed administrative hearing request form and the amount of the administrative fine required under subsection (J)(3) of this section within thirty (30) days from the date of service of the administrative citation. If both items are not received within the required time frame, the responsible party waives the right to a hearing.
 2. Notice of Hearing: The citing official shall serve notice on the person requesting the hearing of the time and place of the hearing at least seven (7) days before the date of the hearing. The citing official shall serve any documentation, other than the administrative citation, that the citing official has submitted or will submit to the Planning and Zoning Commission or City Council, as applicable, on the person requesting the hearing at least five (5) days before the date of the hearing. Service shall be in accordance with subsection (D)(1)(A) of this section.
- L. Time For Administrative Hearing: Only after an administrative hearing request form is received by the city within the required period and the responsible person requesting the hearing has deposited the amount required under subsection (J)(3) of this section, shall the city set the date and time for the administrative hearing. The hearing shall be set for a date not less than fifteen (15) days, but no

more than sixty (60) days, after the date of filing the administrative hearing request form. The timely filing of an administrative hearing request form pursuant to this section shall toll the further accrual of administrative fines under subsection (H) of this section, and no additional administrative fines shall accrue after the date of such filing during the pendency of the administrative hearing.

- M. Request For Continuance Of Hearing: The responsible party requesting a hearing may request one continuance, which shall be granted if deemed reasonable by the city. The city may also continue the hearing at its own discretion.
- N. Planning and Zoning Commission Conducts Hearing: The Planning and Zoning Commission shall be the entity conducting the administrative hearing.
- O. Procedures At Administrative Hearing: Administrative hearings are not public hearings and are informal. Formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of that party's case and to cross examine witnesses. The city bears the burden of proof at an administrative hearing to establish a violation of this Title 9 of this code. The administrative citation and any additional reports submitted by the citing official shall constitute evidence of the facts contained in those documents. The Planning and Zoning Commission must use preponderance of evidence as the standard of review in deciding the issues.
- P. Failure To Attend Administrative Hearing: If the responsible party fails to attend the scheduled hearing, the hearing will proceed without the responsible party, and the responsible party shall be deemed to have waived the right to an administrative hearing.
- Q. Decision of the Planning and Zoning Commission
 - 1. Issuance Of Decision: No later than thirty (30) days after the date on which the administrative hearing concludes, the Planning and Zoning Commission shall issue a written decision. The decision shall set forth the reasons for the decision.
 - 2. Administrative Citation: The Planning and Zoning Commission shall issue a written decision to uphold or cancel the administrative citation. If the Planning and Zoning Commission upholds the administrative citation, the city shall retain the fine deposited by the responsible party. If the Planning and Zoning Commission upholds the administrative citation and the fine has not been deposited because advance deposit has been waived by the city on the grounds of hardship or otherwise, the Planning and Zoning Commission shall specify in the decision a payment schedule for the fine. If the Planning and Zoning Commission cancels the administrative citation, any fine deposited with the city shall be refunded.
 - 3. Administrative Order: With regard to the Planning and Zoning Commission's decision, it shall be entitled "administrative order". The Planning and Zoning Commission shall make findings within the administrative order regarding the existence of the violation(s) specified in the notices of violation and administrative citation, and regarding whether the responsible party took the required corrective action within the time period set forth in the notices. If the Planning and Zoning Commission concludes that the violation continues to exist, the administrative order shall set forth a schedule for correction. The administrative order shall set a deadline for compliance with its terms. If the Planning and Zoning Commission determines that the violation(s) set forth in the notices of violation did not exist, or that the violation(s) was (were) timely corrected, all proceedings regarding the violation(s) shall immediately cease and the administrative citations shall be canceled. If the Planning and Zoning Commission cancels the administrative citation, any fine deposited with the city shall be refunded.

4. **Administrative Costs:** The Planning and Zoning Commission may assess against the responsible party administrative costs for any violation found to exist, or for any violation that was not timely corrected. The administrative costs include any and all costs incurred by the city in connection with administrative hearings pertaining to the violation, including, but not limited to, investigation costs, staffing costs for preparing and conducting the administrative hearing, and costs for all inspections necessary to enforce the notices of violation, administrative citation and the administrative order. The administrative order shall specify the date by which the costs must be paid to the city.
 5. **Appeals to City Council of an Administrative Order:** Any party that is the subject of an administrative order, as established in subsection Q(3), shall have the right to appeal such order to the City Council. Such appeal shall adhere to the provisions of subsection K. Decisions of the City are final.
- R. **Administrative Hearing Application Fee:** The city council shall by resolution establish an application fee to be paid by the person seeking an administrative appeal hearing.
 - S. **Late Payment Charges:** Any person who fails to pay to the city on or before the due date any administrative fine imposed pursuant to the provisions of this section shall be liable for the payment of late payment charges in the amount of fifty percent (50%) of the administrative fine payable to the city over and above the original fine.
 - T. **Failure To Comply With Administrative Order:** Failure to comply with an administrative order after it becomes final is a misdemeanor. Filing a criminal misdemeanor action does not preclude the city from using any other legal remedy available to gain compliance with the administrative order.

9-9-10 Legislative Actions

- A. **Purpose:** This section provides procedures for the amendment of the Comprehensive Plan, the Zoning Ordinance, or the Official Zoning Map (Rezone). This section also provides for the establishment or amendment of an overlay zoning district.
- B. **Initiation:** In the case of the Comprehensive Plan, the Zoning Ordinance, the Official Zoning Map (rezone), or the creation of an overlay zone or amendment to any of the aforementioned may be initiated by the City Council, the Planning and Zoning Commission, or Director, or as follows:
 - a. Amendments may also be initiated by the filing of an amendment application with the Department by the owner(s) or authorized agent(s)/representative(s) or property owner(s) for which an amendment is sought. If the property is under multiple ownership, all owners or their authorized agents/representatives shall join in filing the application.
 - b. Historic Preservation Overlay Zone Districts may also be initiated by the Arts, Culture, and Historic Preservation Commission, as further described in subsection (I) (overlay zone districts), below.
- C. **Application Processing, Notice, and Hearings:** All applications shall be processed in compliance with the procedures and requirements in section 9-9-2 (Permit Application Filing, Fees, and Initial Processing). Legislative actions initiated by the Director, Planning and Zoning Commission, Arts, Culture and Historic Preservation Commission, or City Council, shall be exempt from the procedures of section 9-9-2.
- D. **Notice and Hearings:** The Planning and Zoning Commission and Council each shall conduct one or more public hearings in compliance with section 9-9-5 (public hearings), regarding any Comprehensive Plan

amendment, Zoning Ordinance amendment, Official Zoning Map amendment (rezoning), or creation or amendment of any overlay zone.

- E. Planning and Zoning Commission's Action: On all legislative actions provided for in this chapter, the Planning and Zoning Commission shall forward a written recommendation, and reasons for the recommendation, to the City Council whether to approve, approve in modified form, or deny the request, based on the findings identified in section 9-9-12 (G), below.
- F. Council's Action: On all legislative actions provided for in this chapter, upon receipt of the Commission's recommendation, the Council shall approve, approve in modified form, or deny the request, based on the findings identified in section 9-9-12 (G), below.
- G. Findings and Decision: An amendment to the Comprehensive Plan, the Zoning ordinance, or the official Zoning Map (rezoning) may be approved only if all of the following findings are made, as applicable to the type of action:
 - Findings for Comprehensive Plan Amendments:
 - a. The Amendment is internally consistent with all other provisions of the Comprehensive Plan;
 - b. The amendment will not be detrimental to the public interest, health, safety, and convenience or welfare of the City;
 - c. The affected site is physically suited in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities (e.g. fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment and disposal, etc.) to ensure that the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.
 - 2. Findings for Zoning Ordinance and Official Zoning Map Amendments (rezoning):
 - a. The amendment is consistent with the Comprehensive Plan;
 - b. The amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
 - c. The amendment is internally consistent with other applicable provisions of this title.
 - d. Additional finding for amendments to the Official Zoning Map (rezoning): The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities (e.g. fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment and disposal, etc.) to ensure that the requested zone designation or change and the proposed or anticipated uses and/or development will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.
 - 4. Additional Findings for the creation or amendment of an overlay zone district:
 - a. The creation of an overlay zoning district or amendment meets the criteria for the relevant overlay zoning district established in subsection (I)(Overlay Zoning Districts), below.

- H. Effective Dates: Effective dates for legislative actions shall be as set forth in section 9-9-3, Permit or Approval Implementation, Time Limits, Expirations, and Extensions.
- I. Overlay Zoning Districts:
1. Purpose: Overlay Zoning districts are established to provide additional or more restrictive requirements for the specific type of overlay area that are superimposed upon the those of the base zone or underlying zone. Overlay zones address special land use, character, or environmental considerations unique to the property or its surroundings. The specific regulations governing an overlay zoning district may reside outside of this chapter and within the chapter that establishes the overlay zoning district.
 2. Applicability and General Provisions: Properties within an overlay zone are subject to the requirements and regulations of both the base zone and the overlay zone. Properties located within multiple overlay zones shall comply with the requirements of each overlay zone. Where the standards or provisions of the overlay and base zone are different or in conflict, the more restrictive standards shall apply. In some cases, the uses vary from the base zone and the overlay zone. In such cases, the overlay zone shall govern. Overlay districts may prohibit land uses that may otherwise be allowed in the base zone.
 3. Overlay Zoning Districts and the Zoning Map: All overlay zoning districts shall be delineated as an overlay on the Official Zoning Map of the City of Sandpoint. The boundary of the overlay district shall be shown and the short name for the specific overlay zone shall be listed. All overlay districts shall be listed in the table of zone districts in chapter 9-1, General Provisions, of this code.
 4. Content Requirements/Criteria: An overlay zoning district is required to identify the following elements: purpose of the overlay, relevant definitions, the boundary, land uses permitted, land use restrictions, design standards, special permits (if any) required to implement the overlay, the procedures for filing and obtaining permits, appeals procedures, and enforcement provisions. The overlay shall be one of the following types, which shall be articulated in its purpose, and shall meet the following criteria:
 - A. Sensitive Lands Overlay Districts: Sensitive lands overlay districts are intended to protect unique environmental features and systems within the city from the impacts of development, or to protect the public health and safety by including additional restrictions on development in or near areas where necessary and permitted activities may create additional risks to the public. The Sensitive Lands Overlay district shall meet at least one of the following criteria:
 - i. Includes sensitive environmental areas or systems or portions of systems that need additional protection from the impacts of development in order to retain healthy environmental functions or to protect a unique environmental feature within the city; or
 - ii. Includes lands in or around an area where needed and permitted activities may create additional risks to public health and safety unless additional restrictions on the location and type of development or permitted human occupancy of those lands is subject to additional regulations.
 - B. Character Overlay Districts: Character overlay are intended to maintain the unique character of specific areas. A character overlay district is usually applied to neighborhoods or areas with certain identifiable attributes embodied in architecture, urban design, geography, or history. Character overlays shall meet at least one of the following criteria:

- i. Has a distinctive character with identifiable attributes embodied in architecture, use, development patterns, or history that make it a unique and integral part of the city's identity;
 - ii. Has a recognizable neighborhood identity and a definable physical character that may have a high artistic value or physical proximity to downtown or the Historic Preservation Overlay Zone that makes the area's conservation significant to the city's history and function.
- C Historic Preservation Overlay Districts: Historic preservation overlays are intended to promote the educational, cultural, and economic welfare of the public by engaging in a comprehensive program of historic preservation to promote, preserve, and protect historic buildings, structures, sites, monuments, streets, squares, and /or neighborhoods that serve as visual reminders of the historical, archeological , educational, and cultural heritage of Sandpoint. It is further the purpose and intent of a historic overlay district for the social, economic, and environmental advantages of the city to promote the use and conservation of such property and to encourage new buildings and developments that will be harmonious with the existing historical, archeological, architectural educational, and cultural buildings, structures, sites, streets, open spaces, and neighborhoods. The buildings, sites, structures, and objects of a Historic Preservation Overlay District shall meet one of the following two criteria:
 - 1. Historical or Cultural Importance:
 - ii. Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, state, or nation;
 - iii. Is associated with the life of a person significant in the past;
 - iv. Is the site of an historic event with significant effect upon society;
 - v. Exemplifies the cultural, political, economic, social, educational, or historic heritage of the community;
 - vi. By being part of or related to a street, square, park, or other distinctive area, should be developed or preserved according to a plan based on historic, cultural, or architectural motif; or
 - vii. Owing to its unique location or singular physical characteristics, represents an established and familiar visual feature of the neighborhood, community, or city.
 - 2. Architectural Importance:
 - i. Portrays the environment in an era of history characterized by a distinctive architectural style;
 - ii. Embodies those distinguishing characteristics of an architectural-type or engineering specimen;
 - iii. Is the work of a designer, architect, or craftsman whose individual work has significantly influenced the development of the city, state, or nation; or
 - viii. Contains elements of design, detail, materials, or craftsmanship that represent a significant innovation.

5) Establishment Requirements: An overlay district shall be established in conformance with the provisions of this chapter for amendments to the Official Zoning Map, specified above, and in compliance with additional procedural requirements unique to each overlay set forth in applicable chapters dedicated to such overlays (e.g airport, historic preservation chapters).

9-9-11: Development Agreements (Still under review – needs formatting help):

- A. Purpose: A development agreement ("agreement") is a discretionary tool to be used by the Planning and Zoning Commission (the "Commission") and City Council (the "Council"). The agreement will allow a change in the zoning for a specific project, with a specific use, to be developed on property in an area which may not be appropriate for all uses permitted outright or conditionally within the proposed zone. Approval of the agreement, pursuant to this section, would permit the proposed use, with conditions, within the proposed zone.
- B. When Permitted or Required: An agreement may be permitted or required at the discretion of the Commission or Council when considering a request for a rezone. An agreement when permitted or required, shall be initiated through one of the following methods:
 - 1. On request by the developer;
 - 2. On recommendation of the Planning Director (the "Director"); or
 - 3. As required by the Commission or Council.
 - a. The Council or Commission may require that an agreement be executed prior to allowing a particular project to proceed. An agreement may be formulated when approval of the rezone would permit uses within that zone which may not be appropriate to the area, but the specific project presented may have a value to the community which could otherwise be allowed through the use of an agreement.
 - b. In the event, during the rezoning process, the Council or the Commission determines that an agreement should be considered;
 - (1) The Commission shall retain jurisdiction of the matter until its recommendation concerning the agreement is given to the Council. The Commission shall defer consideration of the rezone and set a time limit for submittal of the agreement. The Commission shall then proceed as specified in this section.
 - (2) In the event of a determination by the Council that an agreement should be drafted, the Council shall remand the matter back to the Commission for consideration. The Council may give specific direction to the Commission as part of the remand.
 - (3) In the event of subsections 9-9-11B3b1 and b2 above, all time limits required by the Sandpoint City Code may be stayed, upon affirmative vote of the Commission or Council.
- C. Form of Agreement: The agreement shall be in a form as required by the Director and shall, as a condition of consideration by the Director, Commission or City Council, include all of the following:
 - 1. An affidavit by the owner of the property agreeing to submission of the use and property for an agreement.
 - 2. The legal description of the property in question.
 - 3. The specific present use or uses of the property in question.

4. The permitted or conditional use desired and the proposed zone.
5. A concept plan for the property as provided by this chapter. In addition to those items required by this chapter, the concept plan shall include but not be limited to:
 - a. A description of the density allowed and requested.
 - b. Maximum height, size, and location of all the structures proposed.
6. The construction schedule, including the projected occupancy date.
7. Type and color of materials used.
8. A statement acknowledging that failure to comply with the agreement shall constitute a consent to rezone the property to the pre-existing zone or; in the case of the pre-existing zone being an initial zone at annexation, a zone deemed appropriate by the commission and council.
9. Any other information as requested by the council, commission, or director.

D. Approval of The Agreement:

1. The agreement may be approved at the sole discretion of the Council after a public hearing. The public hearing shall follow the public hearing procedures of this chapter.
2. The Commission or Council may revise the agreement by adding to it conditions, terms, duties, or obligations to the agreement.
3. The agreement must be approved by the Council as a resolution, only after approval (as to form) of the agreement by the City Attorney.

E. Procedure After Approval of The Agreement: Following approval of the agreement by the City Council, the full agreement shall be recorded in the Bonner County Recorder's office, Bonner County, Idaho, at the expense of the developer. The agreement shall run with the land and shall be considered continuing obligations of the owner, co-owners or subsequent owners of the property. Use of the property and compliance with the agreement shall be reviewed and approved by the Director prior to the issuance of an occupancy permit.

F. Duty To Comply With Agreement: Each owner, co-owner or subsequent owner of property which is subject to an agreement adopted pursuant to this section shall comply with the agreement.

G. Modification of Agreement:

1. The agreement may be modified only after public hearing by the council.
2. No modification of the agreement may allow a use or condition on the property that is not permitted within the zone.

H. Amendment or Termination of Agreement Upon Breach:

1. In the event of a breach of the agreement by the developer, or the developer's successor in interest, the agreement may be amended or terminated by the council without the consent of the breaching party. Such amendment or termination shall take place after a public hearing in compliance with the public hearing procedures of this chapter, at which time testimony shall be taken to resolve the issue with the agreement.
2. Upon termination of the agreement, following the public hearing the property shall, upon an affirmative vote of the council, revert to the pre-existing zone, or in the case of the pre-existing zone being an initial zone at annexation, a zone deemed appropriate by the commission and council. All uses of the property which are not consistent with such pre-

existing zone following termination of the agreement shall cease. The owner of the property may apply for a conditional use for the property if such use is conditional within such pre-existing zone after compliance with the terms of this chapter.

- I. Enforcement of Agreement: The agreement may be enforced by the council through any means deemed to be appropriate, including, but not limited to, specific enforcement injunctive relief, damages or criminal penalty for violation of this section. The enforcement options available to the council shall be considered cumulative.

(Ord. 910, 11-18-1991)