

Ordinance No. 2007 - 09
ZONING ORDINANCE
CUSTER COUNTY, IDAHO

An Ordinance providing for the establishment of zoning within Custer County, Idaho, under the constitution and laws of the State of Idaho; providing for title; general provisions; providing definition of terms used therein; providing for establishment of land use districts and establishing the land uses permitted therein; providing for official zoning maps; providing for official height and area regulations and other performance standards; providing for uses and nonconforming uses; providing for area of impact; providing for building-zoning permits and variances; providing for special uses; providing for rezone process; providing for development agreements; providing for parking and sign regulations; providing for administration including public hearings and enforcement including criminal penalties and civil remedies; and providing for an effective date and repealing all Ordinances in conflict with this Ordinance.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CUSTER COUNTY, IDAHO AS FOLLOWS:

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**ARTICLE 1
GENERAL PROVISIONS**

SECTION A: TITLE

This ordinance shall be known as the "Zoning Ordinance of Custer County".

SECTION B: AUTHORITY

This Zoning Ordinance is adopted pursuant to authority granted by Title 67, Chapter 65 of the Idaho Code and Article 12, section 2 of the Idaho Constitution, as amended or subsequently recodified.

SECTION D: PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, the most restrictive or that imposing the higher standards shall govern

SECTION F: SEPARABILITY CLAUSE

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION G: REPEAL OF CONFLICTING ORDINANCE - EFFECTIVE DATE

All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

SECTION H: DEVELOPMENT IN AREAS OF CRITICAL CONCERN

No building application will be granted in an area of critical concern as defined in the Subdivision Code Article VI, Section E without first proceeding through the application process described in that section.

SECTION I: EXISTING USES

~~Existing uses of land within an area may not conform to the requirements set forth in the plan.~~ It is possible that existing uses of land within an area do not conform to the current requirements of the plan. (*Ordinance No 2008-04*). Such established existing uses shall have the right to continue but may not be expanded in physical size. If an existing use is incompatible with the plan and is discontinued for a period of more than one year, the county will follow the procedures delineated in Idaho Code 67-6538 (and any changes made from this point forward) to declare the use abandoned.

ARTICLE II DEFINITIONS

SECTION A: INTERPRETATION OF TERMS OR WORDS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
2. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular;
3. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement and the word "should" is a preferred usage;
4. The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied"; and
5. The word "lot" includes the words "plot," "parcel," and "tract".

SECTION B: MEANING OF TERMS OR WORDS

Accessory: A use, building or other facility customarily a part of any permitted use that is clearly incidental and secondary to the permitted use and which does not change the character of the permitted use, or affect other properties in the vicinity.

Accessory Building: A building which; is subordinate to and serves a principle building or principle use served, and is located on the same lot as the principle building or principle use. Accessory use examples, not limited to the following; personal uses such as garages, storage sheds, greenhouses.

Accessory Dwelling: See Dwelling, Accessory

Access: A legally and physically defined area available and practical for motor vehicle ingress and egress to parcels, areas or tracts of land. In determining practicality, the topography, drainage, potential for erosion, and other factors may be considered.

The following are types or forms of access:

- a. State Highway: A public road, including its entire right-of-way, under the jurisdiction of the State of Idaho. Contact: Idaho Transportation Department
- b. County Road: A public road, including its entire right-of-way, under the Jurisdiction of Custer County.
- c. City Street: A public road under the jurisdiction of an incorporated city.
- d. Private Road: A road which provides access to parcels, areas or tracts of land and has been approved by the County for use as a private road. A private road shall be considered that portion of a lot or parcel that is used for access purposes as described by an easement. A private road is not repaired, plowed or otherwise maintained by the County nor can the County contract for its maintenance.
- e. U.S. Forest Service and Bureau of Land Management Roads: A federally owned easement or right-of-way which provide access to federally owned land.

Administrator: An official having knowledge in the principles and notices of zoning who is appointed by the Board to administer this Ordinance.

Administrative Action: An action, as allowed by ordinance, that is taken by Planning and Zoning staff and does not need the approval or action of the Planning and Zoning Commission.

AFO (Animal Feeding Operation): A contiguous area or parcel of land or the use of a contiguous area or parcel of land, upon which there are confined or fed livestock, fish, birds in enclosures or ponds for forty-five (45) days or more of the year, which does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season and which consists of any combination of animal units which totals no more than 1,000 animal units.

For purposes of this code, areas or parcels of land are deemed contiguous when separated by county roads. Areas or parcels of land are deemed contiguous if they are not adjacent, but are owned or operated by the AFO operator.

Agriculture: As regulated by the Idaho Department of Agriculture, the use of land for farming, dairying, pasturage, range, forestry, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce, provided however, that:

- a. The operation of any such accessory uses shall be secondary to that of normal

agricultural activities; and

- b. The definition of agriculture does not include the operation or maintenance of meatpacking, animal processing plants, and slaughterhouse facilities.

Airport: Any runway, land area or other facility designed or used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangers and other necessary buildings.

Alley: Any thoroughfare at least 10 feet wide and not more than 30 feet wide, which has been dedicated or deeded to the public for public use and which affords a secondary means of access to abutting properties.

Animal Processing Plant: A place of business that processes the carcasses or any part of carcasses of any dead, dying, disabled, or diseased animals.

Animal Units: Animal units shall be as defined by Idaho Code 67-6529C.

Batch Plant: A facility in which aggregate is combined with other materials that include cement or asphalt to produce a mixture transported to another area for use.

Bed and Breakfast: A facility providing for temporary overnight accommodations. A Bed and Breakfast provides breakfast for overnight guests, but does not provide a restaurant and/or bar. Exterior signage must conform to sign ordinances of that zone and area.

Board: The Board of County Commissioners of Custer County, Idaho.

Boarding or Rooming House: A building or portion thereof, which is used to accommodate, for compensation, three (3) or more boarders or roomers, not including members of the occupant's immediate family, who might be occupying such building. The word compensation shall include payment in money, service or other things of value.

Building: A structure designed or used as the living quarters for one or more families or a structure designed or used for occupancy by people for commercial, agricultural, or industrial uses.

Building Official/Inspector: An official of the County, if and when appointed by the Board to inspect and certify compliance with building ordinances adopted by Custer County.

Bulk Storage: Activities and uses with associated structures devoted to the storage of products and substances in bulk quantities such as oil, gasoline, building materials, fertilizer, and vehicles. Bulk storage does not include agricultural products stored on agricultural lands. Also, warehouses for consumer and other products.

Cabins, Rental: See Vacation Rentals

CAFO (Confined Animal Feeding Operation): A contiguous area or parcel of land or the use of a contiguous area or parcel of land, upon which there are confined or fed livestock, fish, birds in enclosures or ponds for forty-five days (45) or more of the year, which does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season and which consists of any combination of animal units which totals more than 1,000 animal units.

For purposes of this code, areas or parcels of land are deemed contiguous when separated by county roads. Areas or parcels of land are deemed contiguous if they are not adjacent, but are owned or operated by the CAFO operator.

Campgrounds - Developed: Land or premises designed to be used, let or rented for temporary occupancy by campers traveling by automobile or otherwise, and which contain such facilities as tent sites, bathrooms, or other sanitary facilities, piped water installations, and parking areas, but not including mobile home parks. Developed campgrounds may include facilities for the temporary placement of camp trailers, recreational vehicles and camping vehicles that are utilized for non-permanent residential uses.

Commercial: The retail sale or the rental of any consumer article, substance, or commodity; including businesses providing personal commercial services such as restaurants, motels, barber shops, beauty shops, photography studios, dry cleaners, laundries, and other such businesses and as delineated in Article VI.

Commission: The Planning and Zoning Commission of Custer County, Idaho, as appointed by the Board.

Communication Tower: A tower used as a base for any communications antenna, including, but not necessarily limited to, antennas for the following: VHF and UHF television, PCS or other wireless telephones, fixed point microwave, low power television, or other wireless communications and common carries. A communication tower shall not be considered a utility substation for the purposes of this code and must be approved by a special use permit.

Comprehensive Plan: A Comprehensive Plan or parts thereof, providing for the future growth and improvement of the County and for the general location and coordination of streets and highways, schools and recreation areas, public building sites, and other physical development, which shall have been duly adopted by the Board.

Contiguous Parcel or Lot: Any unplatted or platted parcels of land under the same ownership that touch each other. If parcels are separated or divided by platted roads or county and state highways, or by rivers, they shall ~~still~~ be not be considered contiguous.

County Engineer: An engineer employed by the County either as a contracted position or as a County employee.

Development Agreement: A written agreement or a written commitment that affects the use or development of a parcel of property that is the subject of a rezone or development request. A written commitment shall also be known as a development agreement.

District: A portion of the unincorporated territory of the county within which certain uses of land, premises and buildings are permitted and certain other uses of land, premises and buildings are not permitted.

Drive-In Establishment: An establishment, other than an automobile service station, which is designed to accommodate the motor vehicles of patrons in such manner as to permit the occupants of such vehicles, while remaining therein, to make purchase or receive services.

Dude Ranch: A working ranch that includes paying guests who stay overnight.

Dwelling: A structure to live in.

Dwelling Accessory: A dwelling located on the same lot with and of a nature customarily residential and subordinate to and owned by the owner of the principal use.

Dwelling, Multi-Family: A dwelling consisting of three (3) or more dwelling units including townhouses and condominiums with varying arrangements of entrances and party walls.

Dwelling, Rooming House: A dwelling or part thereof, other than a hotel, motel or restaurant, where three (3) or more unrelated persons are paying for meals and/or lodging where cooking or dining facilities are not provided in the individual rooms. This term shall include boarding house, lodging house and dormitory.

Dwelling, Single Family: A dwelling consisting of a one (1) family dwelling unit only, separated from other dwelling units by open space.

Dwelling, Two-Family: A dwelling consisting of two (2) family dwelling units which may be either attached side-by-side or one (1) above the other.

Dwelling Unit: Space within a dwelling comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one (1) family and its household employees.

Easement: Authorization by a property owner for the use by another or the public and for a specified purpose of any designated part of his property.

Educational Facilities, General Education: Buildings and other structures, and land, designed to be used for providing general education, include elementary schools, secondary schools, colleges, and universities, as approved by the state.

Electrical Power Plant: Facilities used to generate electrical power.

Electrical Substation: Facilities for transforming electrical voltages from transmission voltages to lower transmission voltages or to distribution voltages.

Engineer: Any person who is licensed or registered in the state to practice professional engineering.

Equal Degree of Encroachment: A standard applied in determining the location of encroachment limits so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

Feedlot, Commercial: An area where livestock is contained for the purpose of resale or slaughter at an average monthly confined animal density exceeding two (2) animal units per acre and using a primary feed supply other than grazing, excluding family food production or incidental sale.

Fire Protection Facilities: Public service structures and equipment used for reducing property damage and personal injury from fires or extinguishing fires.

Flood Plain: A floodplain is defined and controlled through the “Flood Damage Prevention Ordinance” of Custer County.

Garage: Buildings and premises where those activities incidental to maintenance and repair of motorized vehicles are conducted. A service station is neither a repair garage nor a body shop.

Garage, Residential: See Accessory Building (*Ordinance 2010-4*)

Golf Course: A tract of land for playing golf, with tees, greens, fairways, hazards, etc.

Grazing: The feeding of animals on growing foliage.

Guides: As defined in Idaho Statute 36-2102

Health Authority: The Health Department that has jurisdictional authority.

Hiking Trails: An established path open to the public for the exclusive use of pedestrians.

Historic Sites: A parcel of land used to commemorate some event or events in the past.

Home Occupation: Any use conducted entirely within a dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use or the character thereof and in compliance with Article VIII of this ordinance.

Hospital: See “Medical Facilities”

Hotel or Motel: A building in which lodging or boarding are provided and offered to the public for compensation. As such, it is open to the public in contradistinction to a rooming or boarding house dwelling.

Industrial, Extractive: Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource.

Industrial, Heavy: Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations.

Industrial, Light: Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust; and generating little industrial traffic or nuisance.

Industrial Park: An area of not less than one acre that is developed to hold more than one industrial use served by common infrastructure.

Inn: See Hotel/Motel

Junk Yard: See Wrecking/Junk Yard

Kennel: Any lot or premises or portion thereof, on which three or more dogs, cats and other household domestic animals are maintained, harbored, possessed, boarded, bred or cared for in return for compensation or kept for sale.

~~Land Coverage: A man-made structure, improvement or covering that prevents normal precipitation from directly reaching the surface of the land underlying the structure, improvements or covering. Such structures, improvements and coverings include roofs, surfaces that are paved with asphalt, stone or the like such as roads, streets, sidewalks, driveways, parking lots, tennis courts, patios, and lands so used that the soil will be compacted so as to prevent substantial infiltration, such as parking of cars and heavy and repeated pedestrian traffic. A structure, improvement or covering shall not be considered as land coverage if it permits at least 75 percent of normal precipitation directly to reach the surface of the land underlying it. Ordinance No. 2008-04~~

Lot: An area of land occupied or to be occupied by a building or other structure, or to be used in connection with an activity that is shown as a separately bounded area in a recorded subdivision plat or deed.

Marina: A commercial facility providing for needs of boaters.

Meat Packing Plant: A place of business where animals are slaughtered and/or their meat is prepared for market.

Medical Facilities: Buildings and uses related to the treatment and prevention of human disease, including hospitals, clinics, convalescent homes, and nursing homes.

Mineral Extraction: The process of obtaining specific materials from the ground (mining).

Mobile Home: A transportable structure which is at least 10 body feet in width and 40 body

feet in length, built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities. No mobile home may be placed on a single-family lot within the County after the effective date of this ordinance unless it meets the rehabilitation standards as specified in Title 44 of the Idaho Code. Mobile homes do not include recreational vehicles.

Mobile/Manufactured Home Park: Any site or tract of land under single ownership, upon which two (2) or more mobile home habitations are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of such park.

Motor Speedway: A track for racing motorized vehicles.

Motorcycle Trails: Trails open to the public, for fee or not, for use by motorcyclists.

Non-Conforming Building: A building or structure or portion thereof built prior to the effective date hereof, or any amendment hereto, and conflicting with the provisions of Article IX of this ordinance applicable to the zone in which it is situated.

Occupancy: Occupancy shall mean that no residential dwelling shall be occupied by more than two adult persons per habitable room. Habitable room shall mean all rooms in the dwelling with the exception of hallways and bathrooms.

Open Space: An area substantially open to the sky that may be on the same lot with a building. The area may include, along with natural environmental features, water areas, swimming pools, tennis courts, and any other recreational facilities that the Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included.

Organized Recreation Camps: Land or premises containing structures designed to be used for organized camping.

Original Parcel of Land: A lot or tract as recorded on any plat or record on file in the office of the County Recorder, or any unplatted contiguous parcel of land held in one ownership and of record as of November 10, 2003. The original vested owner retains original parcel date and rights.

Outdoor Recreation: Uses and facilities pertaining to recreation activities that are carried on primarily outside of structures.

Outdoor Recreation Concessions: Uses and facilities ancillary to outdoor recreation uses, such as gasoline pumps at piers and marinas, and boat rental and food and beverage facilities at public beaches.

Outfitter: As defined in Idaho Statute 36-2102.

Overlay: A concept in which a superimposed area indicated by a map defines an area in which special restrictions or requirements are deemed necessary.

Owner: The individual, firm, association, syndicate, partnership, trust, or corporation ~~or~~ having interest in the land.

Pack Station: A building or corral for the shelter of animals used to carry luggage or other loads.

Parcel: An area of land under one ownership. (Refer to definition of Lot)

Parking Lot: A parcel of land used for the parking of motor vehicles.

Parking Space, Off-Street: For the purpose of this Ordinance, an off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room; but, shall be located totally outside of any street or alley right-of-way in compliance with Section XVII of this ordinance.

Performance Bond or Surety Bond: A financial guarantee by a subdivider or developer with the county in the amount of 150% of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the agreement paid to the Custer County Clerk and Recorder.

Person: An individual, partnership, corporation, business, association, or group of individuals and any governmental entity.

Private Recreation Areas: Land or premises designed to be used exclusively by owners and renters of single family dwelling units and their guests, and occupants of tourist dwelling units or multi-person dwellings, that contain such facilities as tennis courts, playfields, swimming pools, clubhouses, bathing beaches, and piers.

Professional Offices: Offices and related spaces used for professional services such as provided by medical practitioners, lawyers, architects, engineers, and similar professions.

Public Service Facility: The erection, construction, alteration, operation, or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas rail, transport, communication, public water and sewage services.

Quarry: Buildings, structures, and land used for the removal of rock, for sale or for use in connection with development activity elsewhere. (Also see Industrial Extraction)

Recreational Use, Housing: Vacation homes occupied on a part-time, seasonal basis.

Recreational Vehicle: A vehicular type unit primarily designed as temporary living quarters,

which is less than 10 body feet in width and is less than 45 body feet in length, for recreational, camping, or traveling use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailers, camping trailers, truck camper, fifth wheel camper and motor home.

Recreational Vehicle Lot: A parcel of ground in a recreational vehicle park intended to be rented as a place to park a recreational vehicle for temporary dwelling purposes.

Recreational Vehicle Park: A tract of ground under unified ownership developed for the purpose of providing rental space for temporary parking of recreational vehicles not to exceed six (6) months on individual spaces within its confines and may include cabins as accessory uses.

Religious Facility: A parcel of land with or without structures used for conduct and ritual to express belief in a divine or superhuman power.

Research Activities: Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering.

Resource Management Agriculture: Uses and facilities for the utilization of natural resources such as forest products removal, grazing and mineral extraction.

Riding Trails: An established path open to the public for the use of horseback riders.

Right-of-way: A strip of land for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

Road: A right-of-way that provides vehicular and pedestrian access to adjacent properties, the dedication of which has been officially accepted. The term "road" also includes the terms highway, thoroughfare, parkway, lane, avenue, boulevard, place and other such terms.

- a. Alley - a minor street providing secondary access at the back or side of a property otherwise abutting a street.
- b. Local - a street which has the primary purpose of providing access to abutting properties.
- c. Collector - a street providing for traffic movement within neighborhoods of the County and between major streets and local streets and for direct access to abutting property.
- d. Arterial - a general term including expressways and major arterial streets; and interstate, state or county highways having regional continuity.

- e. Private - a street that is not accepted for public use or maintenance that provides vehicular and pedestrian access. All private streets shall be constructed according to the same standards and specifications as those required for dedicated streets, before accepted by the County.

Road: Any public or private way that provides ingress to or egress from property by means of a motor vehicle but may also support other modes of travel including bicycling and walking. “Roads” include but are not limited to:

- a. Ways described as avenues, boulevard, highways, lanes, roadways, roads, streets, throughways, alleys and other similar terms;
- b. Road related structures such as tunnels, culverts, or similar structures; and,
- c. Structures that provide for continuity of the roadway such as bridges.

Road Classification: As shown in the Transportation Element of the Comprehensive Plan. Roads are classified as “arterial,” “collector” or “local” consistent with their principal function.

Roadside Stand: A temporary structure designed or used for the display or sale of agricultural and related products, the majority of which have been grown on adjacent land.

Rooming House: See Boarding House

Sand, Gravel, and Road Filled Extraction: The process of obtaining sand, gravel, or other road-filled materials from the ground. The process may include rock crushing and grading rocks to size.

Sawtooth National Recreation Area (SNRA): The SNRA was created by Congress in 1972 as Public Law 92-400. The SNRA includes 756,000 acres in central Idaho of which 475,600 acres are located in the western part of Custer County. Large portions of the Stanley Basin, Sawtooth Valley and the Sawtooth Mountains Range are included. The privately owned ground consists of 20,000 acres and is federally regulated in the SNRA.

Self-Storage Facilities: Businesses composed of real estate divided into self storage spaces that are rented to tenants usually on a monthly basis. The rented spaces known as units are secured by the tenants own lock and key. Facility operators do not have causal access to the contents of the space unlike a professional warehouseman. Cargo transit containers are not allowed as self storage facilities. *Ordinance 2008-02*

Service Station: Buildings and premises where gasoline, oil, and other motor vehicle accessories may be supplied and dispensed at retail, and where other sales and minor motor vehicle maintenance may be performed.

Setback Line: A line established by the Zoning Ordinance generally parallel with and measured from the lot line, or where appropriate, from the center line of a road, defining the

limits of a yard in which no building or structure may be located above ground except as may be provided in said code.

Sewage Lift Station: A pump or other device used to lift materials from drains or sewers that may include human or animal wastes.

Sewage Treatment Facilities: Structures and/or devices used to treat material from drains and sewers, which may include human or animal wastes.

Shooting Range: A target range for firearms practice or competition.

Sidewalk: That portion of the road right-of-way outside of the roadway that is improved for the use of pedestrian traffic.

Skiing Facilities: Uses and facilities pertaining to skiing including but not limited to: runs, towlines, cables, cars, warming huts, caretaking quarters, day lodges, shops for sale and rental of skiing equipment, ski pro shop, first aid stations, ski school assembly and instruction areas, and lounges and associated eating and drinking establishments, but not including residential or tourist residential uses and facilities.

Slaughterhouse: A place of business where animals are butchered for food purposes.

Snowmobile Trails: Trails open to the public, for fee or not, for use by people on snowmobiles.

Soil Class: A method of analyzing the value of land for agricultural purposes developed by the Soil Conservation Service. Soil is grouped into classes based on its limitations, such as soil thickness, steepness, water holding capacity, erodibility, length of growing season, and soil texture.

Solid Waste Transfer Sites: Parcels of land used for moving trash, garbage, etc., not in liquid form, from one container to another.

Stable: A building that shelters horses used for commercial purposes.

Story: That part of a building between the surface of a floor and the ceiling immediately above it.

Street: A public right-of-way that provides access to adjacent properties, the dedication of which has been officially accepted. The term street also includes the terms highway, thoroughfare, parkway, road, avenue, boulevard, lane, place and other such terms

Structure: Anything constructed or built, or any edifice or building of any kind, or any piece of work artificially built up or composed of parts jointed together in some definite manner.

Subdivision: The result of an act of dividing a lot, tract, or parcel of land into five or more

parts for the purpose of transfer of ownership, use, or development. See subdivision ordinance for regulations.

Transportation Facility: Buildings, structures, and land used for such purposes as bus terminals, railroad stations, and motor vehicle freight terminals, including airports or heliports.

Use: The specific purpose for which land or a building is designated, arranged, intended, or is or may be occupied or maintained.

Utilities; Overhead, and Underground: Electric power transmission lines, telephone lines, and any other pipes or conduit and appurtenances used for the transmission of gas, water, sewage, or any other substance.

Vacation Rentals: Homes, ~~cabins~~ or any other structures rented out on a daily, weekly or monthly basis to temporary residents for whom it is not permanent lodging. If the number of ~~cabins~~ structures for rent exceeds two on a single piece of property then the use will be categorized as a Hotel/Motel. (Ordinance No. 2012-01)

Variance: A variance is a modification of the requirements of the ordinance as to lot size, lot coverage, bulk and placement, width, depth, front yard, rear yard, setbacks, parking space, height of buildings or other ordinance provision affecting the size or shape of a structure or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site, and that the variance is not in conflict with the public interest in accordance with standards set forth in Article XIV.

Veterinary Animal Hospital or Clinic: A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention and observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

Visual Obstruction: Anything that reduces the ability of people to see clearly; particularly in relation to drivers at intersections.

Walkway: A public way, four (4) feet or more in width, for pedestrian use only, whether or not along the side of the road.

Water Crossing or Diversion Structure: Any structure designed to alter or cross any stream, river, or other body of water; excluding irrigation ditches.

Water Storage: The containment of water for all uses.

Water and Waste Water Treatment Plants: A structure used to process water so that it is fit for human consumption; or to process waste water, not including human or animal wastes, to improve its quality.

Wrecking/Junk Yards: A parcel of land used for the dismantling or wrecking of motor vehicles, mobile homes, trailers; or the storage, sale, or dumping of dismantled, or partially dismantled, obsolete, or wrecked vehicles or their parts or where junk, waste, discarded or salvaged materials are stored or handled and yards for used building materials and pieces and places or yards for storage of salvaged buildings and structural steel materials and equipment for sale or profit.

ARTICLE III ESTABLISHMENT OF ZONING DISTRICTS AND ZONING OVERLAYS

SECTION A: INTENT

The following zoning districts are hereby established. For the interpretation of this Ordinance, six zoning districts and overlays, have been formulated to realize the general purposes as set forth in this Ordinance. The overlays provide for additional requirements in those areas of the districts that they cover. In addition, the specific purpose of each zoning district shall be as stated.

SECTION B: ZONING DISTRICTS

Agricultural District (A):

Zone A— This zone shall have a minimum lot size of twenty (20) acres. Original parcels that have been in existence prior to November 10, 2003 and have not been subsequently divided since that date may be eligible for up to three lot splits depending upon the size of the original parcel and the number of previous divisions of the parcel.

~~The following shall be considered:~~

- ~~a. Such lot splits may range in size from not less than two and one-half acres (2.5) to not more than seven (7) acres.—~~
- ~~b. Such divisions shall be allowed on a formula of one division per twenty acres of the total area of the original parcel.~~
- ~~c. Under no circumstances shall any lot split take place on an existing parcel of less than twenty acres.—~~

Special Permitted Uses and Restrictions:

The purpose of this is to maintain irrigated land but allow a smaller minimum size to be split on parcels with un-irrigated corners (Pivot corners) or parcels of land that cannot be irrigated.

- a) Such lot splits may range in size from not less than two and one half acres (2.5) ~~to not more than seven (7) acres.—~~(Ordinance 2009-03)
- b) Such divisions shall be allowed on a formula of one division per twenty acres of total area of the original parcel.
- c) Such splits shall not exceed three divisions of the original parcel creating no more than four lots.
- d) If the original parcel has been divided under allowance after November 10, 2003 into more than one parcel, regardless of size, such division(s) already taken shall count as

part of the maximum of three splits allowed in that original parcel per twenty acres total area. *Ordinance No 2008-04.*

Item 2.

There may be certain circumstances when it is not possible to do a lot split in the Agriculture zone and have all parcels contain 20 or more acres. In that instance a one lot split of less than 20 acres may be allowed in an Agriculture zone, if approved by a Special Use Permit. To be considered for item 2 the parcel must be a mother parcel and contain less than 40 acres.

- a) Less than 20 acre parcels shall remain in the agriculture zone designation unless a zone change is approved in a separate hearing.
- b) Such divisions shall only be allowed on a mother parcel containing less than 40 acres.
- c) After the division no parcel may contain less than 5 acres.
- d) If the original parcel has been divided under allowance after November 10, 2003 into more than one parcel, regardless of size, such division(s) already taken shall count as part of the maximum of three splits allowed in that original parcel.

* A prime consideration for allowing a sub-20 acre parcel to be split shall be if the parcel is abutting a parcel that is zoned other than Agriculture.

* When considering a split under item 2 full consideration must be given to both the Zoning Ordinance and Comprehensive Plan. (Ordinance 2009-03)

Transitional/Agricultural District (T-A):

Minimum lot size is 2.5 acres in this zone.

Residential District (R): Minimum lot size is 9,000 square feet in this zone.

Commercial District (C): Minimum lot size is 9,000 square feet in this zone.

Industrial District (I): Minimum lot size is one acre in this zone.

Special Land Use District - Land uses that are not covered in the other designated uses may be assigned the designation of a Special Land Use District.

Special Land Use Districts are defined as:

- Patented Mining Claims;
- Land held in trust for the public by the State of Idaho, the United States Government, or by other governmental entities;
- All real property not given a zoning designation in the 2007 Custer County zoning Ordinance.

Should a parcel of land within a special land use area be sold or exchanged hands, so that it is no longer a patented mining claim or held by a governmental entity, it shall be zoned as follows:

Real property parcels smaller than 5 acres will be zoned as Transitional Agriculture

Real property parcels larger than 5 acres will be zoned as Agriculture

Or the former special land use district shall take on the zoning designation of the majority of the surrounding parcels. (Ordinance No. 2012-01)

SECTION C: ZONING OVERLAYS

1. Flood Plain Overlay (F-P): The purpose of the F-P Overlay is to guide development within the flood prone areas of any water course that are consistent with the requirements for the conveyance of flood flows and to minimize the expense and inconvenience to the individual property owners and general public through flooding. Uses permitted in this Overlay are generally associated with open spaces, recreational and agricultural land use and shall not hinder the movement of floodwaters.
2. Area of City Impact: Areas of city impact are areas outside of the municipal boundaries of incorporated cities in which future development may cause an impact upon the city. These agreements are negotiated between the County and the city and provide an overlay that may contain special rules or regulations.
3. Areas of Critical Concern:
The county may designate hazardous or unique areas as an area of critical concern. Special consideration shall be given to any proposed development within an area of critical concern to assure that the development is in the public interest in view of the existing unique conditions.
4. Sawtooth National Recreation Area: That portion of land contained within the confines of the SNRA.

ARTICLE IV PROVISIONS FOR OFFICIAL ZONING MAP

SECTION A: OFFICIAL ZONING MAP

The official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this Ordinance and establishes the boundaries of the zoning districts and overlays.

SECTION B: INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following shall apply:

1. Where district boundaries are indicated as approximately following the centerline of street lines, highway right-of-way lines, streams, lakes or other bodies of water, the centerline shall be construed to be such boundary.
2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.
4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

ARTICLE V DISTRICT REGULATIONS

SECTION A: COMPLIANCE WITH REGULATIONS

The regulations for each district set forth by this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

1. No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall be erected or altered:
 - a. To provide for greater height or bulk.
 - b. To accommodate or house a greater number of families.
 - c. To occupy a greater percentage of lot area; or
 - d. To have narrower or smaller rear yards, front yards, side yards or other open spaces or in any other manner be than herein required contrary to the provisions of this Ordinance.
3. No yard or lot existing at the time of passage of this Ordinance shall be reduced in

dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements set forth herein.

SECTION B: OFFICIAL SCHEDULE OF DISTRICT REGULATIONS ADOPTED

District regulations shall be as set forth in the Official Schedule of District Regulations and in the Performance Standards.

The Official Schedule of District Regulations is divided into six (6) land use groups; Agriculture, Transitional-Agriculture, Residential, Commercial and Industrial and Special Use District.

To determine in which district a specific use is allowed:

- a. Find the specific use in one of the groups listed below;
- b. Read across the chart until either "P" or "C" appears in one (1) of the columns; and
- c. If "P" appears, the use is a permitted use and will be handled administratively; if "C" appears the use is allowed upon the issuance of a ~~Special~~ Conditional Use Permit through application to the Planning and Zoning Commission. If the box in the column is blank, the use is not allowed. (Ordinance No 2012-01)

All decisions of the administrator or Planning and Zoning Commission may be appealed to the Board of County Commissioners.

When several combined land uses exist, or are proposed, the most intensive land use shall be considered as the primary activity.

ARTICLE VI

OFFICIAL SCHEDULE OF DISTRICT REGULATIONS

RESOURCE MANAGEMENT AND AGRICULTURE	A	T-A	RI	C	
Growing and Harvesting	P	P	P	P	P
Timber and Forest Products	P	P		P	P
Processing Timber and Forest Products	P			P	S
Crop Production and Associated Activities	P	P	P	P	P

Grazing	P	P	P	P	P
Fish and Wildlife Management Projects	P	P	P	P	P
Mineral Extraction	P	C	C	P	P
CAFOs, Meat Packing, Processing Plant and Slaughterhouse Facilities	C	C		C	C
Animal Hospital, Clinic	P	C	C	P	P
Animal, Exotic	C	C	C	C	C
AFO	C	C		S	C
Kennel (Ordinance 2010-4)	P	C	C		P
Roadside Stand	P	P		a) P	P
				b)	
PUBLIC SERVICE FACILITIES	A	T-A		RI	C
Airports, Heliports and Landing Strips	C	C	C	C	C
Cultural Facilities	P	P	P		P
Education Facilities (general)	P	P	P		C
Electrical Power Plants	C	C	C	P	C
Electrical Substations	C	C	C	C	C
Fire Protection Facilities	P	P	P	P	P
Historic Sites	P	P	P	P	P
Hospitals/Health Facilities		C	C	P	P
Kennel (Ordinance 2010-4)	C	C	C	C	P
Professional Offices		C	C	C	P
Public Service Facility	C	C	C	P	P
Radio, Telephone and Television Broadcast, Relay Facilities/ Communication Towers	C	C	C	C	C
Religious Facilities	P	P	P	P	P
Roads and Water Crossing Structures	P	P	P	P	P
Sewage Lift Stations	C	C	C	C	C
Solid Waste Transfer Sites	C	C	C	C	C
Transportation Facilities	C	C	C	P	P
Utilities:					
Overhead	P	P	P	P	P
Underground	P	P	P	P	P
Water Storage	C	C	C	C	C
Water & Waste Water Treatment Plants	C	C	C	C	C
				c)	
COMMERCIAL AND INDUSTRIAL	A	T-A		RI	C

Advertising Signs	C	C		C C	C
Batch Plants	C			P	C
Bulk Storage	C	C		P	C
Commercial	C	C	C	C	P
Communications Tower	C	C	C	C	C
Drive –Ins				C	P
Garage	P	C	C	P	P
Grain Silo	P	P		C	C
Heavy Industrial				P	
Home Occupations	P	P	P	P	P
Industrial Park				P	C
Light Industrial	C	C		P	P
Mineral Extraction/Mining	P			P	P
Parking Lot	C	C	C	P	P
Potato Cellar	P	P		P	C
Professional Offices	C	C	C	P	P
Quarry/Industrial Extraction	C			P	C
Research Facility	C			P	P
Sand, Gravel and Road Fill Extractions	P			P	P
Self-Storage Facilities	C	C		P	P
Service Station	C	C	C		P
Wrecking Yards/Junk Yards	C			C	C
Contractors Yard	P	C		P	P
Chemicals Pesticide and Fertilizer Storage and Manufacture	P	C		P	C
					C
Advertising Signs	C	C	C	C	C

**ARTICLE VII
OFFICIAL HEIGHT AND AREA REGULATIONS**

District	Maximum Height	Lot Size Minimum
Agricultural, Zone A	No Limitation	20 acres (See Footnote 1)
Transitional Agricultural	35 feet	2.5 acres (see Footnote 2)

Residential	35 Feet	9,000 square feet if proper septic systems (see Footnote 2)
Industrial	No limitation	One acre
Commercial	No limitation	9,000 sq. feet (see Footnote 2)

¹ Administrative lot splits will be allowed pursuant to Article III, Section B, 1.

² If central water and sewer are provided and is approved by the District 7 Health District

ARTICLE VIII PERFORMANCE STANDARDS

SECTION A: LIMITATIONS ON HEIGHT

No building or other structure erected in any land use district shall have a height greater than that specified in Official Height and Area Regulations, Article VII, except that the Board, by Special Use Permit may authorize a greater height to the extent that the Custer County Board of Commissioners determines that (1) provisions have been made for protection from fire hazards and against aviation accidents, (2) consideration has been given to the protection of view and to the character of the neighborhood, (3) proper provision has been made for light and air, and (4) such greater height will better promote the protection of the environment in the area. The height limitations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

Building height shall be the vertical distance from the grade to the highest point of the coping of a flat roof, or to the peak line of a mansard roof, or to the average of the finished ground level at the center of all walls of a building.

The Official Height and Area Regulations may be modified with respect to residential buildings by permitting height limits of 35 feet plus one (1) foot for each two percent (2%) of cross slope measured at the building site coverage.

SECTION B: SETBACK REQUIREMENTS

All buildings and structures shall be setback a minimum distance in accordance with the table below. Setbacks shall be measured at right angles from the property line.

Zone	Front	Rear	Side
Agricultural A	50 30 feet (see Footnote 1) Ord 09-01	20 feet	20 feet
Transitional Agriculture	50 30 feet (see Footnote 1) Ord 09-01	20 feet	20 feet
Residential	50 30 feet (see	10 feet	10 feet

	Footnote 1) Ord 09-01		
Commercial	14 feet (see Footnote 2)	None (see Footnote 3)	None (see Footnote 3)
Industrial	None (see Footnote 2)	None (see Footnote 3)	None (see Footnote 3)

Footnote 1 - All buildings and structures shall be set back a minimum distance of fifty (50) feet from the edge of a surveyed road right of way and eighty (80) feet from the center of all unsurveyed roads and private roads providing access to two or more homes measured at right angles. Any development in Custer County along state highways must meet state highway standards.

Footnote 2 - If parking spaces are required, they cannot be included with the public right of way. Setbacks shall be measured at right angles from the property line.

Footnote 3 - Industrial (I) and Commercial (C) shall meet the setback requirements of A and TA zones when said zones abut industrial property.

~~Development within the designated community of Lower Stanley are exempt from the setbacks set forth in the above chart. Setbacks shall be determined by measuring the setbacks of existing structures, one hundred fifty feet (150') on both sides of the proposed construction on the same side of the street, and averaging those existing setbacks. Setback for the proposed structure will not exceed that average. Ordinance No. 2008-04~~

SECTION C: VISIBILITY

In order to prevent obstruction of visibility at road intersections, site setback triangles are hereby imposed upon the land at each point of each road right-of-way intersection as follows:

That area included within a triangle with two legs each being the highway right-of-way line for one hundred (100) feet back from the point of intersection of the two intersecting right-of-way lines and third leg being the line connecting the points on the highway right-of-way lines one hundred (100) feet from the point of intersection of the two intersecting right-of-way lines.

Within that site setback triangle, no visual obstruction shall be erected, placed, planted, allowed to grow, or be allowed to remain between a height of two and one-half (2 1/2) feet and ten (10) feet above the center line grades of the intersecting roads.

SECTION D: PROVISIONS FOR UNIQUE LAND USES

Certain unique land uses pose special problems that may have detrimental influence on surrounding land uses. The following performance standards for such unique land uses shall be adhered to in addition to all other provisions of this Ordinance:

1. Accessory Building
 - a. Will not be located in any required front yard area; and
 - b. Will not be located closer than the setbacks defined in Article VIII, Section B, from any side or rear property line.

2. Animal Clinic, Animal Hospital Veterinary Office and Kennel
 - a. Will be located at least three hundred (300) feet from any residence including motels and hotels, except for an owner's residence. The County may modify these requirements if the animals are completely housed in sound-proof structures that completely screen them from view of the abutting residential property; and
 - b. Will comply with all state and local regulation relative to such an operation and maintain adequate housekeeping practices designed to prevent the creation of a nuisance and to reduce to a minimum the factors of noise and odor.
3. Bulk Storage of Flammable Liquids and Gases, Above Ground and for Resale:
 - a. Will be located at least three hundred (300) feet from a residential zone, a residence, motel, hotel, except for an owner's residence or other dwellings;
 - b. Will be erected subject to the approval of the Commission and Board.
4. Chemicals Pesticide and Fertilizer Storage and Manufacture
 - a. Will have fire protection, storage area, handling and disposal as approved by the Commission and Board.
5. Contractor's Yard - That portion of a lot devoted to the storage incidental to contracting work.
 - a. Will be limited to storage incidental to contracting work. There shall be no general industrial or commercial uses.
6. Drive-In Restaurant
 - a. Will be enclosed on the property line with landscaping and fencing, except for ingress and egress, to prevent trash from moving onto other properties;
 - b. Will have a six (6) foot high sight-obscuring fence along the property lines that adjoin a residence;
 - c. Will provide trash receptacles.
 - d. Will avert the direction of night lighting toward any residence.
8. Gravel Pits, Rock Quarries, Sand and Clay Pits and Other Natural Resources of Commercial Value Not Under State or Federal Supervision and Control.

- a. The extent and method of rehabilitation shall be determined in advance of issuing a zoning permit with due consideration given to what is suitable and compatible with the surrounding area;
- b. Upon depletion of the area, all temporary buildings and structures, except property line fences and structures for the loading, measuring or weighing of salable material in storage, shall be entirely removed from the property.

9. Home Occupation

- b. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of floor area of the dwelling unit shall be used in the conduct of the home occupation;
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated and mounted flat against the wall of the principal building;
- d. Total residential and business motor vehicle travel to and from the dwelling shall not exceed an average of 15 round trips per day during any five-day period. Said occupation shall require no additional parking space.
- e. No equipment or process shall be used in such home occupation that creates noise, vibration glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference's in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises;
- f. The occupation shall be conducted entirely within the dwelling.

10. Riding Stables, Boarding Facilities and Schools

- a. Will locate all stables or loafing sheds not nearer than five hundred (500) feet from any residence, except for an owner's residence. All facilities shall be set back a distance of thirty (30) feet from any property line;

11. Rifle and Pistol Range

- a. Will have a backstop either natural or man-made.

12. Solid Waste Transfer Sites

- a. Will conform to time limits for daily operation as defined by the Board;
- b. Will not result in the storage of automobiles that exceed the height of the fence;
and
- c. Will have such landscaping as determined by the Board.
- d. Will meet the minimum health standards as set forth by the Health Authority.

13. Wrecking Yards/Junk Yards –

- b. Will have a minimum six (6) foot high sight-obscuring fence along the property lines or other site obscuring properties such as earth berms or landscaping.
- c. Will avert the direction of night lighting toward any residence.
- d. Will not result in the storage of automobiles or other products that exceed the height of the fence;
- f. Will meet the minimum health standards as set forth by the East Idaho Health District.

SECTION E: MOBILE HOME PARK AND RECREATIONAL VEHICLE PARK

All mobile home parks and recreational vehicle parks shall be constructed, operated and maintained pursuant to the standards set forth in this ordinance and other county regulations.

SECTION F – CONSTRUCTION NEAR AIRPORTS

Any construction within a designated airport clear zone shall follow all local, state and federal regulations as to height, bulk, placement and other requirements.

**ARTICLE IX
USE**

NON-CONFORMING LOTS, USES, STRUCTURES AND ALTERATIONS USE

SECTION A: CONTINUATION

Any use lawfully occupying a building or land at the effective date of this ordinance, or of subsequent amendments thereto, which does not conform to the regulations for the district in which it is located shall be deemed to be a nonconforming use and may be continued.

SUBSTANDARD LOTS: Substandard lots are defined as those created without subdivision review, or the filing of record of survey. Substandard lots legally created before May 15, 2007, may be developed provided the lot owner receives a sewer permit from the District Health Department, and that all other performance standards in this Ordinance are met.

SECTION B: EXTENSION

Normal repairs and alterations may be made to a non-conforming structure. No existing non-conforming structure designed, arranged, intended for or devoted to, a use not allowed under this Ordinance shall be enlarged, extended, reconstructed, structurally altered or moved unless such use is changed to a use allowed under the regulations specified by this Ordinance; and provided, further, that nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.

SECTION F: CONTINUANCE OF NON-CONFORMING USE.

1. If the nonuse continues for a period of one (1) year or longer, the county shall, by written request, require that the owner declare his intention with respect to the continued nonuse of the improvements in writing within twenty-eight (28) days of receipt of the request. If the owner elects to continue the nonuse, he shall notify the county in writing of his intention and shall post the property with notice of his intent to continue the nonuse of the improvements. He shall also publish notice of his intent to continue the nonuse in a newspaper of general circulation in the county where the property is located. If the property owner complies with the requirements of this subsection, his right to use such improvements in the future for their designed purpose shall continue, notwithstanding any change in the zoning of the property.
2. The property owner may voluntarily elect to withdraw the use by filing with the clerk of the county an affidavit of withdrawn use. If the property is redesigned for a different use, the property owner shall be deemed to have abandoned any grandfather right to the prior use of the property.
3. For purposes of this section "designed purpose" means the use for which the improvements were originally intended, designed and approved pursuant to any applicable planning and zoning ordinances.
4. The provisions of this section shall not be construed to prohibit the county from passing or enforcing any other law or ordinance for the protection of the public health, safety and welfare.

ARTICLE X FLOOD PLAIN OVERLAY

The Floodplain Overlay shall be developed in accordance with the requirements of Ordinance 27-A "Flood Damage Prevention Ordinance" as adopted April 10, 2000 and in accordance with any further amendments.

ARTICLE XI
~~BUILDING AND ZONING PERMITS~~ CERTIFICATE AND/OR APPLICATION
REQUIREMENTS

Any person seeking to construct or build any structure, driveway, street, road or make substantial improvement to any existing structure shall give notice to the Custer County ~~Assessor~~ Planning and Zoning Department prior to the start of such building or construction ~~in accordance with Ordinance #32, adopted May 1, 2000 and in accordance with any further amendments.~~ In accordance with Ordinance 2008-06, adopted September 24, 2008 and in accordance with any further amendments and/or County Ordinances. (Ordinance 2009-03)

No structure shall be erected, constructed, reconstructed, or altered with respect to its use after the effective date of this Ordinance, until a zoning certificate has been secured from the Planning Director. A zoning certificate is not required for remodeling or repairs of structures, providing said remodeling or repair will not enlarge the structure or use, or lead to a change of use. Nothing herein shall relieve any applicant of the additional responsibility of seeking any permit required by any applicable statute, ordinance, or regulation in compliance with all of the terms of this Ordinance. (Ordinance 2009-03)

ARTICLE XII
~~SPECIAL~~ CONDITIONAL USE PERMITS

SECTION B: CONTENT OF APPLICATION

An application for a ~~Special~~ Conditional Use Permit shall be filed with the Commission by at least one (1) owner or lessee of property for which such ~~special~~ conditional use is proposed. At a minimum, the application shall contain the following information:

1. Name, address, and telephone number of applicant;
2. Legal description of property;
3. Description of existing use;
4. Zoning district;
5. Description of proposed special use;
6. A plan drawn to scale of the proposed site for the special use showing the location of all buildings, parking, and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse, and service areas, utilities, signs, yards, and such other information as the Commission may require to determine if the proposed special use meets the intent of this Ordinance.

7. A narrative statement evaluating the effects on adjoining property, the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Comprehensive Plan.
8. A Land Capability Report may be required by the Commission. The Land Capability Report submitted by the applicant shall contain information concerning the environmental and use capacity of the lands within the proposed development and the probable effects of the proposed land uses ~~and land coverage's~~. *Ordinance 2008-04*
 - a. With respect to environmental and use capacity, the report shall contain detailed information (as prescribed in guides, if any, issued by the county) concerning topography and slopes, geologic conditions and hazards; soil properties; capabilities, and limitations; surface and ground water conditions; vegetation characteristics; and related environmental factors pertinent to the property.
 - a. With respect to the effects of proposed land uses and land coverage's, the report shall contain detailed maps and other information (as prescribed in guides, if any, issued by the county) concerning grading, planting, revegetation, landscaping, drainage, and other means proposed to avoid the environmental problems characteristic of the site; a preliminary site plan showing lot lines, roads, and buildings; a statement as to the impact of the proposed uses on educational facilities, fire and recreational facilities, and other off-site implications of the proposed uses (such as availability of water, power, and sewage treatment).

SECTION D: PROCEDURE FOR HEARING, NOTICE

Prior to granting a ~~Special~~ Conditional Use Permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall also be provided to property owners and residents within the land being considered, three hundred (300) feet beyond the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed conditional use as determined by the Commission. When notice is required to two hundred (200) or more property owners or residents, in lieu of the mailing notification, three (3) notices in the newspaper or paper of general circulation is sufficient; provided, the third notice appear ten (10) days prior to the public hearing.

SECTION E: ACTION BY THE COMMISSION

Within a reasonable time period after the public hearing, the Commission shall approve,

disapprove or grant conditional approval.

1. Upon granting of a ~~Special~~ Conditional Use Permit, conditions may be attached to a Special Use Permit including, but not limited to, those:
 - a. Minimizing adverse impact on other development;
 - b. Controlling the sequence and time of development;
 - c. Controlling the duration of development;
 - d. Assuring that development is maintained properly;
 - e. Designating the exact location and nature of development;
 - f. Requiring more restrictive standards than those generally required in this Ordinance.

Prior to recommending a ~~Special~~ Conditional Use Permit, the Commission may request studies from the planning staff or public agencies concerning social, economic, fiscal, and environmental effects of the proposed conditional use. A Special Conditional Use Permit shall not be considered as establishing a binding precedent to grant other ~~Special~~ Conditional Use Permits. A ~~Special~~ Conditional Use Permit is not transferable from one (1) parcel of land to another.

2. Upon granting or denying an application, the Commission shall specify:
 - a. The Ordinance and standards used in evaluating the application;
 - b. The facts and reasons for approval or denial; and
 - c. The actions, if any, that the applicant could take to obtain a permit.

SECTION F: APPEAL

If an applicant is not satisfied with the action by the Planning and Zoning Commission they may appeal the action to the Board of County Commissioners within 30 day after they have been notified of the Planning and Zoning Commission's decision.

SECTION G: LAPSE OF A ~~SPECIAL~~ CONDITIONAL USE PERMIT

A. A ~~special~~ Conditional use permit shall lapse and shall become void twelve months following the date on which it was issued, unless prior to its expiration, a zoning certificate is issued and construction is commenced and diligently pursued toward completion.

B. Planning and Zoning Commission may renew a ~~special~~ conditional use permit one time at no

additional fee, for an additional period of twelve months provided that prior to the expiration date and a written request for renewal is filed with the Planning Administrator.

C. After one renewal of the ~~special~~ conditional use permit, a new application with associated fees must be submitted. (Ordinance No 2009-03) (Ordinance No 2012-01)

ARTICLE XIV VARIANCES

SECTION A: VARIANCE

Variance: A variance is a modification of the requirements of the ordinance as to lot size, lot coverage, bulk and placement, width, depth, front yard, rear yard, setbacks, parking space, height of buildings or other ordinance provision affecting the size or shape of a structure or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site, and that the variance is not in conflict with the public interest in accordance with standards set forth in Article XIV

SECTION B: APPLICATION AND STANDARDS FOR VARIANCES

A variance from the terms of this Ordinance shall not be granted by the Commission unless and until a written application for a variance is submitted to the Administrator and the Commission containing:

1. Name, address, and telephone number of applicant (s);
2. Legal description of property;
3. Description of nature of variance requested; and
4. A narrative statement demonstrating that the requested variance conforms to the following standards;
 - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - b. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this Ordinance.
 - c. That special conditions and circumstances do not result from the actions of the

applicant; and

- d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

A variance shall not be granted unless the Commission makes specific findings of fact based directly on the particular evidence presented to it that support conclusions that the above-mentioned standards and conditions have been met by the applicant.

SECTION C: SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

Under no circumstances shall the Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. In granting any variance, the Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

SECTION D: PUBLIC HEARING

Upon receipt of the application for a variance, the Commission shall hold a public hearing, public notice in a newspaper, and give written notice to adjoining property owners as required for Special Use Permits. Affected property owners will be notified as required in Article XIII, Section D, and Special Use Permit.

SECTION H: ACTION BY THE COMMISSION AND BOARD

Within a reasonable time period after the public hearing, the Commission shall recommend to the Board approval, conditional approval, or disapproval of the request for variance. The Board shall approve, disapprove, or conditionally approve within a reasonable time period after receipt thereof.

Upon granting or denying an application the Board shall specify:

1. The Ordinance and standards used in evaluating the application;
2. The facts and reasons for approval or denial; and

SECTION I: NOTIFICATION TO APPLICANT

Within a reasonable time after a decision has been rendered, the Board shall provide the applicant with written notice of the action on the request.

**ARTICLE XV
REZONING PROCESS**

SECTION A: GENERAL

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Board may, after receipt of recommendation thereon from the Commission and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

SECTION B: INITIATION OF ZONING AMENDMENTS

Amendments to this Ordinance may be initiated in one (1) of the following ways:

1. By adoption of a motion by the Commission;
2. By adoption of a motion by the Board; and
3. By the filing of an application by a property owner or a person who has existing interest in property within the area proposed to be changed or affected by said amendment.

SECTION C: CONTENTS OF APPLICATION

Applications for amendments to the Official Zoning Map adopted as part of this Ordinance shall contain at least the following information:

1. Name, address, and telephone number of applicant;
2. Proposed amending ordinance, approved as to form by the Board;
3. Present land use;
4. Present zoning district;
5. Proposed use;
6. Proposed zoning district;
7. A vicinity map at a scale approved by the Board showing property lines, thoroughfares, existing and proposed zoning and such other items as the Board may require;
8. A list of all property owners and their mailing addresses who are within three hundred (300) feet or as determined by the Planning and Zoning Commission of the external boundaries of the land being considered;

9. A statement on how the proposed amendment relates to the Comprehensive Plan, availability of public facilities, and compatibility with the surrounding area; and
10. A fee according to schedule as established by resolution of the Board.

SECTION D: TRANSMITTAL TO COMMISSION

Zoning districts shall be amended in the following manner:

1. Requests for an amendment to the Zoning Ordinance Text or Zoning Ordinance Map shall be submitted to the Commission who shall evaluate the request to determine the extent and nature of the amendment requested;
2. If the request is in accordance with the adopted Comprehensive Plan, the Commission may recommend and the Board may adopt or reject the Ordinance amendment under the notice and hearing procedures as herein provided; and
3. If the request is not in accordance with the adopted Comprehensive Plan, the request shall be submitted to the Commission, which shall recommend, and the Board may adopt or reject an amendment to the Comprehensive Plan under the notice and hearing procedures provided in Section 67-6509, Idaho Code. After the Comprehensive Plan has been amended, the Zoning Ordinance may then be amended as hereinafter provided for.

SECTION E: COMMISSION PUBLIC HEARING

The Commission shall hold a public hearing and make recommendations or proposed zoning amendments. Zoning amendments may consist of text or map revisions.

1. Zoning Ordinance Text Amendment: The Commission, prior to recommending a Zoning Ordinance Text Amendment to the Board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of time and place, and the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction. Following the Commission's hearing, if the Commission makes a material change from what was presented at the public hearing; further notice and hearing shall be provided before the Commission forwards the amendment with its recommendation to the Board.
 - a. Zoning Ordinance Map Amendment: The Commission, prior to recommending a Zoning Ordinance Map Amendment that is in accordance with the Comprehensive Plan to the Board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of time and place and the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction. Additional notice shall be provided by mail to property owners and residents within the land being

considered; three hundred (300) feet of the external boundaries of the land being considered; and any additional area that may be impacted by the proposed change as determined by the Commission. When notice is required to two hundred (200) or more property owners or residents in lieu of the mail notification three (3) notices in the official newspaper or paper of general circulation is sufficient, provided that, the third notice appears not less than ten (10) days prior to the public hearing. Following the Commission's hearing if the Commission makes a material change from what was presented at the public hearing; further notice and hearing shall be provided before the Commission forwards the amendment with its recommendations to the Board.

b.

SECTION F: RECOMMENDATION BY COMMISSION

Within a reasonable time period after the public hearing of the proposed amendment, the Commission shall transmit its recommendation to the Board. The Commission may recommend that the amendment be granted as requested, or it may recommend that the amendment be denied. The Commission shall insure that any favorable recommendations for amendments are in accordance with the Comprehensive Plan established goals and objectives.

SECTION G: ACTION BY THE BOARD

The Board, prior to adopting, revising, or rejecting the amendment to the Zoning Ordinance as recommended by the Commission shall conduct at least one (1) public hearing using the same notice and hearing procedures as the Commission. Following the Board hearing, if the Board makes a material change from what was presented at the public hearing; further notice and hearing shall be provided before the Board adopts the amendment.

Within a reasonable time period after the public hearing of the proposed amendment, the Board shall accept the recommendation of the Commission's report unless rejected by a vote of a majority of the members.

Upon granting or denying an application to amend the Zoning Ordinance, the Board shall specify:

1. The Ordinance and standards used in evaluating the application;
2. The facts and reasons for approval or denial; and

SECTION H: RESUBMISSION OF APPLICATION

No application for reclassification of any Property which has been denied by the Board shall be resubmitted, in either substantially the same form or with reference to substantially the same premises for the same purposes within a period of one (1) year from the date of such final action; unless there is an amendment in the Comprehensive Plan which resulted from a change in conditions as applying to the specific property under consideration.

ARTICLE XVI DEVELOPMENT AGREEMENTS

SECTION A: PURPOSE

The purpose of a development agreement is to provide a means to allow the Board to place conditions and/or restrictions on a rezone or other development to mitigate the impact of the rezone or development and to provide a means for delineating the commitments, obligations, and responsibilities of the parties (government agencies, developers, individuals, etc.) involved.

SECTION B: APPLICABILITY

As a condition of rezoning or development, at any time during any stage of the development permitting process, a development agreement may be requested by the Board, or recommended by the Commission.

SECTION C: AGREEMENT PROPOSAL

In the event a development agreement is deemed appropriate by the Commission during or after a public hearing, the reasons for proposing the use of a development agreement or a proposed development agreement shall be forwarded to the Board with the Commissioner's findings and recommendation.

SECTION D: RECOMMENDATION

In the event the Board makes a finding that a development agreement would be in the best interest of the County, but where no development agreement was recommended by the Commission and presented to the Board, the Board shall remand the matter back to the Commission with instructions that a development agreement be prepared, that it contain such terms as are in the best interest of the County and the developer, that it be made a part of the public hearing process and that it be included in the Commission's recommendations.

SECTION E: CONTENT

A request for a development agreement shall be in addition to an application for rezone. A request for a development agreement shall contain the following:

1. An Affidavit by the property owner, if the owner is not the same as the applicant, agreeing that the property subject to the rezone may be subject to a binding development agreement.

Development agreements must be signed by all owners of the property.

2. The specific use or uses of the property affected by the development agreement.
3. The concept plan, which shall include, but not be limited to three (3) at least 18"x24" site plans and one (1) 8 1/2"x11" drawing showing:
 - a. Existing structure(s) that will remain, labeled as to existing and proposed uses.
 - b. Building footprint(s), height, number of stories, proposed uses (office, retail, restaurant), and square footage of proposed structures. If residential, overall density and number of dwelling units per building.
 - c. North arrow.
 - d. Scale
 - e. Property boundaries.
 - f. Names of applicant, owners if different than applicant, preparer and project.
 - g. Size of project.
 - h. Existing vegetation.
 - i. Existing and proposed grades for hillside developments.
 - j. Parking areas with total number of parking spaces.
 - k. Locations and widths of right of way, easements, canals, ditches and property lines.
 - l. Drainage features.
 - m. Conceptual landscape plan.
 - n. Interior streets and access streets.
4. The time period for which the agreement is to be valid.
5. A statement that failure to comply with all of the commitments in the approved development agreement shall be deemed a consent to rezone the property to its preexisting state or to the preexisting zone.

6. If the development agreement is being requested by the applicant, as opposed to having been required by the Board or by the Commission, a statement must be included wherein the applicant agrees that all time limits set forth by the code are waived.
7. Any proposed phasing schedule.

SECTION F: PROCESS

1. Whenever a development agreement is requested or proposed, the Zoning Administrator shall work with the applicant to prepare the agreement. In addition to the information required in Sections E (C) 1a through (C)1n of this Chapter, any additional uses may be addressed. Those issues may include, but are not limited to, density, site design, mitigation of impact on surrounding neighborhoods, appearance, provision of utilities, public services or public facilities, and any use restrictions.
2. The Commission shall hold a public hearing to consider the proposed development agreement simultaneously with its hearing to consider the requested rezone or other development request. After its hearing the Commission shall make a recommendation to the Board and in its recommendation it may recommend approval or denial of the development agreement or it may recommend additional terms, conditions, duties or obligations which should be covered by the agreement.
3. After the Board receives the recommendation from the Commission, the Board shall hold a public hearing on the proposed development agreement. After conducting its public hearing and considering the recommendation of the Commission the Board shall approve, deny or modify the agreement as the Board, in its discretion deems necessary. After approval by the Board, a development agreement may be modified only by the permission of the Board and after complying with the notice requirements as set forth in Idaho Code section 67-6509.

SECTION G: RECORD

Development agreements shall be recorded in the office of the County Recorder and shall take effect upon adoption of the amendment of the Zoning Ordinance or approval of a subdivision or other development.

SECTION H: AGREEMENT BINDING

Development agreements shall be binding upon the owner or developer and the Board as set out in Idaho Code section 67-6511A.

SECTION I: TERMINATION; REVERSAL

A development agreement may be terminated and the zoning designation upon which the use is based reversed, upon the failure of the owner or developer or any successor or assignee thereof to fulfill any of the requirements of the development agreement within a reasonable time, within the time set in the agreement or upon the failure of the owner or developer or their successors or assigns, to act in the manner agreed upon, and after complying with the notice and hearing requirements as set forth in Idaho Code section 67-6509.

SECTION J: SUBSEQUENT OWNERS

Each subsequent owner, any successor or assignee, or any person who shall thereafter acquire an interest in the property, shall take that interest subject to the terms and conditions which are set out in the development agreement and they shall conform to and abide by the terms and conditions of that agreement.

SECTION K: BOARD OBLIGATION

By permitting or requesting a development agreement the Board does not obligate itself to adopt any proposed zoning ordinance or approve any development. The Board is obligated once they have signed the agreement.

SECTION L: WRITTEN CONSENT

A written development agreement shall be deemed written consent to rezone the affected property and the commitment of the owner or developer or any successor or assignee to comply with the conditions imposed by the development agreement.

SECTION M: VIOLATION; ENFORCEMENT

Development agreements may be enforced by any person through any means permitted by law. That relief shall include, but not necessarily be limited to, specific performance, injunctive relief, or through the criminal process for violation of any provision of the Zoning or Subdivision Ordinance as outlined in County Code and provided for in Idaho State Code Section 67-6527.

SECTION N: DEVELOPER AS APPLICANT

A developer shall be considered the applicant in any development agreement. In the event that a developer consists of more than one person or entity, all persons who will be engaged in the development shall be bound by the agreement.

SECTION O: OTHER AGREEMENTS, TERMS AND CONDITIONS

In addition to a development agreement as set forth above, the Board may enter into agreements that require certain terms and conditions to be complied with as a condition of subdivision approval. One of the terms of any agreement may be that in the event a developer does not comply with the agreement, subdivision approval may be withdrawn.

**ARTICLE XVII
PARKING**

SECTION C: OFF STREET PARKING DESIGN AND DIMENSIONAL TABLES

	45°	60°	90°	Parallel
1. Width of Parking Space	13'	10'	09'	09'
2. Length of Parking Space	15'	18'	19'	23'
3. Width of Driveway Aisle	13'	17'	25'	12'

SECTION D: PARKING SPACE REQUIREMENTS

For the purpose of this Ordinance the following parking space requirements shall apply:

TYPE OF USE	PARKING SPACES REQUIRED
Residential	
1. Single family or two (2) family dwelling	Two (2) for each unit
2. Apartments, or multi-family dwelling	One and one-half (1½) for each unit
3. Boarding houses, rooming houses, dorm	One (1) for each story and fraternity houses which have sleeping room and/or one (1) for each sleeping rooms, permanent occupant
4. Manufactured home park	Two (2) for each unit
Commercial	
1. Automobile service garages which also provide repair	One (1) for each two (2) gasoline pumps and two (2) for each service bay
2. Hotels, motels	One (1) per each sleeping room each and (2) employees
3. Funeral parlors, mortuaries and similar	One for each four (4) person capacity in the viewing type uses and Chapel areas.
Recreational or Entertainment	
1. Dining rooms, restaurants, taverns	One (1) for each two hundred square feet area in nightclubs, etc., (200 sq ft. of floor area)

<p>2. Bowling alleys</p> <p>3. Dance floors, skating rinks</p> <p>4. Outdoor swimming pools, public or community or club</p> <p>5. Auditoriums, sports arenas, theaters and similar uses</p> <p>6. Retail Stores</p> <p>7. Banks, financial institutions</p> <p>8. Offices, public or professional administration service building</p> <p>9. All other types of business or commercial uses permitted in any business zone</p>	<p>Four (4) for each alley or for each one hundred (100) sq. ft. of the area used for restaurant, cocktail lounge or similar use</p> <p>One (1) for each one hundred (100) sq. ft. of floor area used for the activity</p> <p>One (1) for each five (5) persons capacity plus one (1) for each four (4) seats or one (1) for each thirty (30) sq. ft. floor area used for seating purposes which ever is greater</p> <p>One (1) for each four (4) seats</p> <p>One (1) for each two hundred and fifty (250) sq. ft. of floor area.</p> <p>One (1) for each two hundred (200) sq. ft. similar uses of floor area</p> <p>One (1) for each four hundred (400) sq. ft. of floor area</p> <p>One (1) for each three hundred (300) sq. ft. of floor area</p>
<p>Institutional</p> <p>1. Churches or other places of religious assembly</p> <p>2. Hospitals</p> <p>3. Sanitariums, homes for the aged, nursing homes, children homes, asylums and similar</p> <p>4. Medical and dental clinics, office and waiting rooms</p> <p>5. Libraries, museums and art galleries</p>	<p>One (1) for each five (5) seats</p> <p>One (1) for each bed;</p> <p>One (1) for each two (2) beds</p> <p>One (1) for every two hundred (200) sq. ft. of floor area</p> <p>One (1) for each four hundred (400) sq. ft. of floor area</p>
<p>Schools (Public, Parochial or Private)</p>	

1. Elementary and Junior High schools	Two (2) for each classroom and one (1) for every eight (8) seats in auditorium or assembly halls
2. High Schools	One (1) for every five (5) students and one (1) for each teacher and employee
3. Business, technical and trade schools	One (1) for each two (2) students
4. College, universities	One for each four (4) students
5. Kindergartens, child care center	Two (2) for each classroom but not less than six (6) for the building
Manufacturing	
1. All types of manufacturing storage	One (1) for every two (2) employees (Except, parcel delivery and freight for which the building is terminal designed) plus one (1) for each motor vehicle used in the business

ARTICLE XVIII

SIGNS

(Ordinance No 2012-01)

Sign Definitions

Animated Sign: A moving sign or display or a sign depicting action or motion, through electrical or mechanical means.

Banner: A sign or display on a lightweight fabric or similar material.

Electronic Message Centers: A variable message sign using computer generated messages or some other electronic mean of changing copy.

Flashing light or Flashing Sign: A sign or light with lighting or messages. Generally, the flashing is the primary attention.

Monument Sign: A sign with low overall height, supported by a foot in the ground, the sole purpose of which is to support the sign, and where the base of the sign is in contact with the

ground.

Off-Premise Sign: A sign that is not accessory to or associated with a permitted structure or is on a parcel of land, such as a sign that directs attention to a business, product, service, entertainment, event or other activity that is conducted, produced, furnished, sold, or offered at another location.

On-Premise Sign: A sign that is located on the same parcel of land as the owner or lessee's business, organization, product, service, event, activity, or residence, and that is accessory to or associated with an allowed structure or use.

Pole Sign: A sign supported by a footing in the ground, the sole purpose of which is to support the sign.

Portable Sign: A sign capable of being carried or easily moved.

Projecting Sign: A sign, other than a wall sign, that projects from and is supported by the wall of a building or structure, with the face of the sign perpendicular to the building.

Roof Sign: A sign erected upon the roof of a building or the top of a structure.

Sign: Any device, structure, fixture, display, painting or visual image using words, graphics, symbols, numbers, or letters to convey information or attract attention. Signs include their structure and component parts, and typically identify a residence or place of business, provide information, or direct attention to a subject matter, product, service, event, place, activity, institution, or organization.

Sign Face: The surface of a sign on which an advertising message is displayed.

Sign: Temporary: An easily removable sign, constructed of plywood or other non-durable material, displayed for a short period of time.

A. General Requirements

1. Property Line Setbacks. Signs may be installed up to, but not over, property lines. Signs may not be installed in easements.
2. Sign Area. The size of a sign face, in square feet, shall be measured so as to include the entire area within a continuous perimeter enclosing the extreme limits of the sign, including background on which the lettering is placed. Such perimeter shall not include any structural elements which lie outside the limits of the size and which do not form an integral part of the display. When a sign is painted on a building, the size of the sign shall be determined by the perimeter within which the lettering and/or artwork of the sign is inscribed.
3. Sign Height. The height of a sign shall be measured from the finished ground level adjacent to the sign, to the top of the sign, or to the highest point of the sign structure or frame,

whichever is greater. On slopes, the height of the sign is measured at the mid-point of the sign.

4. Corner Visibility. No sign or display shall be permitted at the intersection of a road, alley, or driveway in a manner that obstructs the clear vision of any part of the road. If a sign is placed at the intersection of two roads, the sign must not interfere with the 5- foot corner visibility triangle.

For signs located near a driveway entrance onto a road, a sight triangle based on the speed of traffic is used. At a point of fifteen feet back from the edge of the road surface or curb, no sign may block the line of vision to a point equal to the speed limit times ten. For example, if the speed limit is 35 miles per hour, the exiting driver must be able to see the road and vehicles up to 350 feet away.

5. Sign Maintenance. All sign supports, braces, guys, anchors and other components shall be kept in good repair, and the faces of signs shall be neatly painted or posted at all times.

B. The following signs are permitted in all zoning districts.

1. Official notices required by a Court or other governmental authority.
2. Directional, warning, location, information, or traffic signs, located on public property and authorized by governmental authority.
3. Signs that are oriented internally to a site and that are not directed toward other properties or roads. Examples include sponsorship signs at race tracks and sporting facilities.
4. Other signs authorized or required by law (for example no trespassing or handicap parking signs)

C. Signs that include only the name of a location, owner or occupant (for example signs depicting the name of a subdivision, ranch or property owner) The name of a business or other information may not be included on this sign.

D. Off-Premise Signs. With the following exception for temporary event signs, off- premise signs require a special use permit in any zoning district.

With the permission of the property owner, off-premise, temporary event signs or banners are permitted in all zoning districts, for up to 14 days during one calendar year, in connection with a single event which is not repeated during the year.

E. Prohibited Signs

The following signs are prohibited in all zoning districts:

1. Signs that create a hazard or dangerous distraction to vehicular traffic; that may be confused with or interfere with authority railroad or traffic signs, signals or devices; that impair the vision of drivers or pedestrians; or that otherwise interfere with traffic visibility.
2. Signs that are not structurally sound, that may pose a hazard to people or property.
3. Lighted signs.
4. Revolving signs or signs with moving parts.
5. Animated signs (both mechanically and electronically animated).
6. Signs with audible devices.
7. Flashing signs or flashing lights.
8. Signs not specifically permitted by this title.

F. In Commercial, Light Industrial and Industrial zoning districts, each legally created parcel of land may have the following on-premise signs and displays:

1. One pole sign, projecting sign, or banner sign, with the size of the sign not to exceed thirty-two (32) square feet.
 2. Real property for sale or under construction. On-premise, unlighted signs may be installed as necessary to advertise the sale of, or construction on real property. These signs shall not exceed thirty-two (32) square feet in size, and a height of twelve (12) feet.
- G. In Agricultural, Transitional-Agricultural, and Residential zoning districts, each legally created parcel of land may have the following on-premise signs:
1. One pole or monument sign, with the size and height of the sign not to exceed thirty-two (32) square feet.
 2. Real property for sale or under construction. On-premise, unlighted signs may be installed as necessary to advertise the sale of, or construction on real property. These signs shall not exceed twelve (12) square feet in size, and a height of eight (8) feet.
 3. The following are prohibited in Agricultural, Transitional –Agricultural and Residential zoning districts (in addition to the general prohibition of this section):
 - a. Internal lighting of signs.
 - b. Electronic message centers.
 - c. Banner signs.
 - d. Pennants and similar displays, individually or strung together.
 - e. Floating or blow up signs.
 - f. Search lights.

ARTICLE XIX LIGHTING

SECTION A: PURPOSE.

The general purpose of this Chapter is to protect and promote the public health, safety and welfare, the quality of life, by establishing regulations and a process of review for exterior lighting. This Chapter establishes standards for exterior lighting in order to accomplish the following:

1. To protect against direct glare of excessive lighting;
2. To provide safe roadways for motorists, cyclists and pedestrians;
3. To prevent light trespass in all areas of the county;
4. To provide lighting guidelines;

SECTION B. SCOPE.

All exterior lighting installed after the effective date of the ordinance in any and all zoning districts in the County shall be in conformance with the requirements established by this Title and any other applicable ordinances

SECTION C. DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Section it's most reasonable application:

“Existing lighting” means any and all lighting installed prior to the effective date of the ordinance.

“Exterior lighting” means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside and includes all yard (~~100 HPS~~) and street (~~250 HPS~~) lamps. (*Ordinance 2010-4*)

“Light pollution” means any adverse effect of manmade light including, but no limited to, light trespass, up lighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky; often used to denote urban sky glow.

SECTION C : CRITERIA.

The Commission, the Building Official and/or the Planning and Zoning Administrator shall have the authority to require any new lighting to meet the recommendations and guidelines, in addition to the requirements of this Chapter.

Any new outdoor lighting installed or any existing lighting being replaced shall ~~meet the requirements of the local electric company for~~ be High Pressure Sodium lamps including a full cut-off shade. (*Ordinance 2010-4*)

SECTION D: VIOLATIONS AND LEGAL ACTIONS.

If after investigation, the Planning and Zoning Administrator finds that any provision of this Chapter is being violated, the Administrator shall given notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that the violation be abated within thirty (30) days of the date of mailing the notice. The Planning Department shall be available to assist in working with the violator to correct said violation. If the violation is not abated within the thirty (30) day period, the Administrator may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this Chapter and to collect the penalties for such violations.

ARTICLE XX CONFINED ANIMAL FEEDING OPERATIONS (CAFO'S)

CAFO's within the County are regulated under Idaho Statute Title 67 chapter 65

ARTICLE XXI RECREATIONAL VEHICLES

Temporary or Intermittent recreational use of a Recreational Vehicle provided the following conditions are met:

1. The Recreational Vehicle (RV) shall have current registration and shall be in serviceable condition so it can be operated in a safe and lawful manner upon the roads and highways in the State of Idaho as set forth in the Idaho Motor Vehicle Laws of the State of Idaho. The RV shall not be set on blocks with the tires or running gear removed.
2. No decks or additions shall be attached to the RV, ~~nor shall the RV be skirted.~~
3. The RV shall not be used as a dwelling. The owners must have a primary residence other than the RV. ~~There shall be no mail service to this type of use.~~ An RV may be used as a dwelling for the owners of the property during construction of a dwelling on the same property as the RV site. Upon completion of the residence or expiration of the Zoning Certificate for the residence, the use of the RV shall revert to the temporary or intermittent use as allowed under this provision.
4. The RV must be hooked into a sewage disposal system which meets the requirements of the East Idaho Public Health District, or shall be totally self-contained and removed from the site to empty holding tanks at an approved location.
5. The RV shall not be used as a rental property.
6. RV's located in floodplains must comply with the Flood Damage Prevention Ordinance. (Ordinance No 2012-01)

ARTICLE XXII ADMINISTRATION

SECTION A: VIOLATION AND CRIMINAL PENALTIES

Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor and any such person, firm or corporation may be punished by a fine of not more than \$300.00 or by incarceration in the county jail for a period not to exceed 180 days, or both such fine and imprisonment.

SECTION B: CIVIL ENFORCEMENT ACTIONS

The Prosecuting Attorney may take whatever steps he determines appropriate to civilly enjoin any violation of this Ordinance whether or not criminal action is taken.

Nothing herein contained shall prevent the Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this Ordinance or of the Idaho Code.

SECTION C: MEDIATION

Mediation of planning and zoning issues may be provided in accordance with Idaho Code 67-6510 and any revisions.

SECTION D: PRIVATE PROPERTY RIGHTS

In considering any development application under this code the Planning and Zoning Commission shall consider the following questions to ensure the protection of private property rights under Idaho Code.

1. Does the regulation or action result in the permanent or temporary physical occupation of the property?
2. Does the regulation or action require a property owner to dedicate a portion of property or grant an easement?
3. Does the regulation deprive the owner of all economically viable uses of the property?
4. Does the regulation have a significant impact on the landowner's economic interest?
5. Does the regulation deny a fundamental attribute of ownership?
6. Does the regulation serve the same purpose that would be served by directly prohibiting the use or action; and does the condition imposed substantially advance that purpose?

SECTION E: DESIGNATED FEE.

All applications for amendment, reclassification, special use, or variances, shall be accompanied by a filing fee set by resolution causing the applicant to reimburse the County for all costs incurred in publication and/or mailing.

**ARTICLE XXIII
REPEAL OF CONFLICTING ORDINANCES**

All ordinances or parts of ordinances in conflict herewith, including, but not limited to the existing Zoning Ordinance of Custer County, Idaho adopted on the 15th day of May, 2007, as amended, are hereby repealed.

**ARTICLE XXIV
EFFECTIVE DATE**

This Ordinance shall take effect after its passage, approval, and publication according to law.

PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF
CUSTER COUNTY, IDAHO, this 15th day of May, 2007.

PUBLISHED: 05/24/2007

Attest:

Wayne F. Butts, Chairman

Barbara C. Breedlove, Clerk