

ORDINANCE No. 1982-2

[as amended by Ordinance #2006-5 (vacation rental) and Ordinance #2008-1 and Ordinance 2009-1]

AN ORDINANCE DESIGNED AND ENACTED AND DECLARING ITS PURPOSE TO BE TO PROMOTE THE HEALTH, SAFETY, MORALS, CONVENIENCE, ORDER, PROSPERITY, AND WELFARE OF THE PRESENT AND FUTURE INHABITANTS OF THE CITY OF LAVA HOT SPRINGS; TO PROVIDE FOR, AMONG OTHER THINGS, LESS CONGESTION IN THE STREETS, BETTER BUILDING AND DEVELOPMENT PRACTICES, ADEQUATE LIGHT AND AIR, A LOGICAL CLASSIFICATION OF LAND USES AND DISTRIBUTION OF LAND DEVELOPMENT AND UTILIZATION, PROTECTION OF THE TAX BASE, ECONOMY IN GOVERNMENTAL EXPENDITURES, ENCOURAGEMENT OF AGRICULTURE AND INDUSTRIAL PURSUITS IN APPROPRIATE LOCATIONS, AND THE PROTECTION OF EXISTING URBAN DEVELOPMENT; TO ACCOMPLISH THESE PURPOSES BY ZONING THE AREA LYING WITHIN THE CITY OF LAVA HOT SPRINGS AND BY REGULATING THE LOCATION, HEIGHT, BULK AND SIZE OF BUILDINGS, AND OTHER STRUCTURES, THE PERCENTAGE OF LOT WHICH MAY BE OCCUPIED, THE SIZE OF YARDS, COURTS, AND OPEN SPACES, THE USES OF BUILDINGS AND STRUCTURES FOR TRADE, INDUSTRY, RESIDENCE, RECREATION, PUBLIC ACTIVITIES AND OTHER PURPOSES, AND THE USES OF LAND FOR TRADE, INDUSTRY, RESIDENCE, RECREATION OR OTHER PURPOSES; AND, TO REGULATE THE SUBDIVISION OF LAND WITHIN THE CITY OF LAVA HOT SPRINGS; PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE; SETTING FORTH THE MANNER IN WHICH THIS PROVISION SHALL BE ENFORCED; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR THE PUBLICATION HEREOF; AND, THE ESTABLISHMENT OF AN EFFECTIVE DATE.

NOW, BE IT THEREFORE ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS, IDAHO:

CHAPTER 1: PURPOSE AND SCOPE:

SECTION 1: Comprehensive Plan Adopted: The Comprehensive Plan, dated the 08 day of March, 1978, be and is hereby the same adopted as the Comprehensive Plan for the City of Lava Hot Springs. Said Comprehensive Plan is adopted by reference as a policy guide for the applications and provisions of this Zoning Ordinance and three certified copies of the Comprehensive Plan shall be kept on file for the use and examination of the public in the office of the City Clerk of the City of Lava Hot Springs.

SECTION 2: This Ordinance shall be known, and may be referred to and cited as the Zoning Ordinance for the City of Lava Hot Springs.

SECTION 3: Purpose and Scope:

- a. To support and implement the stated goals of the City as expressed in the Comprehensive Plan.
- b. To protect the natural environment from harmful imbalance in the process of community development.
- c. To mitigate the effects of incompatible land uses, and neighborhoods, thoroughfares, adjacent uses, and the community as a whole.
- d. To provide for public improvements which are serviceable and durable and which enable service delivered by all public aid agencies at the most reasonable costs possible.
- e. To preserve the positive aspects of existing neighborhoods in the City while improving neighborhood features which have become degraded or which lack public facilities.
- f. To facilitate provision of public services in newly developing neighborhoods.

SECTION 4: Zoning Map: This ordinance consists of this text and the official Zoning Map which shall be designated as the City of Lava Hot Springs Zoning Map, is hereby adopted by the City Council as part of the Ordinance. Zoning boundaries shall be the center line of either streets, alleys, waterways or railroad right-of-ways unless such boundaries are otherwise indicated on the Zoning Map.

SECTION 5: Severability Clause: Should any section or provision of this Ordinance be declared by the Courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole or any part thereof, other than the parts so declared to be unconstitutional or invalid.

CHAPTER II DEFINITIONS

Unless the context requires otherwise, the following definitions shall be used in the construction of this Ordinance. Words used in the present tense shall include the future; the singular shall include the plural, and the plural, the singular; the word "building" shall include the word "structure": the words "used" or "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used or occupied: the word "shall" is mandatory and not directory, and the word "may" is permissive; the word "person" included a firm, association, organization, partnership, trust, company, or corporation, as well as individuals: the word "lot" includes the words plot or parcel. The words used in this Ordinance, but not defined herein, shall have the meaning as defined in any other Ordinance adopted by the City of Lava Hot Springs.

ACCESSORY USE OR BUILDING. A use or building on the same lot with, and of a nature customarily or incidental and subordinate to, the principal use or building.

ACCESSORY EASEMENT. A limited use easement across two or more adjacent properties to allow occasional vehicular access to otherwise inaccessible area (s) by either property owner at any time.

AGRICULTURE. Tilling of soil, horticulture, floriculture, forestry, fisheries, veticulture, raising crops, livestock, farming, dairying and animal husbandry, including all uses customarily accessory and incidental thereto: but, excluding slaughterhouses, fertilizer works, boneyards and commercial feed lots. Incidental retailing of goods on the premises of goods and products raised on the premises shall also be considered as being within the definition of, agriculture.

ALLEY: A public space or thoroughfare which has been dedicated or deeded to the public use in which provides a secondary and public means of access to abutting properties. An alley shall not be considered a street for the purpose of this Ordinance.

ANIMAL CLINIC (Also Veterinary Office or Hospital). Any building or portion thereof designed or used for the care or treatment of animals or fowl, and/or in which veterinary services are provided or are available.

APARTMENT. A room or suite of rooms in a multiple family structure which is arranged, designed or used as a single housekeeping unit and has complete kitchen facilities, permanently installed.

APARTMENT HOUSE OR MULTI-FAMILY USE. Any building or portion thereof which is designed, built, rented, leased, let or hired out to the occupied, or which is occupied as a home or residence of three or more families living independently of each other and doing their own cooking in the said building, and which shall include flats and apartments.

ARCHITECTURAL PROJECTION. Any building or structural projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building or structure, but not including signs.

AREA, BUILDABLE. Space within the setback lines remaining on a lot after the minimum open space requirements of this Ordinance have been complied with.

AREA, PRIVATE PARKING. An open, graded area, other than a street or public way, designed, arranged and made available for the storage of private passenger automobiles or motor vehicles of occupants of the buildings for which the parking area is developed.

AREA, PUBLIC PARKING. An open area, other than a street or alley, used for the temporary parking of automobiles or other transportation and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

AREA, SETBACK. The space on a lot required to be left open and unoccupied by buildings or structures either by the front, side or rear requirements of this Ordinance, or by the lineation on a recorded subdivision, or planned unit development map.

AUTOMATIC CAR WASH. A facility for automatic or self-service cleaning of automobiles and small trucks not exceeding one and one-half (1 1/2) tons capacity.

AUTOMATIC TRUCK WASH. A facility for automatic self-service washing or cleaning of trucks exceeding one and one-half (1 1/2) tons capacity.

AUTOMOBILE AND TRAILER SALES AREA. Premises used for display, sale or rental of new or used motor vehicles, mobile I homes, recreational coaches, or recreation vehicles in operable condition, and where no repair or service work is done.

AUTOMOBILE SERVICE STATION OR REPAIR AREA. A place where gasoline or any other motor fuel or lubricating oil or grease for operation of motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, and where services performed may include tube and tire repair, battery charging, storage of merchandise, and tune-up of automobiles, or where there is performed the repair, rebuilding or reconditioning of motor vehicles or equipment, or parts thereof.

AUTOMOBILE WRECKING OR PROCESSING YARD. A lot or portion thereof used for the storage thereof used for the storage, dismantling, demolition, or abandonment of automobiles, other vehicles, other machinery or parts thereof.

BASEMENT. A story whose floor is more than twelve (12) inches below the average level of the adjoining ground, or where no more than one-half (1/2) of its floor-to-ceiling heights is below the average contact level of the adjoining ground. A basement shall be counted as a story for purposes of height measurement, and as a half-story for the purpose of side yard determination.

BED AND BREAKFAST. A dwelling where, for compensation, meals are provided on site for no more the fifteen (15) persons who are not immediate members of the household family residing in the dwelling, and is owner or manager occupied.

BEGINNING OF CONSTRUCTION. The excavation or recontouring of the site.

BLOCK. The land surrounded by streets or other rights-of-way other than an alley or land which is designated as a block on any recorded subdivision plat.

BOARDING HOUSE. A dwelling where, for compensation, meals are provided on site for no more than fifteen (15) persons who are not immediate members of the household family residing in the dwelling and is owner or manager occupied for the long term stay, 30 days or more.

BUILDING. Any structure being used or intended to be used for the shelter or enclosure of persons, animals or property.

BUILDING, EXISTING. A building erected prior to the effective date of this, Ordinance, or one for which a legal permit has been issued prior to the effective date.

BUILDING, GOVERNMENT. A building owned or used by the Federal, State, County or City Government, or any political subdivision, agency, or instrumentality thereof.

BUILDING, HEIGHT. The vertical distance, from the average finished grade service at, the foundation to the highest point of the building roof or coping.

BUILDING, NON-CONFORMING. Any building which does not conform to this Ordinance.

BUILDING PERMIT. An official document or certificate issued by the city Council, or its appointed representative, authorizing performance of a specified activity.

BUSINESS OR COMMERCE. The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance, or commodity for profit or livelihood, or the ownership or management of an office building, offices, recreation or amusement enterprises or the maintenance and use of offices or professions and trades rendering services.

CAMPGROUND. A public area designated by a public agency for camping or a private area licensed by the City Council, or its appointed representative, for camping. J

CARPORT. A private garage not completely enclosed by walls, or floors. For the purposes of this ordinance, a Carport shall be subject to all the regulations prescribed for a private garage.

CELLAR. A room or rooms having more than fifty percent (50%) of the floor to ceiling height under the average level of the adjoining ground. A cellar is not included in computing the number of stories for the purposes of maximum height regulations hereunder.

CHILD NURSERY (Day Care Center). As establishment for the care and/or the instruction of five (5) or more children, for compensation, other than from members residing on the premises, but, not including a public school.

CHURCH. A building, together with its accessory buildings and uses, maintained and controlled by a duly recognized religious organization where persons, regularly assemble for worship and religious instruction.

CITY. The City of Lava Hot Springs, Idaho.

CITY CLERK. The City Clerk of the City.

CITY COUNCIL. The City Council of the City.

CLINIC, DENTAL OR MEDICAL. A building in which a group of dentists, physicians and/or allied professionals in the healing arts are associated for the conduct of their professions. The clinic may include dental and/or medical laboratory and an apothecary, but it shall not include inpatient care or operating rooms for major surgery.

CLUB OR LODGE. The facilities of an association of persons for the promotion of some non-profit, and interest, such as literature, science, good fellowship, etc., and which holds meetings periodically which are limited to members and guests.

COMMERCIAL ENTERTAINMENT FACILITY. Any profit making activity which, is generally related to the entertainment field: such as motion picture theatres, carnivals, nightclubs, cocktail lounges, and similar entertainment activities.

COMMISSION. The Planning and Zoning Commission of the City of Lava Hot Springs, Idaho as appointed by the City Council.

COMPREHENSIVE PLAN. Any plan, or any portion, thereof, adopted by the City Council. including such things as the general location and extent of present and proposed physical facilities, including housing, industrial and commercial uses, major transportation, parks, schools and other community facilities,

CONCESSION STANDS. A building, s t r u c t u r e, vehicle or tent, having less than Three hundred (300) square feet of area that is used for the sale of food, beverages, and/or souvenirs on a temporary basis.

CONDITIONAL USE. A use of land for which a conditional use permit is required pursuant to this Ordinance. See Special Use.

CONDOMINIUM. The ownership of a single unit in a multi-unit project, together with an undivided interest in common in the common areas and facilities of the property as provided by State Law. A condominium development is comparable to a subdivision in that each development is characterized by multiple individual ownerships in a single development; in a condominium development, the multiple individual ownerships are in structures, whereas in subdivisions such ownerships are in land.

CORRAL. A space, other than a building, less than one (1) acre in area or less than one hundred (100) feet in width, used for, the confinement of animals or fowl.

CROSSWALK OR WALKWAY. A right-at-way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a crosswalk or walkway or pedestrian way may be located within, or without, a street right-a-way, at grade, or grade separated from vehicular traffic.

CUL-DE-SAC. A street which is designed to remain permanently closed at one end, with the closed end terminated by a vehicular turn-a-round. For the purposes of this Ordinance, the length of a cul-de-sac shall be measured from the center line, of the intersecting street along the center line of the cul-de-sac, to a point in the center of the cul-de-sac.

DAY CARE CENTER. (See Child Nursery.)

DISTRICT. (Also Zone or Zoning District.) A portion of the territory of the City established as the zoning district by this ordinance, within which such uniform regulations and requirements or various combinations thereof, apply under the provisions of this Ordinance.

DRIVEWAY. A private roadway, its use of which is limited to persons residing, employed or otherwise using or visiting the parcel on which the driveway is located.

DRIVE INN ESTABLISHMENT. An establishment, other than a service station or truck stop, which is designed to accommodate the motor vehicles or patrons in such manner as to permit the occupants of such vehicles, while remaining therein, to make a purchase or receive services.

DWELLING. Any building or portion thereof designed or used as the principal residence or sleeping place of one or more persons or families, but not including a tent, a recreational coach, hotel, motel, hospital or nursing home.

DWELLING, HIGH RISE MULTIPLE FAMILY. A multiple family building or portion thereof, containing five (5) or more stories which may include off street parking facilities, and having at least one (1) passenger elevator to serve the dwelling units.

DWELLING, MULTIPLE FAMILY. A building containing more than one (1) dwelling unit.

DWELLING, SINGLE FAMILY. A building containing only one (1) dwelling unit.

DWELLING, TWO FAMILY (Duplex). A building containing only two (2) dwelling units.

DWELLING, THREE FAMILY (Tri-plex). A building containing only three (3) dwelling units.

DWELLING, FOUR FAMILY (Four-plex). A building containing only four (4) dwelling units.

DWELLING UNIT. One or more rooms in a dwelling, apartment complex, hotel, or motel, designed for and/or occupied by one (1) family for living or sleeping purposes and having, one (1) but not more than one (1), kitchen or set of fixed cooking facilities, other than hot plates or other portable cooking units.

EASEMENT. That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner(s) of said property(ies). The easement may be for use on, under, or above said lot or lots.

Effective DATE OF THIS ORDINANCE. The date upon which this Ordinance becomes legally binding.

EXCAVATION. Any disruption of the soil mantle, and/or manmade surfacing of the same. Excavations may be either in the nature of a process or a use. Excavation undertaken for the purpose of preparing a site for ultimate land use or processes such as gravel pits, quarries or mines or uses which require specific use authorization require a conditional use permit or variance.

FAMILY. One individual, or two or more persons related by blood, marriage or adoption living together in a single dwelling unit and maintaining a common household. A family may include four (4), but not more than (4), non-related persons living with the residing family. The term, "family" shall not be construed to mean a group of non-related individuals, a fraternity, club or institutional group.

FAMILY FOOD PRODUCTION. The keeping of domestic animals and fowl for the production of food for the use of the family occupying the premises.

FEED YARD. An agricultural industry in which animals or fowl are kept and intensively fed in a relatively restricted area, as contrasted with open pasture.

FINAL PLAT. The plat map prepared in accordance with the provisions of this Ordinance, which is designed to be placed on record in the office of the County Recorder.

FIREFIGHTING FACILITIES. Such water supply, water lines, fire hydrants and other protective devices, as may be required in accordance with the provisions of this Ordinance.

FLOOD HAZARD. A hazard to land or improvements due to inundation or overflow water having sufficient velocity to damage building, or erode the banks or water courses. Areas adjoining any streams, ponds or lakes which are subject to one hundred-year-recurrence-interval floods on maps prepared by the U.S. Army Corp of Engineers, or a study conducted by anyone else expert and experienced in the preparation of hydrological studies and the determination of flood lines.

FLOOR AREAS. The sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, and basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building or in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance, or any such floor space intended and designed for accessory heating and ventilating equipment.

FLOOR AREA RATIO. The ratio of the floor area to the lot area, is determined by dividing the floor area by the lot area.

FRONTAGE. All property, fronting on one (1) side of the street between intersecting or intercepting streets, or between a street in a right-of-way, water-way, end of a dead-end-street, or political subdivision boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage along the side of the street which it intercepts, or that common line between the lot and a public street. Street lines across which access is denied or cannot be had because of topography or for other reasons shall not constitute frontage for purposes of this Ordinance.

FRONTAGE, LOT. The lineal measurement of the front lot line.

GARAGE, PRIVATE. An accessory building designed and/or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory, providing that a garage shall be considered part of the dwelling if the garage and dwelling have a roof or wall in common.

GARAGE, PUBLIC. A building or portion thereof, other than a private garage, designed or used for surfacing repairing, equipping, hiring, selling, leasing, renting or storing motor vehicles.

GRADE OR OFFICIAL GRADE.

A. For buildings adjoining one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street.

B. For buildings adjoining more than one (1) street, the average of the elevations of the sidewalk of the center of all walls adjoining the streets.

C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the centers of all exterior walls of the building.

D. Any wall parallel or nearly parallel to and not, more than five (5) feet from a street line is to be considered as adjoining a street.

GUEST. Any person other than a member of a family, hiring or occupying a room for living or sleeping purposes.

GUEST HOUSE. A detached or attached structure, being an accessory to a one - family dwelling with not more than three (3) bedrooms, which shall be used or designed for use primarily for guests or servants for sleeping quarters.

HEALTH AUTHORITY. The officer or other designated authority charged with the administration and enforcement of the rules and regulations of the Health Department of the State of Idaho, or its successor.

HEIGHT OF BUILDING; (See Building, Height)

HOME, BOARDING. (See Boarding House.)

HOME, MOBILE. (Also known as trailer house.) A detached single-family dwelling unit with all of the following characteristics:

A. Designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections for attachment to outside systems;

B. Designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels.

C. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture and ready for occupancy except for minor and incidental unpacking and assembly operations, which is placed on a permanent foundation and connected to utilities.

HOME, MOBILE, TEMPORARY. A trailer, tent trailer, camper, recreation vehicle or mobile home which is eight (8) feet in width and thirty two (32) feet or less in length and may or may not contain cooking or bathroom facilities, but is not designed or used for long term occupancy.

HOME, NURSING. (Also known as "Convalescent Home or Rest Home".) A building housing any facility, however, named, whether operated for a profit or not, the purpose of which is to provide skilled nursing care and related medical services for two or more individuals suffering from illness, disease, injury, deformity or requiring care because of old age.

HOME OCCUPATION. Any gainful operation, profession or craft, which is customarily incidental to or carried on in a dwelling place, and wherein the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and which occupation, is carried on only by the immediate members of the family residing within the dwelling, and which meets all of the following conditions.

A. The use does not change the character of the dwelling.

B. Not more than one-half (1/2) of the area of one (1) floor of said dwelling is used for such use.

C. No external alterations or construction of features not customarily in dwellings is involved, and no external indications of said home occupation except for a sign as provided in this Ordinance.

HOSPITAL. An institution providing health services, primarily for inpatients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

HOTEL. Any building containing six (6) or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests.

HOUSEHOLD PETS. Animals or fowl ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, canaries, but not normally dangerous animals, such as lions or tigers. This definition shall not include a sufficient number of dogs as to constitute a kennel as defined in this Ordinance.

IMPERVIOUS SURFACE. Impervious surfaces are those that do not absorb rain. All building parking areas, driveways, roads, sidewalks, and any areas in concrete and asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by the City Council, or its appointed representative, to be impervious within the meaning of this definition will also be classed as impervious surfaces.

IMPERVIOUS SURFACE RATIO. The impervious surface ratio is a measure of the intensity of land use. It is determined by dividing the total area of all impervious surfaces within the site by the base site area.

IMPROVEMENTS. Work objects, devices, facilities or utilities required to be constructed or installed in a land development. Such improvements may include, but are not limited to, street construction to required standards, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, street trees, street signs, street lights, traffic control or safety devices, fire hydrants, and such other facilities or construction required by this Ordinance, or by the City Council, or Planning Commission, if appointed, for the necessary and proper development of the proposed land development.

IMPROVEMENT AGREEMENT. An agreement between the City and a developer wherein a developer agrees to install improvements required by this Ordinance, or by the Planning Commission, if appointed, for the necessary and proper development of the proposed land development.

INDUSTRIAL. Refers to the manufacture, and processing and testing of goods and materials, including the production of power. It is not referring to the growing of agricultural crops, or the raising of livestock, or the extraction or severance of raw materials from the land being classified, but it does include activities incidental thereto.

JUNK. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris or other waste or salvage materials: dismantled, junk or wrecked automobiles or parts thereof; and, old or scrapped ferrous or non-ferrous metal materials.

JUNKYARD. The use of any lot, or portion of any lot, or tract of land for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, or machinery or parts thereof, provided that this definition shall be deemed not to include such uses which are clearly accessory and incidental to any agricultural use permitted in the district, if any.

KENNEL, COMMERCIAL. Any lot or premises or portion thereof, on which three (3) or more dogs, cats or other household domestic animals are maintained, harbored, possessed, boarded, bred or cared for in return for compensation, or kept for sale.

LAND, AGRICULTURAL. Land use for bona-fide agricultural purposes, or which is projected for agricultural use by the master plan or by this Ordinance, but not including legally existing non-conforming uses located in areas so projected.

LAND, COMMERCIAL. Land use for bona-fide commercial purposes, or which is projected for commercial use by the master plan or by this Ordinance, except legally existing, non-conforming, uses in area designated commercial in this Ordinance.

LAND DEVELOPMENT STANDARDS. Construction standards, including but not limited to: drawings, tables, charts and references which have been adopted by the City Council, or its appointed representative, and which set standards for the construction of improvements to land and which regulate said construction of improvements to land.

LAND, INDUSTRIAL. Land used for bona-fide industrial purposes, or which is projected for industrial use by the master plan or by this Ordinance, except for legally existing, non-conforming uses in area designated industrial in this Ordinance.

LAND USE INTENSITY. The degree to which land is used by man ranging from no use to unremitting, continual land concentrated use of the land. Land use intensity is normally measured by:

- A. Type of use, i.e., agricultural, residential, commercial or industrial
- B. Comparative use in average hours per day;
- C. Numbers of humans, associated animals, and machines which occupy the land during the average hours of use, and;
- D. The percent of the land covered by manmade structures.

LOCAL ATTORNEY. The attorney employed by or officially representing the City.

LOCAL BUILDING OFFICIAL. The building official, if any, employed by or officially representing the city.

LOCAL ENGINEER. The engineer, if any, employed by or officially representing the City.

LOT. A parcel or unit of land abutting a public street or approved private street, described by metes and bounds and held or intended to be held in separate lease or ownership, or a parcel or unit of land shown as a lot or parcel on the subdivision map, planned unit development plot map, or condominium plot map.

LOT AREA. The area contained within the property lines of the individual parcels of land shown on the subdivision plat or required by this Ordinance, excluding any area within an existing street or right-of-way, or any area required as open space under this Ordinance, and including the area of any easements.

LOT, CORNER. A lot abutting upon two (2) or more streets at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than One Hundred Thirty Five (135) degrees.

LOT DEPTH. The horizontal distance between the front and rear lot lines measured in the main direction of the side lot lines.

LOT FRONTAGE. The length, in feet, of the front lot line which is co-terminous with the front street line.

LOT HELD IN SEPARATE OWNERSHIP. Shall mean all contiguous land held in one ownership at the time of the passage of this Ordinance or at any time hereafter, whether or not such land has been or is described separately, has separate chains of title, is described on one or more than one property tax notice, or is otherwise divided on paper.

LOT, INTERIOR. A lot other than a corner lot.

LOT, LINES. The property lines bounding the lot.

LOT LINE, FRONT. For an interior lot, the lot adjoining the street; for a corner lot or through-lot, each lot line adjoining a street.

LOT LINE, REAR. Ordinarily, that line of a lot which is opposite and most distant front line of the lot. In the case of a triangular or irregular-shaped lot, a line ten (10) feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where this definition is ambiguous, the City Council, or its appointed representative, shall designate the rear lot line.

LOT LINE, SIDE. Any lot boundary line not a front or rear lot line. (This does not apply to any yard fronting on a street, which is by definition a front yard line.)

LOT RIGHT-OF-WAY. A strip of land not less than sixteen (16) feet in width connecting a lot to a street for use as private access to that lot.

LOT-THROUGH. A lot having frontage on two streets which are parallel or nearly so.

LOT WIDTH. The horizontal distance between the side lot lines, measured at the required front yard set-back lines or rear yard set-back line, whichever is shorter.

MANAGER. A person living on site who represents the owner of the boarding or rooming house.

MAPS, ZONING. A map or maps of Lava Hot Springs, Idaho, which are a part of this Ordinance, and which designate the zoning districts.

MASTER PLAN. (Also Comprehensive Plan or General Plan). See Comprehensive Plan.

MOBILE HOME. A detached single family dwelling of not less than thirty (30) feet in length, designed for long-term occupancy, and to be transported on its own wheels or flat bee or other trailers or detachable wheels; and which has not been demonstrated to conform to the building standards for other residents adopted by this Ordinance. In determining that such a dwelling is designed for long term occupancy, the following criteria shall be used: Such a dwelling contains a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, and ready for occupancy except for connection to utilities and other minor work.

MOBILE HOME LOT. A space designed and approved by the City Council, or appointed representative, for occupancy by mobile homes, and meeting all requirements of this Ordinance.

MOBILE HOME PARK. A parcel of land that has been planned and improved for the placement of mobile homes for the non-transient use and consisting of two or more mobile home spaces, where the entire project is to be under single ownership and management and meets all of the requirements of mobile home parks.

MOBILE HOME SPACE. A space within a mobile home park designed to be used for the accommodation of one (1) mobile home.

MOBILE HOME STAND. That part of the mobile home space which has been reserved for the placement of the mobile home and its appurtenant structures or additions.

MOBILE HOME SUBDIVISION. A subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes.

MODULAR HOME. A permanent dwelling structure built in prefabricated units which are assembled or erected on the site or at another location and brought as a unit to the site. Said modular home is classed as a mobile home until it is placed on a permanent foundation and complies with all governing provisions of this Ordinance.

MOTEL. A building or group of two or more detached, semi-detached, or attached buildings containing guest rooms, with automobile parking space provided in connection therewith, and designed and intended to be used primarily for the accommodation of transient automobile travelers and which are rented by the day. This definition shall also include auto cabins, tourist courts, motor courts, motor lodges and similar designations.

NON-CONFORMING USE. Any use lawfully occupying a building, structure or land at the effective date of this Ordinance, or of subsequent amendments thereto, which does not conform with the use regulations for the district in which it is located. (See also Building, Non-Conforming.)

NURSING HOME. See Home, Nursing. (Also, Rest Home or Convalescent Home.)

NURSERY SCHOOL. (See Child Nursery)

OFF-STREET PARKING SPACE. The space required to park one (1) passenger vehicle, which space shall meet the requirement of this Ordinance.

OPEN SPACE. Land used for recreation, agriculture, resource protection, amenity or buffer; is freely accessible to all residents of the development, except in the cases of agricultural lands where access may be restricted; and is protected by the provisions of this Ordinance to insure that it remains in such uses. Open space does not include land occupied by non-recreational building, roads, or road rights-of-ways; nor, does it include the roads or yards of single, multiple family dwelling units or parking areas as required by the provisions of this Ordinance. Open space shall be left in a natural state, except in the case of recreation uses which may contain impervious surfaces.

OPEN SPACE, USEABLE. Useable open space shall be any portion of a lot or building which meets all of the following condition:

A. The open space shall be open to the sky or shall be open to view on at least two sides.

B. The space shall be readily accessible by foot traffic from the dwelling unit to which it is accessory.

C. If the space is provided on a balcony, roof or other facility grade, it shall have such protective devices which are deemed necessary by the City Council, or its appointed representative, to insure reasonably safe usage by children and adults.

D. The space shall not be provided from any required front or side yard, parking area or driveway space.

PARK, MOBILE. (See Mobile Home.)

PARK, MOBILE HOME. (See Mobile Home Park.)

PARK, TRAVEL TRAILER., Any area, tract, plot or site of land upon which two or more travel trailers are placed, located and maintained on a temporary basis and equipped with sanitary facilities. Such facilities shall be located on major highways or in the vicinity of public recreational facilities. Other public convenience items may be required by the City Council, or its appointed representative.

PARKING, AREA. (See Area, Private Parking.)

PARKING AREA, PUBLIC. (See Area, Public Parking.)

PEDESTRIAN-WAY (Walkway or cross-Walk.) A right-of-way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a pedestrian-way may be located within or without a street right-of-way, at grade, or grade separated from vehicular traffic.

PERFORMANCE BOND OR SURETY BOND. A financial guarantee by a subdivider or developer with the City in the amount of the estimated construction costs guaranteeing the completion of physical improvements according to the time prescribed by the agreement.

PERMANENT MONUMENT. Any structure of concrete, masonry, and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference, which meets the requirements of the local jurisdiction of permanent monuments.

PERMITTED USE. A use of land which is allowed within a particular district, the boundaries of which are to be shown on a zoning map, but the regulations of which are to be determined by a general developed plan to be adopted by the City Council and/or Planning Commission, if appointed, as part of the Zoning Ordinance, after public hearing, as required for other Zoning Districts.

PLANNED UNIT DEVELOPMENT (PUD). An integrated design for development, residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in sight and building design and location, in accordance with an approved plan and imposed requirements. Planned unit development regulations may govern a subdivision of land if it is proposed by the development to sell

individual lots in a Planned Unit Development. Thus, Planned Unit Development regulations can be subdivision regulations which may be chosen by the developer as an alternative to specifically designated subdivision regulations of this Ordinance, to become effective only through the Planned Unit Development approval process.

PLANNING COMMISSION. The Planning and Zoning Commission for the City of Lava Hot Springs, Idaho.

PRINCIPAL BUILDING OR STRUCTURE. A building or structure which houses a principal use.

PRINCIPAL USE. Any use which is named and listed in the use regulation provisions of this Ordinance, except those uses specifically designated as accessory uses; any use which is or may be conducted on a lot independently of any other use on the lot and not incidental or accessory to any other use on the lot; any use which establishes the primary activity of the lot.

PROFESSIONAL USE. The use of offices and related spaces for such professional services as provided by medical practitioners, lawyers, architects, engineers and similar professions.

PROPERTY. A lot or plot including all buildings and improvements thereon.

PROPERTY LINE. A recorded boundary of a plot.

PUBLIC WAY, PUBLIC RIGHT-OF-WAY. A public way, right-of-way, easement or strip of land dedicated, acquired or platted across real property and intended for the special or general use of the public, which normally includes streets, sidewalks or other public utilities or service areas.

PUBLIC UTILITIES. Structures or facilities essential to furnishing the public with electricity, power, gas, water supply, water treatment, public services, including power plants and service stations, water treatment plants, or public stations, fire stations or police stations.

RECREATIONAL VEHICLE PARK. (See Park, Travel Trailer).

REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The work "repair" or "repairs" shall not apply to any change in structures such as would be required by additions to, or remodeling of such structure.

RESIDENTIAL USE. A building or portion thereof designed exclusively for residential occupancy, including one family, two family, three family, four family and multiple family dwellings, but not including hotels, motels, boarding and lodging houses, trailers, campcars or trailer houses.

RESTAURANT. Any land, building or part thereof, other than a boarding house where meals are provided for compensation, including among others, such uses as cafeteria, coffee shop, lunch room, tea room and dining room.

ROADWAY WIDTH. For a street with a battered or roll curb, measure to the back of the curb, otherwise the width of the actual surface,

ROOMING HOUSE. See boarding house.

SCHOOL, PRIVATE. A school which is operated by a quasi – public or private group, individual, or organization, and which has a curriculum similar to that provided in any public school in the State of Idaho. Private schools may be non-profit, or profit making establishments.

SCHOOL PUBLIC. A school operated by a school district or other public agency.

SIGN. A presentation or representation, words, letter, figures, designs, picture or colors, publicly displayed so as to give notice to a person, a business, an article of merchandise, a service, and assemblage, a solicitation, or a request for aid; also; the sign structure supporting light systems and any attachments, ornaments or other features used to draw the attention of observers.

SIGN, ANIMATED. A sign which involves motion or rotation of any part, created by artificial means, which displays flashing, revolving or intermittent lights.

SIGN, AREA. The entire background area of a sign upon which copy could be placed. In computing area of a sign background, only that face or faces which can be seen from one direction at one time shall be counted. The supporting incidental structure of the sign shall not be used in computing sign area.

SIGN, CANOPY. A sign which is mounted on and supported by a canopy and can be found either above the canopy or hanging beneath the canopy, but in all cases, mounted perpendicular to the building.

SIGN, CHANGABLE COPY. A sign on which the advertising message, lettering, or other graphic representation is intermittently changed by rotation or means similar thereto.

SIGN, FACIA. A sign which is in any manner affixed to any exterior wall of a building which projects not more than eighteen (18) inches and does not extend more than six (6) inches above the parapet eaves or building facade. A facia sign may also be mounted above or below a canopy, not necessarily flush with the wall, but in all cases, only one side has copy. In the manner described for the facia unit, individual letter units may also be installed as opposed to a box type sign.

SIGN, FLASHING. A sign which contains or is illuminated by lights which are intermittently cut on or off, changed in intensity or otherwise used to create the illusion of flashing or movement.

SIGN, FREE STANDING. A sign which is supported by one or more upright columns, poles or braces, in or upon the ground.

SIGN, IDENTIFICATION AND INFORMATION. A sign displayed to indicate the nature of a building, or of a use.

SIGN, ILLUMINIATED. A sign in which a source of light is used to make the message readable. This definition shall include internally and externally lighted signs.

SIGN, MARQUEE. Any sign attached to or made an integral part of a marquee.

SIGN, HEIGHT OF. The vertical distance measured from the nearest finished grade to the top of the sign, excluding any superficial trim. In the case of a roof sign, the maximum height shall be measured from the roof line or the parapet level, if applicable, at the location of such sign.

SIGN, OFF PREMISE. A sign which advertises a product or service not available on the premises where the sign is located.

SIGN, ON PREMISE. A sign which advertises a product or services available on the premises where the sign is located.

SIGN ORDINANCE. The provisions of this Ordinance which govern and regulate the use or uses and/or location and size of signs.

SIGN, PROJECTING WALL. A sign which is affixed to a exterior wall or building or structure and which projects more than eighteen (18) inches from the building or structure wall, and which does not extend above the parapet, eaves, or building facade upon which it is placed.

SIGN, ROOF. A sign which is erected on or above the roof line of a building and which is wholly or partially supported by the building.

SIGN, ROTATING. A sign which is revolves 360 degrees with continuing motion.

SITE. A parcel at parcels of land intended to have one or more buildings or intended to be subdivided into one or more lots.

SITE, AREA. A11 land area within the site as defined in the deed. The area shall be from an actual survey rather than from a deed description.

SITE PLAN (Plot Plan). A scale drawing of and, information pertaining to a proposed development site. A site plan shall include the following:

- A. The name and business defined in address of the devel
- B. The name and business address of the project designer;
- C. The dimensions of the site;
- D. North point;
- E. Locations and names of existing and proposed buildings;
- F. Locations and names of, existing and proposed streets,
- G. Public and private easements related to site;
- H. Survey monuments;
- I. Water courses and impoundments;
- J. Location and description of existing and proposed vegetation;
- K. Location of proposed parking;
- L. Location and size of utility service (water, sewer, power, gas, telephone cable lines);
- M. Location of, proposed septic or sewer connection;
- N. Location of all other proposed on site and off site improvements.

SPECIAL USE: A Special Use permitted within a district, other than a principally permitted use, requiring a permit and approval of the City Council, and the Planning Commission, if appointed. Special uses permitted in each zone, if any, shall be listed in a schedule of permitted Special Uses or Conditional Uses. (See Conditional Uses).

STEEP SLOPES. Areas where the average slope exceeds eight percent (8%) which, because of the slope, are subject to high rates of storm water runoff and therefore erosion.

STREETS, (Also, Roads and Highways). An open way, route or thoroughfare designed and constructed for vehicular traffic. The streets may be public or private. Public streets are those streets that have been dedicated or abandoned to the public and accepted by proper public authority. All other streets are private streets. Streets may also be classified as to ability to channel traffic. A minor (or local) street is thus a street, existing or proposed, which serves or intends to serve the local needs of neighborhood and is of limited continuity. A collector street is a street, existing or proposed, which is a primary means of access to major streets. A major street is a street existing or proposed which serves or is intended to serve as a primary artery.

STREET, FRONTAGE. A minor street which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through traffic.

STREET, HALF. A street parallel and contiguous to a property line and of lesser right-of-way width than will eventually be required: the additional needed right-of-way width to be obtained in the future from the abutting property owner prior to development as a frontage.

STREET STUB. A street extending from within a subdivision boundary and temporarily terminating there with no permanent vehicular turn-around. Stub streets are provided to permit adjacent undeveloped parcels of land to be developed later by continuing the stub street to the extended connecting street system.

STRUCTURE. Anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground, and which includes "building".

SUBDIVIDER. Any person, firm, corporation, or partnership who causes land to be divided into a subdivision for himself or others.

SUBDIVISION. The division, whether or not concurrent or sequential in time, of a tract of lot or a parcel of land; into two (2) or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of sale or building development; provided that this definition shall not include a bona-fide division or partition of agricultural lane for agricultural purposes or land developed for bona-fide commercial, manufacturing, or for industrial purposes, all as defined herein. The word "subdivision" and any derivative thereof shall have reference to the term "subdivision" as herein described.

For the purpose of this Ordinance, a subdivision of land shall also specifically include:

A. The dedication of a street through or adjacent to a tract of land, regardless of area, which may create a division of lots or parcels constituting a "subdivision".

B. Resubdivision of land heretofore platted or divided into lots, site, or parcels,
or:

C. Condominium projects.

SURVEYOR. A land surveyor or professional engineer registered in the state of Idaho.

TAVERN OR LOUNGE. A building where alcoholic beverages are sold for consumption on the premises, not including restaurants where the principal business is serving food.

TEMPORARY USE. Any use of land which), in the determination of the City Council, or Planning Commission, if appointed, shall not extend beyond two (2) years from inception of such land use. A determination as to whether or not a land use is temporary shall be based solely upon facts submitted to the City Council, or Planning Commission, if appointed, at the time of application for a Use Permit for a temporary use. Unless found to be temporary, any use of the land shall be presumed to be permanent.

TOURIST HOME. (see vacation rental)

UNDUE HARDSHIP. Special condition depriving the applicant, of rights commonly enjoyed by other property owners in the same Zoning District under the terms of this Ordinance, but not merely a matter of convenience and profit.

URBAN SERVICES. (See Public Utilities).

USE, EXISTING. Any use legally existing at the time of adoption of this Ordinance.

VACATION RENTAL. (Also Tourist Home): A single family dwelling unit or multiple family dwelling unit, built or converted, where, for compensation, lodging facilities are provided for a duration for less than thirty (30) days, but not including a tent, recreational coach, motor home, camper, hotel, motel, hospital, yurt or nursing home.

VARIANCE. A variance is a modification of the requirements of this Ordinance as to lot size, lot coverage, width, depth, front yard, rear yard, side yard, set-backs, parking space, height of buildings or other Ordinance provisions 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 the showing of undue hardship because of characteristics of the site and that the variance is, not in conflict with the public interest.

VICINITY MAP (Location Map). A map or drawing, not necessarily to scale, showing where a subdivision or proposed subdivision is located.

VICINITY PLAN. A map or drawing, to scale, of any area proposed for development showing existing and proposed streets, buildings, public facilities and utilities within the general influence area of the proposed subdivision such as one (1) mile radius; boundaries of Zoning Districts, Taxing Districts, or other special districts on or in the immediate vicinity of the land proposed for subdivision; water courses, impoundments, streams, springs, wells and areas subject to continuous or occasional flooding on and in the immediate vicinity of the land proposed for subdivision and significant budgetative patterns on and in the immediate vicinity of the land proposed for subdivision.

YARD. A required open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as permitted elsewhere in this Ordinance.

YARD, FRONT. A space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building. (Note: On a corner lot there are two front yards.)

YARD, REAR. A space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

YARD, SIDE. A space on the same lot with a building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be minimum distance between the side lot line and the side line of the building. (Note: Corner lots do not have two side yards.)

ZONING ADMINISTRATOR. The City Council of Lava Hot Springs, Idaho, is the governing body designated to enforce the regulations of this Ordinance, until such time as a Planning and Zoning Commission and/or separate Zoning Administrator is appointed as provided for herein.

ZONING ORDINANCE. The Ordinance of the City of Lava Hot Springs, Idaho, which provides for the division of the City's property into districts, specifies the land uses which may be conducted in each district, and provides regulations for the uses of land in each district.

CHAPTER 3 GENERAL PROVISIONS

SECTION 1: City Divided Into Zones. In order to accomplish more fully the objectives and purposes of the Ordinance, the City of Lava Hot Springs is hereby divided into zones which shall be known by symbols and/or names as follows:

R-2	Residential (Medium Zone)
R-2T	Residential (Mobile Home Park)
R-3	Residential (Multi-Family)
C-1	Commercial (Local)
C-2	Commercial (General)

SECTION 2: Map the location boundaries of each of the zones as shown on the City of Lava Hot Springs Zoning Map and all boundaries, notations and other data shown thereon are as much a part of this Ordinance as if fully described herein. The Zoning Map shall be identified by the signature of the Mayor of the City of Lava Hot Springs, attested by the Clerk, and shall bear the following words: I HEREBY CERTIFY THAT THIS IS THE OFFICIAL CITY OF LAVA HOT SPRINGS ZONING MAP WHICH IS ADOPTED BY THE CITY COUNCIL OF THE CITY OF LAVA HOT SPRINGS ON THE 19 DAY OF January , 19 83."

SECTION 3: Regulations. Within each of the zones, the height, number of stories, the size of buildings and structures, and percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population and the location and use of buildings,

structures, and land portrayed, industry, residence, or other purpose are hereby regulated and restricted as set forth in this Ordinance or as may be amended.

A. Vacation Rental (Tourist Home)- Permitted use in the C-1 and C-2 Commercial Zones, the following restrictions and requirements shall apply.

1. A City of Lava Hot Springs business license and non property tax permit is required.
2. On each Vacation Rental property, a visible sign must be posted with clear instruction for contacting the property owner or manager, with the following information:
 - a. Business Name
 - b. Area code and telephone number where assistance is available 24 hours a day.
3. Off-Street Parking Requirements. One (1) off-street parking space for every two (2) bedrooms shall be provided to accommodate such increase in intensity of use.
4. No campers, motor homes, tents, or other forms of camping will be allowed on premises.
5. All vacation rentals operating in a commercial zone will have one calendar year from the effective date of this ordinance to bring the property in compliance with these restrictions before a business license will be renewed for the following calendar year. Vacation rentals are not permitted in residential zones.

B. Bed and Breakfast – Permitted use in the C-1 and C-2 Commercial and R-3 residential zones, the following restrictions and requirements shall apply:

1. A bed and breakfast must be licensed and the owner's name residing on site must be specified on the business license application.

SECTION 4: Boundaries. Where uncertainty exists with respect to the boundaries of zones, the following rules shall apply:

- a. When indicated, boundaries of the Zone Map are approximately street or land survey lines. Said street or land survey lines shall be construed to be the zone boundaries.
- b. Where the indicated boundaries are approximate canal, natural streams or water courses, or other clearly defined natural features, the center line of said canal, natural stream or water course or natural feature shall be construed to be the zone boundary.

c. In the absence of any street, land survey, canal, natural stream, water course or other natural feature or measurement as forming the boundaries of any zone, the scale or measurement shown on the map shall be used to determine the zone boundary lines.

d. Whenever a street is vacated, and that street has not been given a zone classification, the land of the vacated street shall have the same zone classification as the land adjacent or abutting the land owned or on the same side of the center line or former street to whom such land reverts or in whom said land becomes vested by operation of law or otherwise.

e. In case of conflict between the tests and maps of this Ordinance, the maps shall prevail. In case of a conflict of the provisions of the various sections of the text of this Ordinance, the most stringent provisions shall prevail.

f. Where other uncertainties exist, the City Council shall interpret the map.

SECTION 5: Conformity and General Intent. Except as otherwise provided herein, land, buildings and premises in any district shall hereafter be used only in accordance with the regulations herein established for that district and the following general provisions:

a. No building shall hereafter be erected, constructed, relocated or structurally altered to have a greater height, proportionate coverage, or smaller yards or open spaces about than permissible under the limitations set forth herein for the district in which such buildings are located.

b. No yards, open spaces or off street parking space or loading space existing or provided hereafter about any building shall be reduced below the minimum requirements hereinafter set forth for such open space, parking space or loading space, are further reduced if already less than said minimum, requirements.

c. No open space, yard, or off street parking, space of loading space existing, or hereafter provided for a building or use, if necessary, to meet or partially meet the requirements of this Ordinance shall be considered as all or part of the yard, open space, off street parking space or loading space required for any other building or upon any other lot.

d. No lot held under one ownership at the effective date of this Ordinance shall be reduced in dimension or area in relation to any building thereon so as to be smaller than required by this Ordinance, or, if already less, the dimension or area of such lot shall not be further reduced.

e. If any development, building or structure shall be over any recorded easement, or a letter of approval from the grantee of said easement, must be submitted with the plans specifying that said development, building or structure does not infringe upon said easement.

f. No facilities or use can be permitted in residential areas unless it is clearly demonstrated that the proposed use will not result in smoke, dirt, litter, smog, air or water pollution, excessive noise or offensive odors beyond the limits of the facility.

SECTION 6: Yard and Setback Requirement Exceptions.

Certain structures within and projections into required yard areas are permitted as herein specified and shall not be considered to be obstructions or included into the calculation of coverage unless otherwise specified:

1. Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building; provided however, that none of these shall project into any required yard more than two (2) feet.
2. Exterior stairs of open design, provided that no such stairs shall project into a required front or side yard more than three (3) feet, and in any rear yard more than six (6) feet.
3. Fences, walls, and hedges are premised in any required yard or along the edge of any yard to the height of six (6) feet, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over three (3) feet in height. On a corner lot of any residential district, nothing shall be erected, placed, planted, or allowed to grow in any such manner as to materially impede vision between a height of three (3) feet and ten (10) feet above the center line grades of the intersecting streets bounded by the property lines of the intersecting streets bounded by the property lines of such corner lots on a line joining points along said property lines for thirty (30) feet.

SECTION 7: Nonconforming Uses.

1. Any use lawfully occupying a building or land of the effective date of this Ordinance, or of subsequent amendments thereto, which does not conform to the regulations of the district in which it is located shall be deemed to be a nonconforming use and may be continued. Maintenance and minor repairs necessary to keep a nonconforming use in sound condition during such continuance shall be permitted.
2. A nonconforming building may be enlarged or extended only if thereafter, the entire building is devoted to a conforming use.
3. No building partially occupied by a nonconforming use shall be altered in such a way to permit the enlargement or expansion of the space occupied by such nonconforming use.
4. No nonconforming use may be enlarged or extended in such a way as to occupy any required open space or land beyond the boundaries of the land beyond the boundaries of the lot on which it existed at the effective date of this Ordinance, nor may any such

nonconforming use displace any conforming use of the same building or on the same parcel.

5. Any nonconforming building destroyed by fire or other calamity to an extent of fifty percent (50%) or more of the appraised value may not be restored unless such restoration shall make the building a conforming building or any intended use shall be a conforming use; provided however, that nothing in this Ordinance shall be construed to prevent the restoration and resumption of former lawful use of any building that is damaged or partially destroyed by fire, or other calamity to the extent of less than fifty percent (50%), provided that such restoration is started within one calendar year and diligently prosecuted to completion.

6. Whenever a nonconforming use of land or building has been discontinued for a period of one (1) year, or whenever there is evidence of a clear intent to abandon a nonconforming use, such use shall not thereafter be reestablished, and the uses of the premises thereafter shall be in conformity with the regulations of the use district.

SECTION 8: Off-Street Parking and Loading Requirement.

1. When the intensity of use of any building, structure or premises is increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement specified as requiring parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

2. Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use.

3. Access to parking spaces as required herein for commercial and industrial uses shall be not less than twelve (12) feet wide and not more than forty (40) feet wide at the curb line.

4. No lawfully existing building shall be deemed to be a nonconforming building solely because of the lack of any such required spaces: provided, that space being used for off-street parking or loading in connection with any such building at the time of the effective date of this Ordinance shall not be further reduced in area or capacity.

5. When the calculation of the required number of spaces called for herein results in a fractional number, fractions equal to or greater than one-half (1/2) shall be adjusted to the next higher whole number of spaces.

6. Parking space requirements for a use not specifically mentioned shall be the same as for a use specified which has similar traffic generating characteristics.

7. Except as required for dwellings and motels, off-street parking facilities for several buildings, structures or uses, or for mixed uses, may be provided collectively

provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each of the buildings or uses.

8. Every open off-street parking area having more than four (4) parking spaces shall be hard surfaced, including access driveways.

9. Lighting used to illuminate off-street parking areas shall be directed away from residential properties, and such parking areas shall be effectively screened on any side adjoining property in a residential zone by a wall, fence, or hedge to a height of six (6) feet, except for the front yard setback area of the adjoining residential property, in which case the maximum height shall be three (3) feet.

10. Required parking spaces for dwellings shall be upon the same premises as the dwelling, and no parking space shall be located in any required front or side yard space.

11. Parking spaces as hereinafter set forth shall be provided for all Uses Allowed and Conditional Uses Permitted in any zone, provided that a greater number of spaces may be required in any case where a Conditional Use Permit is involved.

a. For each dwelling unit - one space, as defined herein, sufficient for a garage or carport.

b. For each dwelling unit in a multiple-family dwelling of four (4) units or less - one space as defined herein, sufficient for a garage or carport, provided however, that for each dwelling unit in a multiple-family dwelling of five (5) units or more, one space as defined herein, sufficient for a garage or carport shall be provided for each additional unit thereafter.

c. For each guest bedroom in a hotel, motel, club, lodging house, fraternity or sorority house - one parking space plus one parking space for each three (3) beds in a dormitory in the above.

d. For each four (4) beds in a convalescent, nursing or rest home, sanitarium or home for the care of children or the aged - one parking space; plus one parking space for each doctor assigned full time to the staff, plus two (2) parking spaces for each three (3) other employees.

e. For a hospital - one parking space for each one thousand (1,000) square feet of net floor area plus one parking space for each four (4) regular employees.

f. For a church, auditorium, theater, or sports arena -- one parking; space for each five (5), seats in the principal assembly room or area.

g. For floor space used by the public or by members in a social hall, dance hall, night club, pool hall, restaurant, or other similar enterprise or establishment - a number of parking spaces equal to ten (10) percent of the capacity in persons.

For the purposes of this section, capacity in persons shall mean the gross floor area divided by fifteen (15) square feet.

h. For a bowling alley -- two (2) parking spaces for each alley.

i. For a drive in theatre -- a reservoir space at the entrance containing one parking space for each ten (10) vehicles accommodated within.

j. Business offices, not otherwise specified -- one parking space for each two hundred fifty (250) square feet of net floor area.

k. Medical and dental office or clinic -- one parking space for each two hundred fifty (250) square feet of net floor area.

l. Mortuary -- twelve (12) parking spaces.

m. Retail stores, banks, and shops other than as specified below -- one parking space for each two hundred (200) square feet of net floor area in excess of two thousand (2,000) square feet; and for drive-in banks -- three (3) additional parking spaces for each teller window.

n. Retail sales, establishments handling only durable goods or bulky merchandise such as machinery, furniture or vehicles, personal service and repair shops, wholesale stores -- one parking space for each six hundred (600) square feet of net floor area in excess of two thousand (2,000) square feet,

o. For every building hereafter erected containing more than fifteen thousand (15,000) square feet in area and which is designed to be occupied by any use requiring regular receipt or dispatch of merchandise by truck, there shall be provided and maintained with adequate design to provide safe and efficient means of access and maneuvering, one loading space not less than thirty (30) feet in length and ten (10) feet in width, exclusive of access platforms and maneuvering areas.

p. Bed and breakfast -- one parking space for each two (2) bedrooms.

q. Vacation rental or tourist home- one parking space for each two (2) bedrooms.

SECTION 9: Mobile Homes and Travel Trailers Location.

Provisions pertaining to mobile homes and travel trailers shall not apply to the storage of travel trailers or campers on the site of a permanent residence.

CHAPTER 4
USE DISTRICTS

SECTION 1: R-2 Zone. The purpose of the R-2 Zone, Combined Residential Zone is to provide medium density residential development, well designed and properly located in the community pattern adjacent to shopping, recreation, cultural and other community facilities.

1. Uses Allowed:

- a. Single-Family Dwelling.
- b. Home Occupation as defined in this Ordinance.
- c. Accessory uses as regulated in this section.
- d. Temporary buildings as use is necessary for construction purposes for a period of not to exceed one (1) year.
- e. Schools
- f. Churches
- g. One sign not to exceed four (4') square feet in an area pertaining to the lease or sale of buildings or premises where the sign is located. This provision shall also apply to political signs during campaign periods. Signs for home occupations shall be limited to two (2) square feet in area, and shall be unlighted and attached flush to the building.
- h. Two-family and multi-family dwellings limited to not more than four (4) units.

2. Conditional Uses Permitted: The City council may, after proper notice and public hearing as prescribed in this Ordinance, permit the following uses where such uses are deemed essential or desirable to the public convenience or welfare. The City Council shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.

- a. Non-profit Community Clubhouse;
- b. Convalescent home; nursing home;
- c. Building for governmental or public utility functions;
- d. Multi-family dwellings limited to not more than six units.

e. Homes for ambulatory, aged, rest home, elderly housing and hospital.

f. One (1) sign not to exceed thirty two (32) square feet in area pertaining to the identification rent, sale or lease of the building or premises where the sign is located. Signs shall be nonrevolving and indirectly lighted. Signs may be permitted to exceed this size if allowed by Conditional Use Permit.

3. Height Regulations. Any building or structure or portion thereof hereafter erected shall not exceed two and one-half (2 1/2) stories or twenty-five (25) feet in height.

4. Setback Requirements:

1. Front yard: No building or structure shall be erected nearer than twenty (20) feet from the right-of-way line of the street: provided, when lots comprising fifty (50) percent or more of the frontage between two (2) intersecting streets are already developed with building having front yards with a variation of not more than fifteen (15) feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage. In no case shall a front yard of more than thirty (30) feet be required.

2. Side yard: No building shall be erected closer than ten (10) feet to any side property line; except corner lots shall maintain a twenty (20) foot side yard adjacent to the street which intersects the street upon which the building fronts.

3. Rear Yard: There shall be a rear yard having a depth of not less than twenty (20) feet.

5. Area Requirements:

1. The minimum lot area, for single-family and two-family dwellings - Five Thousand Five Hundred (5,500) sq. ft. except corner lots shall contain at least Seven Thousand Five Hundred (7,500) square feet.

2. The minimum lot area for each dwelling unit above that required for two-family dwellings shall be one thousand (1,000) square feet of land area for each additional unit.

3. Not more than forty-five (45) percent of the lot area may be covered by buildings or structures.

6. Accessory Uses:

1. Accessory uses are permitted if constructed either at the same time or subsequent to the main building. Such uses shall be limited to one story in height and shall not encroach upon the front or side yards.

7. Off-Street Parking Requirements:

1. For up to four units on a single lot, one space for each unit as defined in this Ordinance, sufficient in size for a garage or carport.

2. For other uses and additional residential units in the R-2 Zone, refer to this Ordinance.

SECTION 2: R-3 Zone. The purpose of the R-3 (multi-Family Residential) Zone is to provide for medium to high density residential development. This type of zoning pattern is intended to create transition area and buffer zones between commercial areas and low density residential development. It is also intended to permit higher density activities adjacent to more intensive community use areas.

1. Uses Allowed:

a. Those uses allowed in the R-2 Districts;

b. Multiple-family dwellings;

c. Boarding and rooming house; bed and breakfast;

d. Convalescent home; nursing home;

e. Home for ambulatory aged; rest home; elderly housing;

f. Hospital;

g. Club and lodge of a service and fraternal character when not operated for profit;

h. Nursery School;

i. One (1) sign not to exceed six (6) square feet in one area pertaining to the lease or sale of buildings or premises where the sign is located. This provision shall also apply to political signs during campaign periods. Signs for home occupations shall be limited to two (2) square feet in area, shall be unlighted and attached flush to the building

j. Up to two (2) signs of not more than 32 square feet each, identifying the structure or activity on the immediate land parcel. Such signs are to be an integral part of the design and use of the land parcel, shall be indirectly lighted, nonrevolving and non-animated.

2. Conditional Uses Permitted: The City Council may, after proper notice and public hearing as prescribed in this Ordinance, permit the following uses where such uses are deemed essential or desirable to the public convenience or welfare. The City Council shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.

- a. Those other uses requiring Conditional Use Permits and as regulated in the R-1 and R-2 Districts;
- b. Motels;
- c. Buildings for governmental activity and public utility structures;
- d. Office of a medical, professional or administrative character.

3. Height. Regulations: Any building or structure or portion thereof hereafter erected shall not exceed five (5) stories; or forty-five (45) feet in height, unless approved, by Conditional Use Permit.

4. Setback Requirements:

a. Front yard:

No building or structure shall be erected nearer than twenty (20) feet from the right-of-way line of the street; provided when lots comprising fifty (50) percent or more of the frontage between two (2) of the intersecting streets are developed with building having front yards with a variation of not more than fifteen (15) feet in depth, the average of such front yards shall establish the minimum front yard depth of the entire frontage. In no case shall a front yard of more than thirty (30) feet be required.

b. Side Yard.

No building shall be erected closer than five (5) feet to any side property line, except corner lots shall maintain a fifteen (15) foot side yard adjacent to the street which intersects the street upon which the building fronts.

c. Rear yard:

There shall be a rear yard having a depth of not less than twenty (20) feet.

5. Area Requirements:

a. The minimum lot area for single family and two-family dwellings – Five Thousand Five Hundred (5,500) Sq. Ft.; except corner lots shall contain at least Seven Thousand Five Hundred (7,500) Sq. Ft.

b. The minimum lot area for each dwelling unit above that required for two-family dwelling shall be one thousand (1,000) square feet of land area for each additional unit.

c. Not more than forty-five (45) percent of the lot area may be covered by building or structures.

6. Accessory Uses: Accessory uses are permitted if constructed either at the same time or subsequent to the main building. Such uses shall be limited to two (2) stories in height. Such uses shall be limited to two (2) stories in height and shall not encroach upon the front or side yards.

7. Off - Street Parking Requirements:

a. For up to four (4) residential units on a single lot, one space for each unit as defined in this Ordinance, sufficient in size for a garage or carport.

b. For other uses and additional residential units in the R-3 Zone, refer to said reference sections of this Ordinance.

SECTION 3: Regulations for the C-1 Zone. The purpose of the C-1 Zone is to provide distinct zones regulated to provide local commercial service needs and to restrict incompatible uses which may be better located in community or highway oriented shopping areas due to the size of the shopping center location within the community, and residential neighborhood areas being served in other factors.

a. Uses allowed:

- (1) retail stores and retail or personal service shops, banks, offices, hotels, motels, vacation rentals (tourist homes) and, restaurants;
- (2) clinics;
- (3) commercial and private off-street parking lots for passenger automobiles;
- (4) nursery schools, school for students or art, dramatics, dancing, music, business or secretarial work;
- (5) government or public utility facilities of a non-industrial character;
- (6) theatre (indoor)
- (7) mortuaries;
- (8) automobile service station;
- (9) boarding and rooming houses; bed and breakfast;

- (10) radio television and FM broadcasting stations, including aerials when made an, integral part of a principal building;
- (11) signs including outdoor advertising, excluding animated signs, which, are deemed to have a deteriorating influence on surrounding property. Signs of a questionable nature shall be considered by conditional use methods upon instigation by the person affected or requesting the sign;
- (12) accessory uses to be allowed;
- (13) vacation rental;

b. Conditional uses permitted. The City Council, after proper notice and public hearing as prescribed in this Ordinance, permit the following uses, which such uses are deemed essential or desirable to the public convenience or welfare. The Commission shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best interest of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.

- (1) bowling alley, dance hall or similar commercial establishments for public gatherings or recreational use;
- (2) auction establishment;
- (3) travel-trailer and recreational vehicle park;
- (4) automobile sales lot surface;
- (5) church;
- (6) club or lodge;
- (7) drive-inn theatre;
- (8) hospital;
- (9) school;
- (10) multi-family dwellings;

c. Height regulations. Any building or structure or portion thereof hereafter erected, shall not exceed five stories or forty-five (45) feet in height unless improved by conditional use permit.

d. Set-back requirements. No front or side yards shall be granted except when a building or a group of buildings abuts upon a residential district, a yard shall be provided on the side of a lot abutting the residential district having a width of not less than ten (10) feet. There shall be a rear yard with a depth of not less than fifteen (15) feet when abutting upon a residential lot. The rear yard may also be used to route street parking and loading:

e. Area requirements. There shall be no minimum lot sizes except that residential uses shall have the same area requirements as set forth in the R-3 Zone.

f. Accessory uses. Accessory uses are permitted if constructed at either the same time or subsequent to the main building. Such uses shall be limited to two stories in height and shall not encroach upon required set-back area.

g. Off-street parking requirements:

- (1) For up to four (4) residential units on a single lot; one space for each unit is defined in this Ordinance, sufficient in size for a garage or carport.

SECTION 4: Regulations for the C-2 Zone. The purpose of the C - 2 Zone is to establish distinct Zones regulated to fulfill general shopping center retail needs and travel or highway related service requirements within the community.

a. Uses allowed:

- (1) those uses allowed in the C-1 District as regulated therein;
- (2) automobile sales lot surface;
- (3) automobile sales and service;
- (4) trailer sales and rental;
- (5) club or lodge;
- (6) bowling alley, dance hall or similar commercial establishment as for public gathering or recreational use;
- (7) travel-trailer park;
- (8) taverns or lounges;
- (9) accessory uses to be allowed.

b. Conditional uses to be permitted. The City Council, may after proper notice and public hearing, as prescribed in this Ordinance permit the following uses where such uses are deemed essential or desirable to the public convenience or welfare. The Commission shall have the authority to impose such conditions and safeguards as it deems necessary to protect the best interests of the surrounding property or neighborhood for damage, hazard, nuisance or other detriment.

- (1) those other uses requiring conditional uses permits as regulated in C-1 District;
- (2) automobile and truck repair shop;

c. Height regulations. Any building or structure or portion thereof, hereafter erected, shall not exceed five (5) stories at forty-five (45) feet in height unless approved by the Conditional Use Permit process.

d. Set-back requirements. No front or side yards shall be required except that when a building or group of buildings abuts upon a residential district, a yard shall be provided on the side of the lot abutting the residential district having a width of not less than ten (10) feet. There shall be a rear yard with a depth of not less than fifteen (15) feet when abutting upon a residential zone. The rear yard may be used for off-street parking and loading.

e. Area requirements. There shall be no minimum lot sizes except that residential uses shall have the same area requirements as set forth in the R-3 Zone.

f. Accessory uses. Accessory uses are permitted if constructed either at the same time and subsequent to the main buildings. Such uses shall be limited to two (2) stories in height and shall not encroach upon required set-back areas.

g. Off-street parking requirements. For up to four (4) residential units on a single lot, one space for each unit as defined in this Ordinance, and sufficient in size for a car port.

CHAPTER 5 ADMINISTRATIVE PROCEDURES

SECTION 1: Amendment and Reclassification.

1. Procedure and Fees.

a. This Ordinance may be amended whenever the Council deems that amendment is required for public convenience or necessity, or for general welfare. Any amendment shall be enacted pursuant to this section and for purposes of this section, includes any measure to change district regulations, to add, repeal or amend any other provisions of this section or the whole of this Ordinance.

b. An amendment to the text of this Ordinance or to the official zoning map may be initiated by a resolution of intention by planning commission or the City Council or by an application of one or more of the owners of property affected by the proposed amendment.

c. Applications from a property owner shall be filed with the planning commission on forms prescribed by the planning commission, accompanied by such data and information necessary to assure the fullest presentation of facts. Applications shall contain the following information:

1. Name, address and phone number of application;
2. Proposed amending ordinance, approved as to form by the council;
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 commission showing property lines; thoroughfares, existing and proposed zoning and such other items as the commission may require;
8. A list of all property owners and their mailing addresses who are within three hundred feet 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 surrounding areas.

d. No application from an owner of property for the same general purpose concerning the same property which has been denied by the City shall be received or processed by the Secretary of the Council within twelve (12) months of such denial except by unanimous action of the City Council.

e. A filing fee as established by resolution of the City Council shall be paid at the time of the filing by an owner or owner's representative's application, but no fee will be required in the case of proceedings instituted by either the Council or the Planning Commission.

f. Zoning districts shall be amended in the following manner:

1. Request for an amendment to the zoning ordinance shall be submitted to the commission which 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 council may adopt or reject the ordinance amendment under the notice and hearing procedures as provided in this chapter; and

3. If the request is not in accordance with the adopted comprehensive plan, the request shall be submitted to the planning and zoning commission which may recommend and the council 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 provided in this chapter. The hearing on the comprehensive plan and the proposed change to the zoning ordinance may be held concurrently.

2. Commission Public Hearing

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

A. Zoning Ordinance Text Amendment. The commission, prior to recommending a zoning ordinance text amendment to the council, 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 a summary of 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 council.

B. Zoning Ordinance Map Amendment. The commission, prior to recommending a zoning ordinance map amendment, that is in accordance with the comprehensive plan, to the council, 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 a summary of the amendment shall be published in the official newspaper or paper of general circulation within the jurisdiction. Additional notice of the hearing shall be provided by mail to property owners by the applicant and residents within the land being considered, and within 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. The applicant shall provide the commission with the signatures of such property owners acknowledging that they have received such notice, or in lieu thereof, proof of mailing to each property owner. Notice shall also be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or residents, in lieu of the mail notification, sufficient notice shall be deemed to have been provided when the city provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site. 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 council.

3. Action by Commission. Within sixty (60) days from the receipt of the proposed amendment, the commission shall transmit its recommendation to the council. The commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment 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 and established goals and objectives .

4. Action by the City Council.

A. Within sixty (60) days after receipt of the written recommendations from the planning and zoning commission, the city council shall consider the same, and shall adopt, revise, or reject the amendment to the zoning ordinance or map as submitted and recommended to it by the planning and zoning commission. Following consideration by the city council, if the city council makes a material change in the recommendation or alternative options contained in the recommendation by the commission concerning adoption, amendment or repeal of the ordinance or a part thereof, the city council may conduct a public hearing upon the same, or may return the same to the planning and zoning commission for further public hearing taking into

consideration the material change, said public hearings to be in accordance with Section 67-6509, Idaho Code.

B. Upon granting or denying an application to amend the zoning ordinance, text or map, the council shall specify:

1. The ordinance and standards used in evaluating the application.
2. The reasons for approval or denial; and
3. The actions, if any that the applicant could take to obtain a permit .

5. Zoning upon annexation.

Prior to annexation of an unincorporated area, the council shall request and receive a recommendation from the planning and zoning commission on the proposed comprehensive plan and zoning ordinance changes for the unincorporated area. The commission and the city council shall follow the notice and hearing procedures provided in Section 67-6509, Idaho Code. Concurrently or immediately following the adoption of an ordinance of annexation, the council shall amend the comprehensive plan and zoning ordinance.

SECTION 2: Conditional Use Permits

A. Application--Filing--Contents. An application for conditional use permit shall be filed with the clerk by at least one owner of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

1. Name, address and phone number of applicant;
2. Legal description of property (with street address, if possible);
3. Description of existing use;
4. Zoning district;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional 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 conditional use meets the intent and requirements of this title;
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.

B. General standards applicable to conditional uses.

The commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location.

1. Will, in fact, constitute a conditional use as established in this title for the zoning district involved, in that it is not already defined as a permitted use in this Ordinance.
2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan and/or the zoning ordinance;
3. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
4. Will not be hazardous or disturbing to existing or future neighboring uses;
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protections, drainage structures, refuse disposal, water and sewer and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
9. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

C. Supplementary conditions and safeguards may be required. In granting any conditional use, the commission may prescribe appropriate conditions, bonds and safeguards in conformity with this title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this title.

D. Public hearing required--Notice of time and place.
 Prior to granting a conditional use permit, at least one public hearing in which interested persons shall have an opportunity to be heard shall be held before the commission. At least fifteen 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 or televisions stations serving the jurisdiction for use as a public service announcement. Notice shall be posted on the premises not less than one (1) week prior to the hearing. Notice of the hearing shall also be provided by the applicant by regular mail 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. Property owners or residents who reside outside the postal service zip code mailing limits of the city, and whom the commission determines may be impacted by the proposed change, shall be given notice of the public hearing by certified mail. When notice is required to two hundred or more property owners or residents, in lieu of the mailing notification, notice may be provided through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city at least fifteen (15) days prior to the hearing date in addition to site posting on all external boundaries of the site.

E. Commission action.

1. Within thirty days after the public hearing, the commission shall recommend to the council approval, conditional approval, or disapproval of the application for conditional use permit as presented. If the application is recommended to be approved or approved with modifications, the commission shall direct the administrator to transmit its recommendation to the council listing the specific conditions specified by the commission for approval.

2. Upon granting of a conditional use permit, conditions may be attached to a conditional use permit including, but not limited to, those:

- a. Minimizing adverse impact on other developments;
- b. Controlling the sequence and timing 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 the provisions for on-site or off- site public facilities or services;
- g. Requiring more restrictive standards than those generally required in an ordinance.
- h. Requiring mitigation of effects of the development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

3. Prior to granting a 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 conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. A conditional use permit is not transferable from one parcel of land to another.

4. The commission shall insure that any favorable recommendations for conditional use permits are in accordance with the comprehensive plan and established goals and objectives.

F. Council action.

1. Within thirty days after receiving the recommendations of the commission, the council shall either approve, conditionally approve or disapprove the application as presented. If the application is approved or approved with modifications, the council shall direct the administrator to issue a conditional use permit listing the specific conditions specified by the council for approval.

2. Upon granting or denying an application the council shall specify:

- a. The ordinance and standards used in evaluating the application;

- b. The reasons for approval or denial;
- c. The action, if any, that the applicant could take to obtain a permit.

G. Applicant notification. Within ten days after a decision has been rendered, the clerk shall provide the applicant with written notice of the action on the request.

H. Any owner of property within a three hundred foot (300') radius of the exterior boundaries of the subject property may appeal the decision of the City Council provided written notice of appeal is filed with the City Clerk within five (5) days after decision of the City Council.

I. Filing fees for applications for Conditional Use may be set by resolution of the City Council.

SECTION 3: Variance Procedure:

1. The Following Provisions Shall Apply in Considering Variances:

a. The City shall consider variances to the terms of this Ordinance which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship and under such conditions that the spirit of the Ordinance shall be observed and substantial justice done. In acting upon such variance the City shall make a full investigation and shall hold a public hearing, as herein specified and shall only grant a variance upon finding that the following are true:

(1) That the granting of the variance will not be in conflict with the spirit and intent of the Comprehensive Plan for the City, and will not effect a change in zoning;

(2) That there are exceptional or extraordinary circumstances or conditions, applicable to the property involved, or the intended use thereof, which do not apply generally to the property or class of use in the district, so that a denial of the relief sought will result in:

(a) Undue loss in value of the property;

(b) Inability to preserve the property rights of the owner;

(c) The prevention of reasonable enjoyment, of any property right of the owner;

(3) The granting of such relief will not be materially detrimental to the public health, safety or welfare, or injurious to the property or

improvements of other property owners, or the quiet enjoyment of such property or improvement.

b. An application for a variance may be initiated by one (1) or more property owners. Such application shall be filed with the Planning and Zoning Commission on forms prescribed by the City accompanied by such data and information, necessary to assure the fullest presentation of facts and shall include at least the following.

- (1) The name, address, and phone number of applicant;
- (2) Legal description of property and street address;
- (3) Description of nature or variance requested;
- (4) A narrative statement demonstrating that the requested variance conforms to the standards set forth in this Section:

(5) Names and addresses of all property owners and residents within three hundred (300) feet of the exterior boundaries of the land being considered.

c. A filing fee, as may be established by resolution of the City Council, shall be paid at the time of filing of the application by the owner or owner's representative.

d. The Planning and Zoning Commission shall hold at least one public hearing on each variance request following the same hearing and notice procedures as set forth for conditional use permits in Section 2, Chapter 5, Ordinance No. 1983-2. Within thirty (30) days after the public hearing for a variance request, the Commission shall transmit its recommendations for approval or disapproval to the Council. Within thirty (30) days after receiving the recommendations of the Commission, the Council shall approve, disapprove, or approve with conditions, the application for variance and shall give notice to the applicant within ten (10) days after the decision has been rendered.

e. Any owner of property within a three hundred (300) foot radius of the exterior boundaries of the subject property may appeal the decision of the City Council provided written notice of such an appeal is filed with the City Clerk within five (5) days after the decision of the City Council.

CHAPTER 6

ENFORCEMENT, SEVERABILITY, CONFLICT WITH OTHER LAWS, VIOLATION AND PENALTY, DEFINITIONS AND EFFECTIVE DATE

SECTION 1: Enforcement:

1. An enforcing officer shall be appointed by the Mayor and City Council and such officer shall be responsible for the enforcement of the provisions of this Ordinance.

SECTION 2: Severability;

1. If any provisions of this Ordinance or the application thereof to any persons or circumstances are held invalid, the remainder of the Ordinance or the application or provisions to other persons or circumstances shall not be affected thereby.

SECTION 3: Conflict with other laws:

1. It is not intended by this Ordinance to impair or interfere with other regulations of State or local law, or with private restrictions on the use of land, improvements, and structures. Where this Ordinance imposes greater restriction than that imposed by other law or private restrictions, this Ordinance shall prevail.

SECTION 4: Violation and Penalty:

1. Any person, firm at corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and shall be deemed guilty of a separate offense for each and everyday or portion thereof during which any violation of any of the provisions of this Ordinance is committed, continued or permitted.

2. Upon conviction of any violation of any of the provisions of this Ordinance, such person shall be punished by a fine of not more than one thousand (1,000) dollars, or by confinement in the county jail up to six (6) months, or both such fine and confinement.

CHAPTER 7
JURISDICTION

SECTION 1: Jurisdiction:

These regulations shall apply to the subdividing of all land within the corporate limits of the City and including property within one (1) mile of the corporate limits as required under Section 50-1306 of the Idaho Code and shall include the following:

1. The subdivision of land into two (2) tracts, lots or parcels for transfer of ownership.

2. The dedication of any street or alley through or along any tract of land.

3. The resubdivision of an original parcel of land into two (2) or more parcels except as provided in the exceptions listed below.

4. The development of condominium projects.

In condominium projects, as permitted by Idaho Code, the City Council may regulate and attach conditions to the design and location of buildings, the creation, shape and size, of condominium units, the provision and maintenance of open space, and off-street parking. Unless accepted pursuant to the provisions of this Ordinance, the City Council shall require the installation of public improvements and utilities for condominium projects as required under the provisions of this Ordinance. For purposes of the administration of zoning and subdivision regulations the City Council may consider a condominium

development as a single building, requiring one (1) front yard, two (2) side yards, a rear yard, and other regulations pertinent to a given lot; and may grant such exceptions as are necessary to the zoning and subdivision regulations to permit such development.

SECTION 2: All by-laws resolution, and ordinance in conflict with this Ordinance are hereby repealed;

SECTION 3: If a section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall no affect any of the remaining provisions of this Ordinance.

SECTION 4: This Ordinance shall be published in at least one issue of the Idaho State Journal, the official newspaper of the City; and this Ordinance shall be in full force and effect from and after its passage, approval and publication, the Council dispensing with the rule providing that Ordinances must be read on three different days, all as provided by law.

PASSED by the City Council of the City of Lava Hot Springs, Idaho this 20th day of July, 1983.

APPROVED by the Mayor of the City of Lava Hot Springs, Idaho this 20th day of July, 1983.

CITY COUNCIL OF THE CITY OF LAVA
HOT SPRINGS, a municipal corporation of Idaho.

BY _____
Mayor

(SEAL)

Attest:

City Clerk

