

# TITLE 10 DEVELOPMENT CODE

## CHAPTER 1 PURPOSE; GENERAL PROVISIONS

### SECTION:

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### **10-1-1: SCOPE:**

This chapter establishes the purpose of this title, identifies the enabling statute pursuant to which it is adopted, repeals conflicting ordinances, provides rules for the transition from previous regulations to this title, and establishes rules for the interpretation of this title. (Ord. 2019-01, 1-14-2019)

### **10-1-2: PURPOSE AND AUTHORITY:**

#### A. Purpose:

1. The purpose of this title is to promote the health, safety, and general welfare of the people of the County by fulfilling the purposes and requirements of the Local Planning Act of 2017 and implementing the Comprehensive Plan.

2. Statements of purpose accompany some provisions of this title, but the Comprehensive Plan provides the full statement of the County's purpose and intent in planning and zoning activities.

B. Authority: This title is adopted pursuant to the authority granted by the Local Planning Act of 2017. It includes the Zoning Ordinance required by Idaho Code section 67-6511 and the Subdivision Ordinance required by Idaho Code section 67-6513. It also fulfills the other requirements of the Local Planning Act, including the provision for variances required by Idaho Code section 67-6516, the adoption of procedures for processing permits required by Idaho Code section 67-6519, and the adoption of a hearing procedure required by Idaho Code section 67-6534. (Ord. 2019-01, 1-14-2019)

### **10-1-3: INTERPRETATION:**

A. Minimum Requirements: All provisions of this title shall be interpreted as the minimum requirements necessary to protect the public health, safety, and general welfare, and to implement the Local Planning Act and the Comprehensive Plan. This title is designed to be consistent with the Comprehensive Plan and should be liberally construed to achieve its purposes and intent.

B. Relationship to Other Laws: When future County ordinances, or State or Federal laws, impose additional standards on activities regulated by this title, the most restrictive standard shall govern.

C. Burden of Proof: The burden of proof shall, in all proceedings pursuant to this title, rest with the developer.

D. Liability: No individual, including Board of County Commissioners (BOCC) and Planning and Zoning Commission (PZC) members, or the Administrator or other County employees, who acts in good faith and without malice in the performance of duties assigned by this title, shall be held liable for errors or omissions in its administration. Any suit brought against such an individual shall be defended by the County and any judgment resulting from such a suit shall be the liability of the County.

E. Severability: If any provision of this title is held to be invalid by any court, the remainder shall continue in full force and effect.

F. Effective Date: This title shall become effective upon publication, as required by law. (Ord. 2019-01, 1-14-2019)

#### **10-1-4: IMPACT ON DEVELOPMENT IN PROCESS AND EXISTING USES:**

A. Conflicting Ordinances Repealed: All prior County ordinances are repealed to the full extent of their inconsistency with this title.

B. Vested Rights: A vested right is the right to proceed with development that was under construction or had obtained some form of final approval from the County before the effective date hereof. Vested rights to proceed with development initiated prior to the adoption of these regulations shall be established by:

1. Having obtained a building permit in full compliance with previous ordinances (such vested rights expire with the permit); or
2. Having obtained approval of a preliminary plat or conditional use permit in full compliance with previous ordinances (such vested rights expire with the approval or permit); or
3. Having recorded a final plat in full compliance with previous ordinances.
4. Approval of a preliminary plat or recording of a final plat establishes a vested right to the lot layout and road network design of the subdivision. It does not establish a vested right for the development of any lot.

C. Nonconforming Uses and Buildings: A nonconforming use or building is one that was in compliance with all applicable regulations at the time it was initiated or constructed, but that would not comply with one or more requirements of this title, if presented for approval after its effective date. Nonconforming uses and buildings may continue subject to the rules established herein.

1. Any nonconforming use abandoned for more than twelve (12) months shall be terminated. Abandonment shall not be measured by the owner's intent, but solely by the fact that use ceases for a period of twelve (12) or more months.

2. There shall be no limit on repair or maintenance activities for nonconforming uses or buildings, but no such activity shall increase the degree of nonconformity, except where the Administrator permits a minor increase in nonconformity to provide handicapped access to a

structure, as required by law. Repair and maintenance of nonconforming buildings will be subject to the requirements of the International Existing Building Code.

3. Changes in occupancy may be permitted in nonconforming commercial or industrial buildings, provided that the new occupancy is no more intense (with intensity being measured by traffic and noise generation, parking requirements, and similar factors) than the existing. Requests for such changes in nonconforming occupancies shall be processed as applications for a special use permit.

4. Nonconforming buildings may be replaced, but only where the effect of the replacement is to lessen the adverse impact of the nonconformity on the County and the degree of nonconformity is not increased. Requests for replacement of nonconforming buildings shall be processed as applications for conditional use permits, except that any nonconforming building destroyed by fire or other catastrophe may be replaced without a special use permit if the degree of nonconformity is not in any way increased and the replacement is completed within twelve (12) months of the building's destruction. There may be additional restrictions on the replacement of nonconforming buildings in the Airport Safety or Floodplain Overlay Districts.

5. A "nonconforming lot" is one that existed in distinctly separate ownership on or before the date this title was adopted, but that is not large enough to be further divided in compliance with this title. All nonconforming lots may be divided once, provided that both parcels created are one acre in size or larger, and capable of accommodating a use that is otherwise in full compliance with this title.

D. Impact on Private Agreements: This title does not nullify easements, covenants, deed restrictions, and similar private agreements, but where any such private agreement imposes standards that are less restrictive than those of this title, this title shall govern. (Ord. 2019-01, 1-14-2019)

#### **10-1-5: DEFINITIONS:**

This section provides definitions for important terms used in this title. Any dispute about the meaning of a term used in this title shall be resolved using the appeals procedure of subsection 10-2-3A of this title.

Terms include both their singular and plural forms; i.e., "building" includes "buildings", and, except where otherwise indicated, terms include their common derivatives; i.e., "adjacent" includes "adjoining". Verbs include all tenses; i.e., "are" includes "were" and "will be".

**ACCESSORY BUILDINGS AND USES:** Accessory buildings and use are those customarily associated with and clearly subordinate to a principal building or use. An "accessory apartment" is an independent (separate entrance, bathroom and kitchen) living unit within a single-family dwelling permitted by this title that is maintained solely for the use of family members.

**ACCESSORY DWELLING:** One single-family dwelling located on Agricultural or Commercial property and occupied by owner, manager, operator, or guard.

**ADJACENT:** Includes all parcels that directly border a lot and all parcels separated from the lot by only a public or private easement or right-of-way, including roads and irrigation canals.

**ADMINISTRATOR:** The County employee (employed either directly or via a contract with another agency or private firm) responsible for the administration of this title.

**AFFECTED PERSON:** A person or entity owning or having an interest in property or residing within one-half (1/2) mile of CAFO, or resident or property owner whose health, safety or property rights will be affected.

**AGRICULTURAL PROCESSING:** "Initial agricultural processing" includes all uses, as addressed in land use section of Power County's Comprehensive Plan, agricultural processing, and farm products - wholesale.

**AIRPORT:** Refers to the American Falls or Pocatello Airports, as indicated by the context. The following definitions are used in administration of the airport safety standards of chapter 10 of this title.

**Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds any height limitation established in chapter 10 of this title.

**Primary Surface:** A surface longitudinally centered on a runway. The primary surface extends two hundred feet (200') beyond each end of the runway and the elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

A. The width of the primary surface for the utility runway at the American Falls Airport is two hundred fifty feet (250').

B. The width of the primary surface for runway 16/34 at the Pocatello Airport is five hundred feet (500').

C. The width of the primary surface for runway 03/21 at the Pocatello Airport is one thousand feet (1,000').

**Runway:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.

**Tree:** For the purposes of chapter 10 of this title, any object of natural growth.

**ANIMAL, DOMESTIC:** Animals customarily reared as pets, including dogs, cats, rabbits, fish, etc., and farm animals.

**ANIMAL, FARM:** See definition of "livestock".

**ANIMAL UNIT:** Livestock shall comprise animal units as follows: cows and horses, one unit each, but one-half ( $\frac{1}{2}$ ) unit if less than one year of age; sheep, llamas, and goats, one-half ( $\frac{1}{2}$ ) unit each, but one-fourth ( $\frac{1}{4}$ ) unit if less than one year of age; rabbits and fowl, one unit for twenty-five (25) of any species or combination thereof.

**ANIMAL, WILD:** Animals that are customarily not reared as domestic animals or livestock.

**APPLICANT:** A person or legal entity seeking approvals or permits pursuant to this chapter having an ownership or interest in real property of a nature sufficient to determine the use to which the real property will be put as proposed in the applications for approval or permits.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

**BASE FLOOD:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year; also referred to as the "100-year flood". Designation on maps always includes the letters A or V.

**BEST MANAGEMENT PRACTICES (BMPs):** A practice or combination of practices determined to be the most effective and practicable means of preventing or reducing the amount of pollution generated as per Idaho Code section 25-3803(4).

**BOARD:** The Power County Board of County Commissioners.

**BOCC:** Refers to the Power County Board of Commissioners.

**BUILDING:** Any structure having a roof supported by columns or walls used or intended for supporting or sheltering any use or occupancy. For the purposes of chapter 11, specifically includes liquid or gas storage tanks.

**BUILDING BULK:** Building bulk may be measured and compared in terms of floor area ratio (the total square footage of all floors as a percent of lot size) or similar measures.

**BUILDING HEIGHT:** The vertical distance from mean natural grade to the highest point on a building. "Building height" excludes chimneys, vents, and antennas.

**CAFO:** As defined by Idaho Code section 67-6529, including the contiguous area or parcel of land or the use of a contiguous area or parcel of land, upon which there are confined or fed livestock, fish or birds in enclosures or as defined including a waste management system. (Areas or parcels of land are deemed contiguous when separated by County roads. Areas or parcels of land also are deemed contiguous if they are not adjacent, but are operated by the same persons or entity and a pipeline exists which is capable of conveying liquid waste to the nonadjacent land.)

**CAFO FACILITY:** Barns, corrals, pastures, feed storage, waste treatment systems, composting areas and waste lagoons and where there are confined or fed livestock, fish or birds in enclosures or ponds.

**CAFO FOOTPRINT:** The designated real property within which corrals, barns or other improvements, feed storage areas, animal feeding areas, waste storage areas including lagoons and any area that requires runoff containment (excluding farm ground), are located as defined within the NPDES permit or NMP of the facility.

**CAFO SITE ADVISORY TEAM:** A team comprised of representatives from the Idaho State Department of Agriculture (ISDA), Idaho Division of Environmental Quality (IDEQ), and an official designee of Power County Board of Commissioners and any other person or entity identified by the Board of Commissioners. The CAFO site advisory team may invite representatives of the State universities of Idaho and the following Federal agencies: U.S. Environmental Protection Agency (EPA), U.S. Natural Resources Conservation Services (NRCS), U.S. Geological Survey (USGS), and the United States Department of Agricultural Research Services (USDA), to participate as advisors/consultants to the team.

**CLEAR VISION TRIANGLE:** The area that provides the visibility required for safe access to public roads. "Clear vision triangles" shall be determined as follows: a) at local road intersections in residential subdivisions: the "clear vision triangle" includes the area defined by extending a line between two (2) points, one on each lot line paralleling the road, each of which

is thirty feet (30') from the intersection; b) at all other road intersections: the "clear vision triangle" includes the area defined by extending a line between two (2) points, one on each lot line paralleling the street, each of which is eighty feet (80') from the intersection; and c) at other points of access: the "clear vision triangle" includes the area defined by extending a line between two (2) points, one on the lot line paralleling the street, and one on the outer edge of the driveway, each of which is fifteen feet (15') from the point where the driveway enters the road.

**COMMERCIAL-INDUSTRIAL:** Includes all land uses as addressed in the land use section of Power County's Comprehensive Plan, PCCP, that include an outdoor or only partially enclosed work and/or materials handling and/or storage yard. All such uses shall be considered industrial.

**COMMERCIAL KENNEL:** Any location where one or more female dogs are kept primarily for breeding and the offspring thereof are sold for profit, and any location other than a veterinary hospital, where dogs are received for boarding and/or care.

**COMMERCIAL WIND TURBINE:** Total height exceeds one hundred fifty feet (150') or the nameplate capacity exceeds one hundred (100) kilowatts.

**COMMISSION:** Planning and Zoning Commission appointed by the Board.

**COMPATIBILITY:** Land uses need not be identical to be compatible, but must be sited, designed, constructed, and used in such a way that the normal functions and operation of neighboring uses do not seriously conflict, and so that their appearance is harmonious.

**COMPOSTING:** The biological decomposition of organic matter. It is accomplished in such a way to promote aerobic degradation. The process inhibits pathogens, viable weed seeds and odors.

**COMPREHENSIVE PLAN:** Refers to the County's comprehensive plan.

**CONFINED ANIMAL FEEDING OPERATIONS "CAFO" ANIMAL UNIT:** A term used to establish an equivalency for various species of animals and livestock densities in each zone district. A density of no more than one animal unit per twenty-one thousand seven hundred eighty (21,780) square feet, one-half (1/2) acre.

**COUNTY:** Refers to Power County, Idaho.

**DEVELOPMENT:** Used as a generic term covering any and all activities regulated by this title. The "developer" is, by definition, the owner of the parcel on which a development has been proposed, but an owner may appoint a representative for proceedings required by this title.

**DWELLING:** A habitable structure.

**EPCRA:** The Emergency Planning and Community Right to Know Act of 1986 created to help communities plan for chemical emergencies. It also requires industry to report on the storage, use and releases of hazardous substances to Federal, State, and local governments.

**FARM SERVICE:** Includes all uses as addressed in Power County Comprehensive Plan, agricultural uses, animal husbandry services, horticultural services, wholesale agricultural chemicals, and wholesale and retail farm equipment and supplies.

**FEEDLOT:** See definition of confined feeding operation.

**FLOOD INSURANCE RATE MAP (FIRM):** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary - Floodway Rate Map, and Community Panel No. 160109 0001C.

**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODWAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

**GROUND WATER VULNERABILITY AREA:** Any land within a special flood hazard area, any wetlands, and any area where the ground water table is, at least seasonally, within sixty inches (60") of the land surface.

**HAZARDOUS SUBSTANCES:** Any material regulated by EPCRA or similar Federal authorities.

**HIGHER DENSITY RESIDENTIAL USE:** Any residential structure designed for occupancy by more than two (2) families. Includes, without distinction, apartments, condominiums, duplexes, townhouses, and all other forms of attached housing. Also includes mobile home parks.

**HOBBY KENNELS:** Any location other than a veterinary hospital and a commercial kennel where four (4) or more dogs over four (4) months of age are kept.

**HOBBYIST WIND TURBINE:** Total height is less than sixty feet (60') and the nameplate under one kilowatt.

**HOME OCCUPATION:** A commercial activity conducted in a dwelling or a building accessory to a dwelling. "Home occupations", by definition, comply with the performance standards of section [10-17-2](#), appendix B of this title.

**INDUSTRIAL:** Includes all land uses as defined in Power County's Comprehensive Plan plus any use defined as "commercial". Specifically includes confined feeding operations and land application of wastewater or sludge.

**KENNEL:** Any place other than a veterinary hospital on which more than four (4) dogs and/or more than four (4) cats, of six (6) months in age or older are kept, or any number of dogs or cats are kept for the purpose of sale, placement, boarding, care, or breeding.

**LARGE-SCALE DEVELOPMENT:** Any subdivision or land use change, or group of subdivisions or land use changes created from the same parcel, that includes more than forty (40) proposed dwelling units or that potentially generates more than four hundred (400) automobile trips per day at peak occupancy. See section [10-13-7](#) of this title.

**LIVESTOCK:** Defined to consist of cows, inclusive of all bovine; sheep, inclusive of all ovine; goats, inclusive of all caprine; horses, inclusive of all equine; rabbits; and fowl, inclusive of all turkeys, chickens, ducks, geese and pigeons.

**LOCAL PLANNING ACT:** Idaho Code title 67, chapter 65 Local Land Use Planning refers to sections 67-6501 through 67-6537, and subsequent amendments.

**LOT:** "Lot" is used as both a generic term for a development site, and to refer to any parcel of land created and described by a record of survey or plat.

**LOT COVERAGE:** The percent of the lot covered by structures, including the main and all accessory buildings, and impervious surfaces, including patios, drives, and walks.

**LOT SPLIT:** Creation of any parcel of land for the purpose of sale, lease, rental or development.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Chapter found at subsection [9-1-6B1b](#) of this Chapter.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MINE:** A "mine" includes both the extraction of a mineral resource from the earth and its initial processing, including sorting and crushing. The conversion of a mineral resource to another form (i.e., smelting, burning) is an industrial activity, and must be located in an Industrial Zoning District. A "surface mine", as defined by the Idaho Board of Land Commissioners, is an area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits thereof and mining directly from the natural deposits thereby exposed.

**MINOR UTILITY INSTALLATIONS:** Includes cable television, electric power, and telephone cables and transmission lines, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to those transmission lines or pipelines.

**MOBILE HOME PARK:** Any lot used for occupancy by manufactured homes that will not be placed on a permanent foundation.

**NEW CONSTRUCTION:** Structures for which the "start of construction" commenced on or after the effective date hereof.

**OCCUPANCY:** The use of a building or lot. Occupancies are classified using the International Building Code, chapter 3 sections 301 through 312.



**OUTDOOR MATERIAL HANDLING OR STORAGE:** Stockpiling, storage, processing, or packaging of materials for any reason (it need not be for commercial use), including the long-term storage of construction materials and inoperative machinery or vehicles, that is not enclosed in a building and that is visible from a public street.

**PERSONAL WIND TURBINE:** Total height is less than one hundred fifty feet (150') and the nameplate is less than one hundred (100) kilowatts.

**PERSONAL-USE ENERGY PROJECTS:** Wind turbine(s) or solar array(s) with a total nameplate capacity of 200 kilowatts or less associated with single family dwellings.

**PLAT:** The legal map of a subdivision.

**PUBLIC NUISANCE:** The unreasonable, unwarranted, or unlawful use of one's property in a manner that substantially interferes with the enjoyment or use of another individual's property, without an actual trespass or physical invasion to the land. (Ord. 2019-01, 1-14-2019)

**PUBLIC SERVICE PROVIDER:** A "potentially affected public service provider" is any local agency, including special districts that provides any public facility or service that may possibly be affected by a proposed development. State law specifically states that school districts are potentially affected public service providers.

**PZC:** The Planning and Zoning Commission of Power County.

**RECREATIONAL VEHICLE:** As per Idaho Code section 49-119, "recreational vehicle" *means a motor home, travel trailer, fifth- wheel trailer, park model recreational vehicle, truck camper or folding camping trailer, with or without motive power, designed for recreational or emergency occupancy. It does not include pick-up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.*

**RESERVOIR HIGH WATER MARK:** The "reservoir high water mark" shall be at elevation 4,354.5 feet above mean sea level USC and GS datum. (Refer to the Placeholder Contract among the United States Bureau of Reclamation), the American Falls Reservoir District, and the Falls Irrigation District for storage in the American Falls Replacement Dam and for Construction and Operation and Maintenance of the American Falls Replacement Dam Program, 14-06-100-851 S, revision dated April 24, 1980, part IV article 25, page 28, paragraph (e) item (2) which says, "The water surface elevation of the replacement dam shall not exceed a maximum of 4,354.5 feet above mean sea level USC and GS datum".

**RESOURCE-RELATED RECREATION:** Resource-related recreational uses, as permitted in the A Zoning District, include facilities like spas associated with hot springs and cross-country ski centers and guest ranches: i.e., those that must be in a rural area to take advantage of the natural setting for recreation. For example, a bowling alley or amusement park is not a resource-related recreational facility.

**SETBACK:** The minimum distance between the property line and the outer wall, at grade, or any above grade extension, of the principal building on the same lot. The space within that distance is called a "yard".

A. The front setback is measured from the lot line paralleling a public street to the principal building. Corner lots have two (2) front yards.

- i. If property lot line is center of road, county set back will be considered from county right of way or side of road.

B. The rear setback is measured from the rear lot line to the principal building. The rear lot line is parallel, or more or less parallel, to the street. Corner lots have two (2) rear yards, but may treat either as a side yard for the purposes of this title.

C. The side setback is measured from the side lot line to the principal building.

**SIGN:** Any object or structure used to identify, advertise, or in any way attract or direct attention to any use, building, person, or product by any means, including, but not limited to, the use of lettering, words, pictures, and other graphic depictions or symbols. Specific types of signs are defined in section [10-17-1](#), appendix A of this title.

**SILVICULTURE:** The cultivation (but not processing) of trees, including planting, thinning, and harvesting.

**SINGLE-FAMILY DWELLING:** A detached structure designed for occupancy by one family. Also includes, as required by Idaho Code sections 67-6530 through 6532, "any home in which eight (8) or fewer unrelated mentally and/or physically handicapped persons reside; and which is supervised". Includes both conventional dwellings and manufactured homes that:

A. Comply with the National Manufactured Home Construction and Safety Standards Act (USC 5407 - 5426) HUD Manufactured House Construction Safety Act of 1974 or the International Building Code;

B. Have all hitches, wheels, chassis, and other running gear removed and are attached to a permanent foundation; and

C. Are permanently connected to on site or central utilities. Recreational vehicles and travel trailers shall not be used as single-family dwellings, except that a recreational vehicle or travel trailer may be used as a temporary dwelling to replace a home destroyed by fire or another catastrophe for a period of up to one year.

**Exception:** Manufactured homes placed in the Agricultural Zoning District need not have all hitches, wheels, chassis and other running gear removed, or be attached to a permanent foundation.

A "manufactured home" is a structure, manufactured pursuant to the authority of 42 USC 5407 - 5426 (the National Manufactured Home Construction and Safety Standards Act), that is transportable in one or more sections, and which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

**SITE PLAN:** A site plan illustrates all those details of a proposed development needed to demonstrate compliance with this title, including the location of existing and proposed property lines, easements, buildings, parking areas and points of access to streets, streets, sidewalks,

buffers and other measures designed to mitigate potential nuisances, signs, and other features of the site.

**SKETCH PLAN:** A general or conceptual site plan of a development. It must include the approximate location of all lot lines and streets, the approximate location and exterior dimensions of all structures, the approximate location, size, and circulation pattern of all parking areas, and the approximate location and dimensions of all landscaped buffers.

**SOLID WASTE:** Material being stored, packaged, or processed for ultimate disposal or recycling. Does not include crop stubble, manure, or other agricultural residues on the site on which they were produced. Does not include scrap materials used for erosion control or bank stabilization purposes.

**START OF CONSTRUCTION:** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STRUCTURE:** Any object, including any mobile object, constructed or installed by man, including, without being limited to, buildings, towers, tanks, cranes, smokestacks, earth formations, and overhead transmission lines.

**SUBDIVISION:** Division of a parcel into four (4) or more parcels of less than twenty (20) acres each for the purpose of sale, lease, rental, or development. A "minor subdivision" includes ten (10) or fewer lots and involves no dedication of public ways. The minimum lot size for a permitted residence is one acre. Certain land divisions are exempt from the permit requirements or this title; see subsection 10-2-2B of this title.

Exception: subdivisions of less than one acre which may require central sewer systems or division of a parcel into three (3) or fewer lots.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:

A. Before the improvement or repair is started, or

B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. (Ord. 87-03, 6-22-1987)

**TOTAL HEIGHT:** Total height of a wind turbine shall be determined by using a measurement which includes the total height of the structure plus the maximum size of the rotor radius.

USE: See definition of occupancy.

VARIANCE: According to Idaho Code section 67-6516, "A variance is a modification of the requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of structure or the placement of the structure upon lots, or the size of lots". Land use cannot, by definition, be varied. (Ord. 2019-01, 1-14-2019)

WIND FARM: A wind energy conversion system which converts wind energy into electricity through the use of a wind driven turbine generator. A system shall be deemed to be a "wind farm" or a "large" or "commercial" project if it consists of one or more wind turbines exceeding one hundred fifty feet (150') or one hundred (100) kilowatt nameplate capacity on the same or adjoining parcels. A "wind farm" or "large" project shall be required to meet the same criteria as a "commercial" project for the purposes of this chapter. Large or commercial wind conversion systems shall be required to follow the same criteria as set out herein for personal wind turbines as well as the commercial wind turbines. In the event of a conflict in regulations, the commercial section shall be the controlling section.

WIND TURBINE: Any machine used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind turbines consist of the entire turbine apparatus and any other buildings, support structures or other related improvements necessary for the generation of electric power. (Ord. 2010-01, 10-26-2009; amd. Ord. 2020-02, 2-24-2020)

#### 10-1-6: LAND USE CATEGORY SUMMARY:

Where text and chart may differ, the text will prevail. Because no list can be complete, the Planning and Zoning Administrator shall decide the status of a use. That decision may be appealed to the Planning and Zoning Commission as set forth in section [10-2-3](#) of this title.

Idaho Code section 63-109 and 63-301 has established the primary categories listed herein to aid in defining uses in this title, pursuant to the following table.

This chart is intended for reference purposes only. All site plans require approval in accordance with section [10-2-2](#) of this title.

#### USE REGULATIONS SUMMARY

P	=	Permitted by Planning and Zoning Commission with site plan approval; conditions may be imposed.
C	=	Permitted by conditional use permit.
N	=	Not permitted. Please refer to the Power County Comprehensive Plan.

	District						
	A	HI	LI	C	RR	RR- 3	REC
			District				
			A	HI	LI	C	RR

Residential uses:							
Attached housing - 3 or more dwelling units	N	N	N	N	C	C	C
Boarding house	N	N	N	N	C	C	C
Duplex	N	N	N	N	C	C	C
Institutional residential	N	N	N	N	C	N	N
Mobile home parks	N	N	N	N	C	N	N
Residential planned unit development	N	N	N	N	P	N	N
Single family residential	P	N	C	C	P	P	P
Wind turbine - small (monopole only)	P	P	C	C	P	P	P
Wind turbine - medium	P	P	C	C	C	C	C
Wind turbine - commercial	C	N	N	N	N	N	N
Non-residential uses:							
Administration and business offices	N	P	P	C	N	N	N
Airport/heliport, private	C	C	C	C	N	C	C
Auto body repair, auto towing	N	C	C	C	N	N	N
Auto parts and accessories	N	C	C	C	N	N	N
Auto parts, used, and/or rebuilding	N	C	C	N	N	N	N
Auto salvage (junkyard)	N	C	C	N	N	N	N
Auto wash	N	C	P	C	N	N	N
Automotive repair	N	C	C	C	N	N	N
Automotive sales	N	C	C	C	N	N	N
Bed and breakfast facilities: under 6 bedrooms	C	N	N	C	C	C	C
Bed and breakfast facilities: 6 or more bedrooms	C	N	N	C	C	C	C
Billboards (outdoor/adv.)	N	C	P	N	N	N	N
Boat sales	N	C	P	C	N	N	N
Boat service	N	C	P	C	N	N	N
Building contractor	C	C	P	C	N	N	N
Building maintenance service	C	C	P	S	N	N	N
Building material sales	N	C	P	C	N	N	N
Bulk storage of fuel or chemicals	N	C	C	N	N	N	N
Cabinet making	C	C	P	C	N	N	N
Campground	C	N	N	C	N	S	P
Cemetery	C	N	N	N	C	C	C
Circuses or carnivals, temp	P	P	P	C	N	N	N
Cocktail lounge or bar	N	C	C	C	N	N	C

Commercial building contractor	C	C	P	C	N	N	N
Commercial heating, cooling contractor	C	C	P	S	N	N	N
Commercial livestock	C	C	C	N	N	N	N
Commercial off-street parking	N	P	P	P	N	N	C
Component assembly	N	P	P	C	N	N	N
Concrete contractor	C	C	P	C	N	N	N
Construction products supply	N	C	P	C	N	N	N
Construction sales, service	N	C		C	N	N	N
Consumer repair service	N	C	P	C	N	N	N
Crop production	P	P	P	C	P	P	P
Day care center 1 - 6 children	C	N	N	C	P	C	C
Day care center 7+ children	C	N	N	N	N	C	C
Day care home 1 - 6 children	C	C	N	C	C	C	C
Day care home 7+ children	C	C	N	C	C	C	C
Dry cleaning central plant	N	C	C	N	N	N	N
Dry cleaning shop	N	C	C	C	N	N	N
Excavation contractor	C	C	P	N	N	N	N
Explosives, storage or manufacture	N	P	N	N	N	N	N
Farm and domestic animals for single family recreation, consumption or education	P	P	P	P	P	P	P
Farm equipment sales	N	C	C	C	N	N	N
Feed lots	C	C	C	N	N	N	N
Financial service	C	C	P	C	C	N	C
Fire station	P	P	P	P	C	P	P
Food processing	C	P	C	N	N	N	N
Freight terminal	N	P	P	N	N	N	N
Gas station	N	C	P	S	N	N	C
Golf course	C	C	N	C	C	C	P
Greenhouse, commercial	C	C	P	C	N	N	N
Hog farms	C	C	N	C	N	N	N
Home improvement store	N	C	P	C	N	N	N
Hotel and motel	N	C	P	C	N	N	C
Household cleaning business	C	C	P	C	C	N	C
Indoor entertainment, sports and recreation	N	N	C	C	N	C	C

Industrial equipment sales	N	C	C	C	N	N	N
Insulation contractor	N	C	P	P	N	N	N
Junkyards	N	C	C	N	N	N	N
Kennels: fully indoors	C	C	C	C	C	C	C
Kennels: outdoors	C	C	C	C	C	N	N
Landscape contractor	C	C	C	C	N	N	N
Machine shop	C	C	P	C	N	N	N
Manufacturing, processing, fabricating	C	P	P	N	N	N	N
Masonry supply	N	C	P	C	N	N	N
Mini storage	N	C	P	C	N	N	C
Mining	P	C	C	N	N	N	N
Mobile home and/or RV sales	N	C	C	C	N	N	N
Noise park	C	C	C	C	N	N	C
Nursery: retail	P	P	P	C	N	N	C
Nursery: wholesale	P	P	P	C	N	N	N
Outdoor entertainment, sports and recreation	C	C	C	C	N	N	P
Outdoor shooting range	C	C	C	C	N	N	C
Park	P	P	P	C	P	P	P
Professional offices	N	C	C	C	N	N	C
Public service facility	P	P	C	C	P	P	P

Pump and well drilling contractor	C	C	C	C	N	N	N
Railroad car/vehicle bed (as storage)	P	P	P	P	P	P	P
Recreational vehicle park	N	C	C	C	N	N	C
Recycling bin for collection	P	P	C	C	P	P	P
Recycling facility	N	P	P	C	N	N	N
Refining	N	P	C	C	N	N	N
Religious assembly	C	C	C	C	P	P	P
Research facilities	N	C	P	C	N	N	N
Residential remodeling contractor	C	C	C	P	N	N	N
Restaurant	N	C	P	C	N	C	C
Retail store	N	C	C	C	N	N	N
Road contractor	N	C	C	C	N	N	N
Schools: academic	C	N	N	N	C	C	C
Schools: vocational	C	C	C	C	N	N	C
Shooting preserves	C	C	C	C	N	N	C
Sign contractor	C	C	P	C	N	N	N
Stables, commercial	C	C	N	C	N	N	P
Truck sales	N	C	C	C	N	N	N
Truck service	N	C	C	C	N	N	N
Truck stop	N	C	P	C	N	N	N



Utilities transmission line	C	C	C	C	C	C	C
Utility installations	C	C	C	C	C	C	C
Veterinary services	C	C	P	C	N	N	C
Warehousing and distribution	N	C	C	C	N	N	N
Wholesale business	N	C	C	C	N	N	N
Wildlife preserve	N	C	N	N	N	N	N
Zoo	N	N	C	C	N	N	N

(Ord. 2019-01, 1-14-2019; amd. Ord. 2020-02, 2-24-2020)

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