

**ORDINANCE NO. 98**

**ORDINANCE OF THE CITY OF SWAN VALLEY, IDAHO; ENACTING A ZONING ORDINANCE FOR THE CITY OF SWAN VALLEY, IDAHO; ZONING THE CITY OF SWAN VALLEY, DIVIDING THE CITY INTO DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; REGULATING AND RESTRICTING THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED BY STRUCTURES, THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, COMMERCE, INDUSTRY, RESIDENCE AND OTHER PURPOSES; PROVIDING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THE ORDINANCE; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING FOR EFFECTIVE DATE OF ORDINANCE.**

**ZONING ORDINANCE OF THE  
CITY OF SWAN VALLEY**

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## SECTION 1

### PURPOSE, AUTHORITY AND GENERAL PROVISIONS

What This Section Does. This section establishes the purpose of this Code, identifies the enabling statute pursuant to which it is adopted, repeals conflicting ordinances, establishes vested rights for certain developments initiated prior to its adoptions, and establishes rules for its interpretation.

- A. Purpose. The purpose of this code is to promote the health, safety, and general welfare of the people of the City by fulfilling the purposes and requirements of the Local Planning Act of 1975, as amended, and implementing the Comprehensive Plan for the City of Irwin/City of Swan Valley.
- B. Authority. This Code is adopted pursuant to the authority granted by the Local Planning Act of 1975, as amended. It includes the zoning ordinance required by IC 67-6511 and the subdivision ordinance required by IC 67-6513. It also fulfills the other requirements of the Local Planning Act, including the provision for variances required by IC 67-6516, the adoption of procedures for processing permits required by IC 6519, and the adoption of a hearing procedure required by IC 67-6534.
- C. Applicability. All development activity shall comply with this code.
- D. Conflicting Ordinances Repealed. All prior ordinances are repealed to the full extent of their inconsistency with this Code.
- E. Relationship to Other Laws. When future city ordinances, or state or federal law, impose additional standards on the activities regulated by this code, the most restrictive standard shall apply.
- F. Private Agreements. This code does not nullify easements, covenants, deed restrictions, or similar private agreements, but where any such private agreement imposes standards that are less restrictive than those of this Code, the Code shall apply.
- G. Burden of Proof. The burden of proof in all proceedings pursuant to this Code rests with the developer.
- H. Interpretation. All Code provisions shall be interpreted as being the minimum requirements necessary to protect the public health, safety, and general welfare, and to implement the Local Planning Act and Comprehensive Plan. This Code is designed to be consistent with the Comprehensive Plan and should be liberally construed to achieve its purposes and intent.
- I. Nonconforming Uses, Buildings, Lots and Signs. A use, building, platted lot or sign that was legally existing on the effective date of this code, but does not comply with one or more of the requirements of this code is deemed legally nonconforming. They may continue, and under certain circumstances be modified, in compliance with the standards in Section 7, Nonconformities.
- J. Severability Clause. Should any section or provision of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional.

- K. Abrogation and Greater Restrictions. This Ordinance is not intended to repeal abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and any other ordinance, easement, covenant or deed restriction conflict or overly, whichever imposes the more stringent restrictions shall prevail.
- L. Effective Date. This Ordinance shall become effective from and after the date of its approval and adoption by the City Council of the City of Swan Valley, Idaho, as amended or provided by law.

## SECTION 2

### PLANNING AND ZONING COMMISSION/ ZONING ADMINISTRATOR

What This Section Does. This section establishes a planning and zoning commission and provides for the appointment of a zoning administrator.

- A. Planning and Zoning Commission. A planning and zoning commission is hereby established as authorized by IC 67-6504.
1. The commission shall consist of the five members appointed by the mayor and confirmed by majority vote of the council.
  2. As required by IC 67-6504(a), all appointed commission members shall have resided Bonneville, County, at least two years prior to their appointment and continue to reside in the city throughout their term on the commission.
  3. Appointed commission members shall serve terms of three years, except those members initially appointed, who shall serve terms, as set by lottery, of one, two, and three years, in order to provide for annual appointment of at least one member.
- B. Duties of Commission. The commission shall, as required by IC 67-6508, "conduct a Comprehensive planning process designed to prepare, implement, and review and update a Comprehensive Plan" for the City. The commission shall exercise all powers granted to it by the Local Planning Act and the City Council and fulfill all duties imposed by the Code.
- C. Zoning Administrator. The mayor may, subject to confirmation by a majority vote of the council, appoint an administrator. The administrator shall have the following duties:
1. Assist the public in understanding the applicability and requirements of this Code;
  2. Review submitted applications for completeness;
  3. Accept and process complete applications for permits required by this Code;
  4. Review applications for compliance with this Code, render final decisions on certain permits and prepare written reports and recommendations to the commission and council;
  5. Arrange for professional review of permit applications, as necessary;
  6. Prepare the commission's agenda, schedule hearings and other matters so as to limit meetings to reasonable lengths, while still providing timely processing of applications;
  7. Issue, or provide for the issuance of, certificates of compliance based on verification that the development has been completed in compliance with this code and the lawfully issued permit;
  8. Investigate possible violations of this Code and take applicable actions as authorized by this code;
  9. Properly account for all fees collected in the administration of this Code and prepare monthly and annual reports of building activity; and
  10. Perform all other duties assigned by this Code, including but not limited to the administration of the National Flood Insurance Program (NFIP).
- D. Liability. No individual (including council and commission members, the administrator, or other city employees) who acts in good faith and without malice in the performance of duties assigned by the Code shall be held liable for errors or omissions in its administration. A suit brought against such an individual shall be defended by the City and any judgment resulting from such a suit shall be the liability of the City.

## SECTION 3

### ADMINISTRATIVE PROCEDURES

What This Section Does. This section requires a permit for all land development and building activity in the City and establishes procedures for the administration of this Code, including the procedures for processing permit applications required by IC 67-6519 and the hearing procedures required by IC 67-6534.

#### General Permit Procedures

- A. Permit. A permit is required for any division of land, construction, reconstruction, or any land development or building activity, except as specifically exempted by table 3.1. Applications for permits shall be processed as described in this Section.
- B. Exemptions. Activities listed here are exempt from the procedural requirements of obtaining a permit but shall comply with all other applicable standards of this Code. No permit shall be required for:
  - 1. Agriculture. Clearing, grading and land disturbing activities for agricultural purposes, the maintenance and construction of irrigation works, and construction required for the maintenance (but not change of use or expansion) of an existing agricultural structure;
  - 2. Minor lot line adjustments except those in subdivisions;
  - 3. Remodels that do not alter the exterior dimensions of the building involved unless structural change as required by the IBC;
  - 4. Accessory building outside of stream corridors of less than 120 square feet in floor area and less than 10 feet in height;

C. Procedures Overview. Table 3.1, Procedures Overview, establishes the procedural steps required for each type of development application authorized by this code. A description of each step is established in subsequent subsections of the code. If there is a conflict between Table 3.1 and the text of the Zoning Ordinance, the text shall prevail.

TABLE 3.1 PROCEDURES OVERVIEW											
Types of Applications											
Administrative Steps	Lot Split	Sketch Plan	Prelim. Plat	Final Plat	Plat Vacation	Plat Amendment	Zoning Change	SUP	Map-Code Amendment	Variance	Appeal
Developer Submit Application	X	X	X	X	X	X	X	X	X	X	X
Completeness Review	X	X	X	X	X	X	X	X	X	X	X
Agencies Review			X				X	X			
Administrator Review	X	X	X	X	X	X	X	X	X	X	
Professional Review			X				X	X			
Schedule PC Review	X		X	X	X	X	X	X	X	X	
Public Hearing Notice	X		X	X	X	X	X	X	X	X	
Planning Commission Review	X	X	X	X	X	X	X	X	X	X	
Developer Notice	X	X	X	X	X	X	X	X	X	X	
Schedule Council Review			X	X	X	X	X	X	X		X
Optional Public Hearing			X	X	X	X	X	X	X		
Council Review			X	X	X	X	X	X	X		X
Developer Notice			X	X	X	X	X	X	X		X
Note: "X" identifies administrative steps required or may be required for each application type.											

D. Application Forms. An applicant for a permit shall submit the completed application on a form provided by the city, plans and all supporting documents as specified in the submittal checklist maintained by the city, and the required fee.

1. No incomplete application will be processed for review.

2. **Completeness Review.** The Administrator shall determine within ten business days of the submittal if the application materials contain all required components needed to commence review. If all required components are included, the Administrator shall declare the application complete and process the application pursuant to this code. If the Administrator finds the application to be incomplete, the application shall not be processed.
  - a. **Notify Applicant.** The Administrator shall notify the applicant in writing if the application is incomplete and specify the missing items.
  - b. **Remedy.** The applicant may remedy the incompleteness by submitting the missing application materials within 60 calendar days. If the missing items are not submitted within 60 calendar days the application is considered withdrawn, a reasonable portion of the fee will be returned based on hours of work completed on project.
  - c. **Resubmitted Application.** Upon resubmittal of a previously incomplete application the Administrator again has ten business days to determine if the application is complete.
- E. **Application Fees.** Application fees for each type of permit established by this Code shall be established by resolution of the council. The costs of any review and analyses required by the City shall be added to the regularly applied application fees and paid by the developer.
- F. **Review by Departments and Agencies.** After receipt of a completed application, the administrator may transmit a copy of the application and plat/plans to relevant County departments and to such other government agencies that have jurisdiction over, or interest in, the proposed development for review and recommendation to the commission. If no written recommendation or request for extension of time is received from any such department or agency within thirty (30) calendar days from date of transmittal, it shall be deemed that the department or agency has no comment on the application. The departments and agencies to which plats/plans may be referred include all pertinent County departments, district health department, commissions of other governing bodies having jurisdiction within the city, appropriate utility companies, soil conservation district, and such other departments or agencies as the administrator deems necessary in order to carry out the full intent of this code.
- G. **Review by Administrator.** The administrator or staff shall review the application, plat/plans and data as well as the recommendations received from the various departments and agencies to insure that said application and plat/plans are in conformance with all applicable rules and regulations. The administrator shall prepare a written report and recommendation to the commission based upon the review.
- H. **Professional Review.** The administrator may contract for professional review of applications, with the cost of that review being added to the application fee pursuant to section 3.E, above. Such reviews shall be prepared in a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
- I. **Scheduling for Commission.** When the administrator determines the application complete and has sufficiently completed a review, he/she shall schedule a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements can be met, and at which time will allow proper consideration of the proposed subdivision by all parties required to review the application.
- J. **Commission Review.** Upon completion of the public hearing, the commission shall review the plat/plan and supporting data, recommendations of the administrator, testimony of the

developer and the public. The commission shall determine within 60 calendar days of the close of the public hearing whether the proposed development is in compliance with the Comprehensive Plan and all requirements of this Code. Based upon their findings the commission shall recommend to the council approval, approval with conditions or denial of the development application. No application will be reviewed if the developer or a representative is not present.

- K. Developer Notice. The administrator shall notify the developer of the commission's decision within 10 business days of the decision. The notice shall be in writing and if the recommendation is for denial, the notice shall contain the commission's reasons for their decision.
- L. Schedule Council Review. Following the Commission review the applicant may resubmit drawings or additional information, as necessary, showing any modifications to the plans recommended by the Commission. Following receipt of any revised plans, or if no revisions are made, the administrator will place the application on the next available meeting of the Council. The council may hold an additional public hearing; the scheduling shall accommodate the public notice requirements of this code.
- M. Additional Public Hearing. The Council may hold an additional public hearing at its discretion but an additional public hearing is not required. If the council chooses to conduct a hearing, the hearing shall follow the notification and procedural requirements established in this code.
- N. Council Review. The Council shall review the record and determine within 60 calendar days of the preliminary plat/plan application first appearing on its agenda, or if a public hearing is held within 60 calendar days of the close of the hearing, if the plat/plan complies with this code and the comprehensive plan. Upon reaching its determination the council shall approve, Temporarily approve, or deny the plat/plan application. In so doing the Council shall review any and all conditions recommended by the Commission and uphold, overturn, or modify those conditions. The Council may place additional conditions of approval on the application. The Council and developer may agree to continue the application review to allow specific information to be submitted. No application will be reviewed if the developer or representative is not present.
- O. Developer Notice. The administrator shall notify the developer of the council's decision within 10 business days of the decision. The notice shall be in writing and if the application is denied, the notice shall contain the council's reasons for their decision.
- P. Conditions. Conditions may be imposed on the approval of any lot split, subdivision, minor subdivision, zoning permit, Temporary use permit approval, or variance, if:
  - 1. Such conditions are clearly designed to ensure compliance with one or more specific requirements of this Code; or
  - 2. The conditions are designed to mitigate negative impacts of the development on the community or neighboring properties; and
  - 3. A list of all conditions imposed is provided to the developer with the notification of the administrator's, commission's or council's decision.
- Q. Development Agreement. The development agreement will be entered into between the developer and the City Council.

- R. Approvals Valid For One Year. Permits shall be valid for one year from the date of approval, unless extended by a development agreement.

Additional procedural requirements are established below that apply to specific types of applications.

1. Administrator Review. Applications for changes of use, including the change of a non-conforming use to another non-conforming use applications shall be reviewed and decided upon by the commission and council pursuant to the provisions of this code.
2. In the case of applications in which the administrator has final authority, the administrator shall determine whether the proposed building or use is in compliance with this Code. If the administrator finds that the proposed building or use complies, the application for a permit may be approved. If the administrator finds that the proposed building or use does not comply the application for a permit may be disapproved. The administrator may impose conditions on the approval of a zoning permit pursuant to Section 3. P, above.
3. On any application in which the administrator has final authority, the administrator shall notify the developer of the decision within 10 business days of receipt of a complete application, except as provided in subsection 4, below.
4. The administrator may refer a zoning permit application to the commission for confirmation of its compliance or lack of compliance with this Code. All such referrals shall be placed on the agenda of the next regular commission meeting.
  - a. Conditional use permits. The purpose of the Conditional use permit procedure authorized by IC 67-6512 is to implement the Comprehensive Plan by requiring intensive public review of certain developments, and by requiring that such developments comply with performance standards designed to ensure their compatibility with neighboring uses, the landscape setting, and the capacity of public facilities and services. In addition, all applications for Temporary use permits shall comply with the following standards.
    - 1) The developer shall file an application for a sketch plan review if applicable as determined by the City Council.
    - 2) The administrator shall place the sketch plan review on the agenda for the next regular commission meeting, provided the meeting is not sooner than 30 calendar days after the submittal that will allow its proper consideration.
    - 3) The commission shall conduct a sketch plan review. Sketch plan review is not a regulatory proceeding, but an opportunity for the commission to be made aware of the proposal, and for the application to be informed of possible questions and the requirements of this Code. The sketch plan review does not vest development rights or imply approval of future applications.

- S. Appeals. Any decision of the administrator or commission may be appealed to the council using the procedure described here.

1. Any person aggrieved by a decision of the administrator or commission may appeal the decision to the council. For the purposes of this section, a person aggrieved shall be either a person who has submitted an application, requested an interpretation, or who is adversely affected by a decision on an application or by an interpretation. A recommendation is not an appealable decision.
2. The appellant shall file with the administrator a properly completed notice of appeal on a form provided by the city, and the required fee. If a notice of appeal alleges that a decision constitutes a taking of property without just compensation, the administrator shall direct the appeal to the City attorney.

3. The City attorney shall review all allegations that a decision of the administrator or commission constitutes a taking of property without just compensation. This review shall be based on the Idaho Attorney General's checklist and other information the City attorney deems appropriate, including the property rights policy of the Plan.
  4. The administrator shall place an appeal on the agenda of the next regular council meeting for which the notice requirements can be met and, if necessary, by which time the City attorney's review can be completed. Notice requirements for an appeal shall be the same as established in this code for public hearings.
  5. If a taking of property without just compensation is alleged, the council shall also consider the city attorney's review of the decision. No appeal shall be heard if the appellant or a representative is not present.
  6. The council shall determine whether the decision being appealed is in compliance with the Comprehensive Plan and this code, and affirm, modify, or overturn that decision accordingly.
- T. Variances. Variances are intended to provide relief for landowners who, due to some unique physical characteristic of their property that is beyond their control, would have no beneficial use of the property if the ordinance is strictly enforced. In addition to the general procedural requirements established in this section, applications for variances shall follow the procedure described here.
1. The commission shall approve a variance only upon finding that:
    - a. the need for a variance result from physical limitations unique to the lot on which the variance is requested; and
    - b. failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot is possible without a variance; and
    - c. the alleged hardship has not been created by action of the lot's owner or occupants; and
      - 1) Conditions may be attached to the approval of the variance,
      - 2) The commission's decision may be appealed to the City Council using the appeal procedure established in this code. Any person wishing to appeal a decision shall file a notice of appeal with the administrator within 10 business days of receipt of the decision.
- U. Code and Map Amendments. Any person may petition for the amendment of this Code or to the zoning map. In addition to the general procedural requirements established in this code, applications to amend this code or the zoning map also shall follow the procedure in I.C. 67-6511. The review of and action on comprehensive plan amendments, amendments to the official zoning map, and annexations may be processed simultaneously, provided the requirements of all procedures are fulfilled.
- V. Annexation. Proposals for annexation to the City of Swan Valley shall be processed in conjunction with an application to amend the official zoning map, as provided by IC 67-6525 and this Code. Upon approval, a certified copy of the annexation ordinance and a plat of the area annexed shall be filed with the county clerk and with the Idaho State Tax Commission.
- W. Temporary Use Permits. Temporary Use Permits may be issued for uses in the Agricultural Zones, Residential Zones, and Commercial Zones by the Administrator, subject to the conditions specified for each use. The following conditions must also be met, by determination of the Administrator: 1) The use is consistent with the City of Swan Valley Comprehensive Plan, 2) The

use makes adequate provision for access, circulation, water supply, drainage and sanitary sewage disposal, 3) The use is beneficial to the public health, safety, and general welfare.

1. Authorization. Authorization of a Temporary use permit shall be void one year after the effective date, unless a building permit has been issued, and substantial construction has taken place, or the use has commenced. However, the Administrator may extend the permit one (1) year longer if the Administrator finds that the facts on which the permit was approved have not changed substantially.
2. Uses. The following uses may be authorized by Temporary use permit providing the use complies with all conditions stated.
  - a. Rock Crushing - existing gravel pit:
    - 1) Crushing must not be closer than 1,200 feet from any dwelling, other than that of the owner.
    - 2) Crushing shall comply with all state and federal permits, and proof of any permits shall be submitted within thirty (30) days of issuance of the Temporary use permit.
    - 3) Crushing shall only operate during daylight hours - official sunrise to official sunset. If the crushing site is located in an area that would not cause interference with surrounding properties, as determined by the Board of Commissioners upon review of the application, consideration for extended hours may be granted.
    - 4) There shall be no excavation within one thousand (1,000) feet of the County road or adjoining property owner without written consent from that property owner. Said consent shall be submitted with the application.
  - b. Rock Crushing - at a temporary location other than a gravel pit:
    - 1) Crushing must not be closer than 1,200 feet from any dwelling, other than that of the owner.
    - 2) Crushing shall comply with all state and federal permits, and proof of any permits shall be submitted within thirty (30) days of issuance of the permit.
    - 3) Crushing shall only operate during daylight hours - official sunrise to official sunset.
    - 4) Crushing shall be limited to thirty (30) days in any calendar year.
    - 5) There shall be no excavation within one thousand (1,000) feet of the City road or adjoining property owners without written consent of said owners.
  - c. Rock Crushing - new gravel pit - Temporary use permit required.
  - d. Off Premise Signs.
    - 1) Off-premise signs shall comply with the City of Swan Valley Sign Ordinance.
  - e. Commercial uses on a residential lot in an accessory building.
    - 1) The use must be an accessory use to the residence; the residence must already be established, or a building permit shall be issued and construction begun (if after two (2) years the residence is not finalled for occupancy, the permit shall not be renewed).
    - 2) The lot area used for the entire business, including buildings, storage area, drives, and parking areas, shall not exceed twenty-five (25%) percent of the lot size, or one acre, whichever is smaller, excluding parking for employees but including parking for customers, whichever is smaller.

- 3) The business shall be enclosed completely in a building. Supplies may be kept outside if kept in an organized manner. If the business involves vehicle repair, no more than two (2) vehicles may be kept outside the building at any one time, excluding vehicles used by employees to transport to the job site.
  - 4) No more than five (5) persons, not residing on the property, per shift shall be employed in the business.
  - 5) If either employees or the public will use the site, structures shall meet all requirements of the International Building Code and International Fire Code for type of usage.
  - 6) No part of the business, except structures, but including storage, shall be located any closer than twenty (20) feet from the property lines of adjoining landowners. Structures shall be a minimum of five (5) feet from property lines of adjoining landowners. If storage is located near a residential building other than that of the owner, it shall be screened to prevent sight pollution.
  - 7) Vehicles for transporting products or materials shall be allowed on site only from 7 a.m. to 8 p.m.
  - 8) Sales from the property shall be limited to the hours of 7 a.m. to 8 p.m.
  - 9) The business shall be conducted in such a manner that it does not interfere with surrounding property owners so as not to pollute from air, noise, sight, or water. All effluent shall be contained on site.
  - 10) The use shall not create a nuisance because of dust, odor, noise, smoke, or gas. Any commercial or manufacturing use, which does not meet these requirements, may only be permitted by Temporary use permit.
- f. Temporary sales lots for Christmas trees or agricultural stands for products not grown on the premises:
- 1) Christmas tree sales shall be allowed from November 15th to December 25th each year.
  - 2) Agricultural stands shall be allowed from May 1st to October 31st each year.
  - 3) Adequate off-road parking shall be provided.
  - 4) Two on-premise signs may be placed, which shall not exceed thirty-two (32) square feet each, and must be removed when the operation closes. There shall be no flashing or intermittent lighting.
  - 5) Exterior lighting shall not interfere with surrounding neighbors and may be illuminated between the hours of 7 a.m. and 9 p.m. only.
  - 6) Access to the site shall meet City and State requirements.
  - 7) Music or other amplified sound shall be played between the hours of 7 a.m. and 9 p.m. only.
- g. Special Events. One time (or one day) special events, which exceed more than one hundred (100) total persons, including participants and spectators, may be permitted with recommendation by the Administrator, and approval by the City Council. Special events may include but shall not be limited to, concerts, entertainment, rodeo events, vehicle racing, or shows. Approval on special events will take into consideration sanitary facilities, vehicle access, spectator areas, surrounding property, hours and days of event etc. If any affected resident opposes a special event, an appeal may be made directly to the City Council for consideration.

3. Fees. Application for a Temporary use permit, including special events, shall be adopted in the fee schedule, which is non-refundable if the permit is denied. The fee for temporary Christmas tree lots and agricultural stands shall be established in the adopted fee schedule.
  4. Notice of Decision. The Administrator shall prepare and distribute a Notice of Decision as follows:
    - a. Mailing notice to the applicant or applicant's representative, and the owner of the property.
    - b. Mailing notice to property owners within one thousand, (1,000) feet of the property of intent to grant approval. Notification shall be made by delivery by first class mail by the US Postal Services.
    - c. Publication of the notice in the official County newspaper of general circulation.
    - d. Final approval will be granted unless a request for a public hearing is filed with the Planning and Zoning Administrator within fifteen (15) days of the date of the notice. If a public hearing is requested, the procedures shall be pursuant to the state statutes.
    - e. A statement describing the procedure for an appeal.
  5. Issuance of Permit. If there is no appeal filed within the time specified the permit shall be issued.
  6. Renewals. A permit shall be valid for two (2) years, and may be renewed for consecutive two-(2) year periods. Fee for a renewal shall be adopted in the fee schedule. Temporary permits must be renewed each year. If application for permit renewal is not received by expiration date, permittee must reapply as for a new permit.
  7. Appeals. If the permit or renewal is denied by the Administrator, the applicant may appeal the denial to the Planning and Zoning Commission for consideration of the permit. There shall be no fee for the applicant's appeal. If the Planning and Zoning Commission denies the appeal, the applicant may appeal the decision to the City Council.
- X. Public Hearing Procedures. Notice of Hearing. The city shall provide public notice of the hearing as required by the state statute.
- Y. Failure to Obtain a Permit. Whenever the Administrator becomes aware of an activity for which a permit is required by this Code, but for which a permit has not been approved, the Administrator shall notify the occupant (and owner, if they are not the same) of the site to immediately cease all unpermitted activity. Notice shall be given by posting on the site and by first class mail. If activity does not cease, the administrator shall ask the City Attorney to take prompt action, as authorized by IC 67-6527, to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition.
- Z. Certificate of Compliance. A Certificate of Compliance shall be issued before any building is occupied or use is commenced. A Certificate of Compliance indicates that an on-site inspection has shown that the building or use is in compliance with the issued permit. Occupancy of a building or commencement of use without a Certificate of Compliance shall be a violation of this ordinance. The issuance of a Certificate of Compliance shall not be construed as approval of any violation that may have been undiscovered during the inspection.

- AA. Temporary Certificate of Compliance. A temporary Certificate of Compliance may be issued to permit temporary use of a building in cases where weather prevents the prompt completion of required improvements and when the delayed completion does not create a threat to the health, safety or welfare of the occupants of the site or the general public. No temporary Certificate of Compliance shall be issued for more than 120 calendar days.
- BB. Enforcement Actions. The process for enforcement of this Code shall be as described here:
- a. The administrator shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and posting on the site. The notice shall describe the violation, cite the sections of this Code being violated, and order the occupant to attain compliance within 30 calendar days.
  - b. Any person who receives a notice of violation may request inspection by the Administrator to show the compliance has been attained within the 30 calendar days allowed, or:
    1. file a written request with the administrator for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 calendar days and culminated by an inspection to show that compliance has been attained; or,
    2. file an appeal of the Administrator's notice, following the appeals procedure as set forth in the code.
- CC. Penalties. Violations of this Code shall be misdemeanor, punishable by a fine in any amount not exceeding \$1,000.00, or by imprisonment for a period of not longer than 180 days, or by both fine and imprisonment. Each day in which a violation continues shall be considered a separate offense.

## SECTION 4

### DEFINITIONS

What this Section Does: This section provides definitions for terms within this ordinance.

- A. Purpose: To give this Ordinance its most reasonable application, the words or phrases used throughout the Ordinance, shall be interpreted so as to give them the meaning they have in common usage, unless specifically defined below.
- B. Rules of Construction: Whenever appropriate to the context, words used in the present tense include the future tense; words used in the singular include the plural and words used in the plural include the singular. The word "shall" is mandatory and the word "may" is permissive.
- C. Words and Terms Defined: For use in this Ordinance, certain words and terms or phrases are defined as follows:

ABUTTING	A common border with, or being separated from, such a common border by right-of-way, alley, or easement.
ACCESSORY	A use, building structure or part thereof, which is subordinate to or incidental to the main building structure or use on the same parcel of land.
ADMINISTRATOR	Means the Administrator of Planning and Zoning Department or his/her designee.
AERATION PLANT	Equipment or devices for the treatment of liquefied waste or sewage, capable of meeting the standards and requirements of the Idaho Department of Health/Department of Environmental Quality.
AFFECTED PERSON	One having an interest in real property, which may be adversely affected by the issuance or denial of a permit authorizing development.
AGRICULTURAL LAND	Any parcel of land presently being used for the primary purpose of raising, harvesting and selling crops or by feeding, breeding, management and sale of the products of livestock, poultry, fur bearing animals or honey bees.
AIRCRAFT LANDING STRIP	A private facility for the accommodation and servicing of aircraft, the use of which shall be limited to the owner or owners of the land where the strip is located.
AREA OF IMPACT	A geographical area surrounding the city defined by a legal agreement between the city and county.

APPEAL	A request from anyone for a review of the interpretation, administration or enforcement of any provision of this Ordinance by the City of Swan Valley Planning Commission or Planning Coordinator, including a request for a variance.
BED AND BREAKFAST	Means a dwelling or portions thereof, which include accessory buildings, where short-term lodging rooms, with or without meals, are provided, and where the operator resides in the residence.
BOARDING OR ROOMING HOUSE	A residential dwelling or portion thereof, which is used to provide lodging for two (2) or more non-family members for monetary compensation, services or other things of value.
BUILDING HEIGHT	The distance, measured vertically, from the undisturbed or natural ground surface at the mid-point between the front and rear walls of a building to the top of a flat roof or mansard roof, or to the mid-point between the eave line and the peak of a gable, hip, shed or similar pitched roof.
BUILDING OFFICIAL	The individual designated by the City Council to administer and enforce this Ordinance and the International Building Code adopted by Swan Valley, Idaho.
BUILDABLE AREA	The space remaining on a lot after the minimum open space requirements (coverage, yards, and setbacks) have been met.
CAMPER OR RV PARK	Any parcel of land which has been designated, improved or used for the parking of two (2) or more camper vehicles and/or tent campers for human habitation.
CERTIFIED FAMILY HOME	Home facilities for adult foster care, which shall provide for two or less clients.
CLEAR VISION AREA	The triangular area within the intersection of the linear extension of the lateral curb lines, or edges if no curb exists, of two (2) roadways, or a roadway and a railroad, and extending back from the point of intersection along each roadway or railroad a distance of forty (40) feet, except that where the angle of intersection is less than thirty degrees, a greater distance may be required as determined by the Bonneville County Road and Bridge Department.
CLUSTER DEVELOPMENT	A development with concentrated building in specific areas on a site to allow the remaining land to be used for recreation, common open space, agricultural, or preservation of environmentally sensitive areas.
COMMERCIAL FEED LOT	Any cattle, sheep, poultry, swine or other exotic animal feed lot which is not incidental or an accessory use to a farm or ranch operation and any farm or ranch feed lot. The principal purpose of such operation is to produce income.

COMMERCIAL USE	An Occupation or enterprise, which is carried on for profit upon the premises for which the use lies. Short term residential rentals of less than 30 days are considered a commercial use.
COMMISSION	The City of Swan Valley Planning and Zoning Commission.
COMMON OPEN SPACE	An area held for the use and benefit of the owners of dwelling units or lots in a PUD/MPC which is devoid of streets, parking, or buildings not intended for recreational or community purpose. Common open space does not include open space of individual lots within a subdivision, but may include open space as a buffer for commercial and industrial land uses, and a buffer on the perimeter of the PUD/MPC.
CONDITIONAL USE	Is a use, which may not be appropriate throughout the zoning district but which, when subject to special requirements (conditions), may be allowed by the Planning and Zoning Commission.
CONFINED ANIMAL FEEDING OPERATION (CAFO)	Corrals or holding areas for the primary purpose of holding or feeding farm animals for market, and not incidental to a farm or ranch (also called FEEDLOT).
CONSERVATION EASEMENT	A long-term easement defining an area to be preserved in agricultural or natural state.
CONVENIENCE STORE	A one story, retail store containing less than 2,000 square feet of gross floor area and is designed and stocked to sell purchases of a few items (in contrast to a supermarket).
COUNTY	Bonneville County, Idaho.
COUNTY COMMISSIONERS	The Board of County Commissioners of Bonneville County, Idaho.
DEVELOPMENT	Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving excavation or drilling operations located within the County.
DUPLEX	A unit for two families, which are separated by a common wall, with each dwelling unit having an independent access.
DWELLING	Any building or structure with facilities for cooking, sleeping and sanitation designed shelter or enclosure for person, conventional built, modular constructed, mobile home or portion thereof, remodeled for residential occupancy.

FARMING	The raising and harvesting of crops; feeding, breeding, and management of livestock; dairying; or any other agricultural or horticultural use including nurseries for wholesale, or any combination thereof. It also includes fisheries, including fishponds for breeding fish and fish hatcheries. It includes the construction and use of dwellings and other structures customarily provided in conjunction with farming, and further includes the disposal, by marketing or otherwise, of products produced on the premises.
FEEDLOT	Confined animal feeding operation (CAFO).
FLOOR AREA	The area included in the surrounding walls of a building, or portion thereof, exclusive of vent shafts and court, multiplied by the numbers of stories.
FLOOD PLAIN	An area defined by the FEMA on maps known as FIRM.
ENVIRONMENTAL HEALTH OFFICER	An individual, designated by the County Commissioners or the Idaho Department of Health to enforce health and safety laws or regulations.
GRADE	At ground level; the average of the landscaped ground level at the center of all walls of the building.
GREENBELT	Land retained in an open unimproved, natural condition or landscaped and improved as park facilities for public and private purposes. Ownership of such land may be private, with an easement or reservation for greenbelt use by deed restriction or it may be dedicated to the public. The designation of a greenbelt does not automatically provide for access by the public.
HOME BASED BUSINESS	Any use for gain or support carried on at a residence which does not constitute a Home Occupation.
HOME OCCUPATION	Any use for gain or support carried on as an accessory use within a dwelling or permitted accessory building which does not require any exterior building alterations, generate additional traffic, require additional off-street parking or otherwise create the appearance or impact of a commercial activity within the neighborhood.
HOTEL, MOTEL OR LODGE	A building providing three (3) or more rooms for the lodging of members of the public for compensation.

INDUSTRIAL OPERATIONS  
CLASSIFICATIONS

Industrial uses shall be classified under one of the following categories, which characterize the dominant feature of the operation for purposes of regulation under this Ordinance.

- a. Extraction. The removal of physical matter in a solid, liquid or gaseous state from its naturally occurring location. The initial step in utilization of or harvesting a natural resource such as oil, natural gas, coal, gravel pits and timber.
- b. Processing. Changing the physical state or chemical composition of products. The second step in utilization of a natural resource or product grown for consumption, such as refining petroleum, milling feed, canning or packaging food, mixing cement, blending fertilizer and crushing gravel.
- c. Fabrication. Changing the physical shape of material which has been processed to form a product for use or consumption and putting it into the final product. The final step in utilization of a natural resource or product, grown for consumption, such as manufacturing consumer goods, assembling equipment and vehicles.
- d. Storage. The keeping of material or products from extraction, processing or fabrication on a parcel of land, in a building, storage tank or other structure.
- e. Repair. Restoration of a used or damaged product to its original, physical shape or function, such as automobile, equipment and appliance repair.
- f. Material Handling. Loading and unloading goods, materials and products in bulk or large quantities, separate from the operations of extraction, processing, fabrication or storage.

LARGE DEVELOPMENT

Subdivisions within the city of Swan Valley with fifty (50) or more lots.

LOT

A parcel of land, held in separate ownership from contiguous lands or delineated as an individual parcel on record in the office of the County Clerk and Recorder, including, but not limited to, a part of any subdivision plat filed of record.

LOT LINE

The external boundary of lot:

**Front:** The boundary of a lot along a highway, road or street.

**Rear:** The boundary of a lot on the back side of the property or the side opposite the front lot line.

**Side:** The boundaries of a lot other than a front or rear lot line.

LOT, CORNER

A lot abutting on two (2) or more roads, other than an alley at their intersection.

LOT COVERAGE	The total area of a lot which is occupied by the physical improvements or uses such as buildings, structures, parking, loading/unloading, driveway and storage. Normal landscaping improvements are not computed into the lot coverage area.
LOT SLOPE	The gradient or configuration of the undisturbed land surface of a lot or building site, which shall be established by measuring the maximum number of feet in elevation gained or lost over each one hundred feet (100') or fraction thereof, measured horizontally in any direction between opposing lot lines. The relationship of elevation or vertical measurement shall be expressed as a percentile (%), as a means of quantifying the term lot slope.
LOT, NONCONFORMING	A lot existing on the effective date this ordinance is adopted that does not meet the minimum area requirement of the district in which the lot is located.
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.
MANUFACTURED (MOBILE) HOME	A residential 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.
MANUFACTURED (MOBILE) HOME PARK OR SUBDIVISION	A parcel (or contiguous parcels) of land, divided into two (2) or more manufactured home lots or spaces for rent or sale.
NEW CONSTRUCTION	Any structure for which the "start of construction" commenced on or after the effective date of this Ordinance.
NONCONFORMING STRUCTURES OR USE	A lawful existing structure or use, which existed prior to this ordinance is adopted, and is not conforming to the requirements of the zone in which it is located (this includes nonconforming lots of record).
OFF-STREET PARKING	An area developed and maintained on a parcel of land in an accessible and unobstructed condition for parking of automobiles by residents, visitors, employees and customers of uses permitted on the same or adjacent premises.
PERMIT	An instrument in writing, issued by the Planning Administrator, permitting a specific use of land, building or structure in conformance to regulations under this Ordinance, and setting forth any conditions to which such use is subject.

PLANNING ADMINISTRATOR	The individual designated by the City Council to assist them and the Planning Commission with the administration of this Ordinance and related State and City regulations.
PLANNING COMMISSION	The Planning & Zoning Commission for the City of Swan Valley.
PASTURE	An area suitable for the keeping of livestock or poultry, excluding the area of the residential use, and any required yard areas, as required by the zone classification.
PERSON	Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.
PERSONAL SERVICE	Any retail service, which provides service of an individual need, such as dry cleaning, and beauty or barbershops.
RIDING AREANA	Commercial building or land where horses are kept for riding including activities associated with riding horses; including horse shows, team roping, and similar activities.
RESIDENTIAL CARE FACILITY	<p>Any facility, however named, operated on either a profit or nonprofit basis for the purpose of providing a home with continuous protective oversight and necessary personal care services and facilities for three (3) or more persons not related to the owner, who are eighteen (18) years of age or older and are unable to care for themselves.</p> <ul style="list-style-type: none"> <li>a. The City of Swan Valley shall have only specialized Residential Care Facilities that provide continuous protective oversight, twenty-four (24) hour supervision and individualized habilitation plans for only one (1) of the following categories of residents: <ul style="list-style-type: none"> <li>i. Developmentally disabled;</li> <li>ii. Mental ill;</li> <li>iii. Chemically dependent;</li> <li>iv. Geriatric.</li> </ul> </li> <li>b. Residential/Assisted Living Facility shall not exceed a licensed capacity of fifteen (15) beds and shall, at a minimum, meet the regulations of the State under Chapter 39, Section 35.</li> </ul>
ROW HOUSE	A single-family dwelling, sharing one (1) or two (2) common side building walls with adjacent similar dwellings.

SALVAGE (JUNK) YARD	Any location which is maintained, used or operated for dismantling, storing, keeping, buying or selling discarded, scrapped or ruined vehicles, machinery, appliances, metal products, paper, synthetic petrochemical products or any other scrap or waste materials.
SCHOOL	A public or private preschool, elementary or secondary school or college.
SEPTIC TANK	A water tight, accessible covered receptacle, designed and constructed to receive sewage from a building sewer, to settle solids from the liquid, to an aerobically digest organic matter and store digested solids through a period of retention and allow the clarified liquids to discharge to other treatment units for final disposal.
SETBACK	The minimum distance between two given points, objects, structures or buildings.
SEWAGE TREATMENT WORKS	A system or facility for treating, neutralizing, stabilizing or disposing of sewage, which system or facility has a designated capacity to receive more than two thousand (2,000) gallons of sewage per day. The term "sewage treatment works" includes appurtenances such as interceptors, collection lines, outfall and outlet sewers, pumping stations and related equipment.
START OF CONSTRUCTION	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.
STORAGE FACILITY	A building or group of buildings intended for various sizes of individual self-contained units that are leased or owned for the storage of customer's goods or wares.
STREET	A right-of-way reserved for public use (other than alley) which also provides primary vehicular and pedestrian access to adjacent properties; it may also be used for utility access to adjacent properties. <ul style="list-style-type: none"> <li>a. Street, arterial: A street primarily used for through traffic, as designated on the Zone District Maps.</li> <li>b. Street, local: A street primarily used for access to adjacent properties.</li> </ul>

STRUCTURE	A walled and roofed building also including gas or liquid storage tank, that is principally above ground.
SUBDIVIDED LAND	Land located either within a subdivision, a plat of which has been filed in the office of the Clerk and Recorder of Bonneville County or land which has been specifically exempted from subdivision review by the Planning and Zoning Commission and City Council.
SUBSTANTIAL IMPROVEMENT	<p>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 dimension of the structure. Repair, reconstruction, or improvement of a structure, that cost the of which equals or exceeds fifty percent (50%) of the market value of the structure either;</p> <ul style="list-style-type: none"> <li>a. Before the improvement or repair is started, or;</li> <li>b. If the structure has been damaged and is being restored, the term does not, however, include either:</li> <li>c. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications, which are solely necessary to assure safe living conditions, or</li> <li>d. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.</li> </ul>
TOWNHOUSE/ CONDOMINIUM	One of the units in a multi-unit dwelling, each separately owned.
TEMPORARY	A period of time of six (6) months or less.
TOWER	A structure whose principal function is to support an antenna for transmitting or receiving communications. This excludes antennas or satellite dishes for private use in a residence.

USE

- a. Use, principal: The purpose or function for which a lot, structure or building is intended, designed or constructed or the activity which is carried on within said lot, structure or building; a lot is restricted to one (1) principal use.
- b. Use, accessory: A use, incidental and subordinate to the principal use of the lot, structure or building on the same lot.
- c. Use, by right: Use allowed in a particular zone district when listed thereunder with no further conditions or approval required other than the general terms and stipulations of this Ordinance.
- d. Use, special or conditional: Uses allowed only after a public hearing by the Planning Commission, which permit may be approved or denied. If approved, certain conditions and performance standards may be imposed and must be complied with by the permittee.

UTILITY

A structure or facility owned by a government entity, nonprofit organization, corporation, or other entity defined as a utility, and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil, telecommunications or electronic signals.

VARIANCE

A grant of relief from the development standards, but not the use requirements of this Ordinance, which then permits construction in a manner that would otherwise be prohibited by this Ordinance.

WATER IMPOUNDMENTS

Impoundments of water, including surface runoff stream flow, extracted ground water and water as a by-product of extraction or processing of mineral resources, energy generation or agricultural, municipal or industrial water supply or sewage treatment installation, with a surface area of one (1) acre or more, or a number of smaller impoundments on one (1) lot with an aggregate surface area of one (1) acre or more.

YARD

The open space on a lot (other than an interior court), unobstructed from the ground upward, except as otherwise provided in this Ordinance:

- a. Yard, front: A yard extending the full width of the lot, the depth of which shall be measured in the shortest horizontal distance between the front lot line and the nearest wall of the principal building; such distance to be known as the front yard setback.
- b. Yard, rear: A yard extending the full width of the lot, the depth of which shall be measured in the shortest horizontal distance between the rear lot line and the nearest wall of the principal building; such distance to be known as the rear yard setback.
- c. Yard, side: A yard extending from the front yard to the rear yard, the width of which shall be measured in the shortest horizontal distance between the side lot line and nearest wall of the principal building; such distance to be known as the side yard setback.

ZONING OFFICIAL

The Administrator or his/her designee.

RECREATION TERMS:

RECREATIONAL FACILITY

Shall mean facilities designed for recreational uses such as parks, playgrounds, athletic fields, pathways for pedestrians/bicyclists, and other similar uses. Recreational facilities shall not include primary buildings, but may include accessory buildings that are subordinate to and customarily incidental to the primary recreational use (such as maintenance and equipment storage buildings).

CAMPGROUND

A recreation park which provides facilities and space for tents, tent vehicles, or camping vehicles.

PICNIC PARK

A recreation park which is for day use only and provides no recreational vehicle or overnight camping spaces.

RECREATIONAL VEHICLE PARK

A plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational or vacation purposes.

CAMPING TRAILER

A vehicle unit mounted on wheels and constructed with collapsible partial side walls which fold when the unit is towed by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

MOTOR HOME

A vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the complete vehicle.

PARK TRAILER

A vehicle built on a single chassis, mounted on wheels, designed to provide seasonal or temporary living quarters which may be connected to utilities for operation of installed fixtures and appliances, of such a construction as to permit set-up by persons without special skills using only hand tools which may include lifting, pulling and supporting devices and a gross trailer area not exceeding 400 square feet when in the set-up mode.

TRAVEL TRAILER

A vehicular unit which has a roof, floor and sides and is mounted on wheels, but which is not of such size or weight as to require special highway movement permits when towed by a motorized vehicle and has a floor area of less than 220 square feet.

TRUCK CAMPER

A portable unit which has a roof, floor and sides and is designed to be loaded on and off the bed of a truck or pick-up truck.

SPACE

That portion of a park reserved for the location of a recreation vehicle, tent, tent vehicle or camping vehicle.

## SECTION 5

### ESTABLISHMENT OF ZONING DISTRICTS AND ADOPTION OF ZONING MAP

What this Section Does. This section creates zoning districts and overlay zoning districts and adopts an official zoning map for the City of Swan Valley. It also provides rules for the interpretation of zoning district boundaries.

- A. Zoning Districts. The following zoning districts and overlay zoning districts are established as part of this code to implement the purposes of this code and the Comprehensive Plan:

**COMMERCIAL GENERAL PURPOSE: (C)** The intent and purposes of the commercial zoning districts are to establish areas within the City of Swan Valley that are primarily commercial in character and to set forth certain minimum standards for development within those areas. The purpose in having more than one commercial district is to provide opportunities for a variety of employment and community service opportunities within the community, while providing a basic level of predictability. There is a rebuttable presumption that the uses set forth for each district will be compatible with each other both within the individual districts and to adjoining zoning districts when the standards of this title are met and any applicable conditions of approval have been satisfied.

1. Purpose: The intent of the (C) neighborhood business district is to provide for smaller scale retail and service activities frequently required by neighborhood residents on a day-to-day basis, as well as residential development as a secondary purpose, while still maintaining compatibility with adjacent residential land uses. Development scale and pedestrian orientation are important elements of this district.
2. Permitted Uses: Permitted uses are allowed in accordance with the land use table
3. Conditional Uses: Conditional uses may be permitted if specified in the land use table. The planning commission may, after notice and public hearing, permit the uses as referred to in the land use table, such uses are deemed essential or desirable to the public convenience or welfare. The commission shall have the authority to impose such conditions and safe guards, as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.

Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use application after review and approval of the county.

4. Height regulations: Any building or structure or portion thereof hereafter erected shall not exceed two and one-half stories, or thirty-five feet in height unless a greater height is approved by conditional use permit.
5. Setback and Lot Line requirements:

Front	50 feet from property line road/80 feet center line of road 60 feet from property line/ road if the road is a major or minor arterial
Side	10 feet from the property line.
Rear	15 feet from the property line.
6. Area requirements: There shall be no minimum lot size.
7. Accessory uses: Permitted uses are allowed in accordance with the land use table.

8. Access to a State or County Road: All access to city, county or state roads shall follow all access policies and ordinances as set by the city, county or state. Multiple accesses will be discouraged and shared access will be encouraged under these policies.

**RESIDENTIAL GENERAL PURPOSE: (R)** The purpose of this Residential Zones is to provide for and protect residential lands of a single-family residential environment, located conveniently near mixed use and commercial centers, by providing for an area of transition from agricultural to residential. To provide for gardening and family recreation opportunities, the keeping of a limited number of livestock and poultry as forth below, and similar rural activities on a limited scale. The minimum lot size and building location in this zone must be such that water and sewer facilities and locations for the same can be easily provided on an individual basis on each lot, without affecting surrounding properties adversely.

1. Purpose: The purpose of the (R) single-family residential zone is to preserve residential neighborhood, to prevent over-crowding of the land and to encourage the development of low-density area which are best suited for residential purposes. The density in this zone is five (5) acres per dwelling.
2. Permitted Uses: Permitted uses are allowed in accordance with the land use table
3. Conditional Uses: Conditional uses may be permitted if specified in the land use table. The planning commission may, after notice and public hearing, permit the uses as referred to in the land use table such uses are deemed essential or desirable to the public convenience or welfare. The commission shall have the authority to impose such conditions and safe guards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.
4. Width Requirements: There shall be lot width requirements for residential buildings the minimum width of lots shall be one hundred (100) feet.
5. Height regulations: Any building or structure or portion thereof hereafter erected shall not exceed two and one-half stories, or thirty-five feet in height unless a greater height is approved by conditional use permit.
6. Setback requirements

Front	50 feet from the property line
Side	20 feet from the property line
Rear	20 feet from the property line
7. Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use application after review and approval of the city.
8. Domestic Animal Allowance:

Number of domestic livestock within the Residential Zone (R)

  - a. Livestock including horses, cattle, llamas, sheep, goats, or relative livestock will be limited to two (2) per acre of land.
  - b. Domestic poultry or fowl limited to ten (10) per acre of land.

During normal crop growing season the allowed number of animals may be exceeded to maintain the property.

**MIXED-USE GENERAL PURPOSE: (M)** The mixed-use zoning district establishes an area within the City of Swan Valley allowing for a mix of limited commercial development with higher density residential development and sets forth certain minimum standards for development within this area.

1. Purpose: The intent of the (M) district is to provide for higher density residential development and the smaller scale retail and service activities frequently required by such neighborhoods on a day-to-day basis. The purpose in having this district is to allow for higher density residential development and commensurate employment opportunities in an identified area, providing baseline predictability for this type of development growth within the city. Pedestrian considerations are important elements of this zone.
2. Permitted Uses: Permitted uses are allowed in accordance with the land use table
3. Conditional Uses: Conditional uses may be permitted if specified in the land use table. Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use application after review and approval of the City.
4. Height regulations: Any building or structure or portion thereof hereafter erected shall not exceed two and one-half stories, or thirty-five feet in height unless a greater height is approved by conditional use permit.
5. There are no general setback or lot line requirements. Setbacks may be required for utilities, access or other similar consideration if alternatives are not available for specific properties or in specific areas.
6. Area requirements and septic requirements: There shall be no minimum lot size. This zone is located in an area of special concern (see Swan Valley City Ordinance 72 and Section 10 of this Ordinance (98)). In addition to or along with any other requirements of City ordinance, preliminary approval for all sewer and septic systems by the City is required, prior to obtaining a septic or sewer permit from District Seven Health Department, for any building, septic or sewer permit in this zone.
7. New construction and development in this zone shall be consistent with the standards and required improvements identified in Sections 3, 4 and 5 of the City of Swan Valley Subdivision Ordinance (Ordinance 97) as applicable. Construction and development are not otherwise be subject to the provisions or procedures of Ordinance 97.
8. Accessory uses: Permitted uses are allowed in accordance with the land use table.
9. Access to a State, County or existing City Roads: All new construction and structures must have access to a public right-of-way or road. All access to city, county or state right-of-way or roads shall follow access policies and ordinances as set by the city, county or state. Multiple accesses are discouraged, and shared access encouraged.
10. Domestic Animal/Livestock Allowances: Allowances and lots sizes for livestock are the same as those identified in the Residential Zone.

**AGRICULTURAL GENERAL PURPOSE: (A)** The purpose of the agricultural zone or district is to provide for and protect agricultural lands and uses. All other uses will be considered secondary and not allowed if they pose any interference or negative impacts upon the agricultural use of the land. The minimum lot size and building locations in this zone shall be of a size to allow for economically viable agricultural uses without affecting surrounding properties adversely.

1. Purpose -- This zone allows for agricultural uses with the development of residential lots that are ten acres in size or larger per dwelling unit.

2. Conditional Uses -- Conditional uses are allowed and may be permitted if specified in the land use table. The planning commission may, after notice and public hearing, permit the uses as referred to in the land use table, such uses are deemed essential or desirable to the public convenience or welfare. The commission shall have the authority to impose such conditions and safe guards as it deems necessary to protect the best interests of the surrounding property or neighborhood from damage, hazard, nuisance or other detriment.
3. Height regulations: Any building or structure or portion thereof hereafter erected shall not exceed two and one-half stories, or thirty-five feet in height unless a greater height is approved by conditional use permit.
4. Setback requirements
 

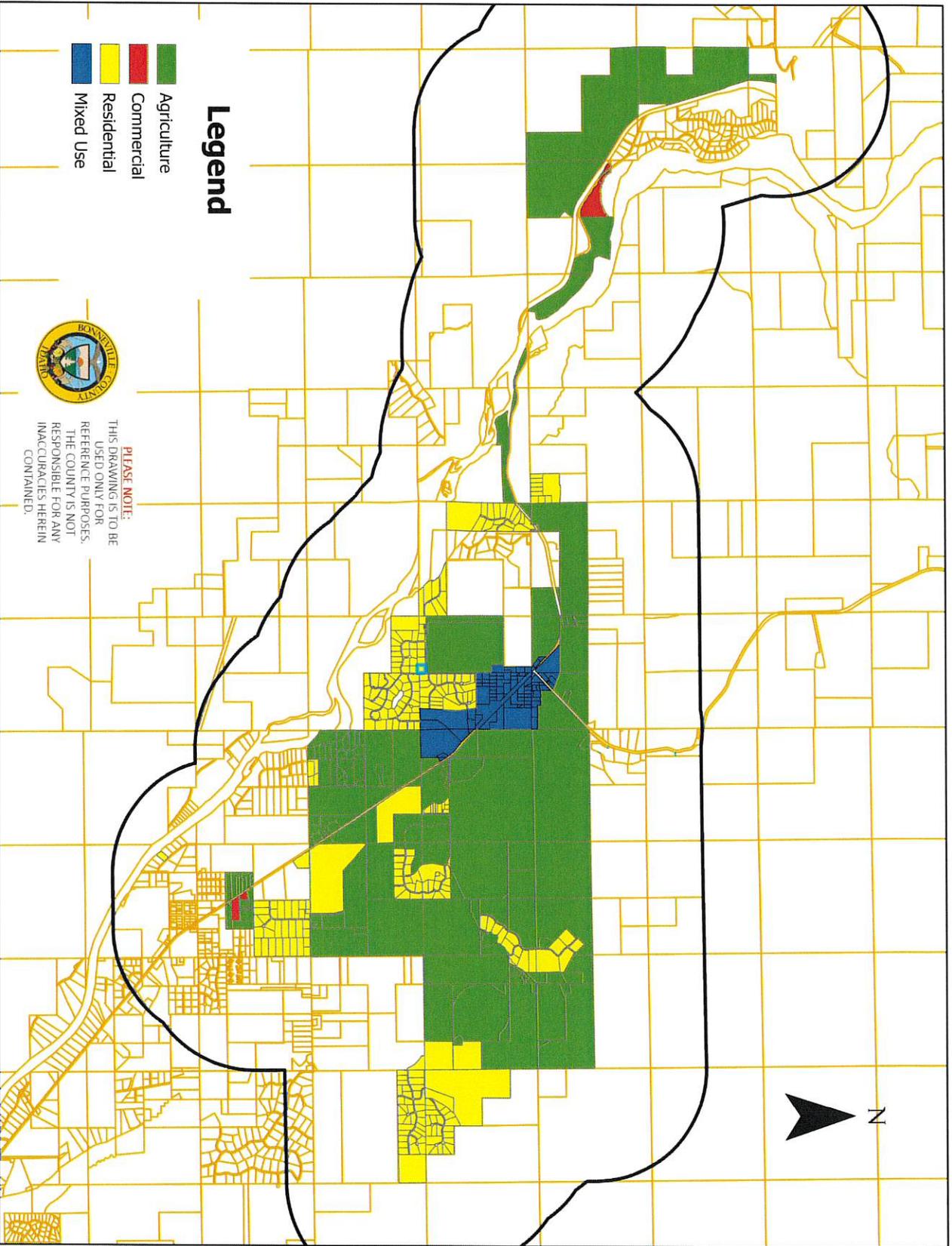
Front	50 feet from the property line
Side	20 feet from the property line
Rear	25 feet from the property line

B. Official Zoning Map. The Official Zoning Map of the City of Swan Valley is adopted by reference and made a part of this code. A dated copy of the map, certified to be correct by the signatures of the mayor and city clerk, shall be maintained for public inspection at the office of the city clerk. The locations and boundaries of the established zoning districts are as shown on the Official Zoning Map. The administrator shall maintain the Official Zoning Map and must revise the map to reflect any amendments approved by the council as soon as possible after the effective date of any such amendments. No unauthorized person may alter or modify the Official Zoning Map. The administrator may authorize printed copies of the map be made for public distribution and shall maintain printed or digital copies of all versions of the map for historical reference.

C. Official District Boundaries. Zoning district boundaries shall be as shown on the Official Zoning Map of the City of Swan Valley. The administrator shall use the following rules to determine the precise location of any zoning district boundary.

1. Boundaries Following Municipal Boundaries. Boundary lines shown as following or approximately following city boundaries shall be construed as following such limits.
2. Boundaries Following Streets or Alleys. Boundary lines shown as following or approximately following streets or alleys shall be construed as following the centerline of such streets or alleys.
3. Boundaries Following Section Lines, Platted Lot Lines, or Forest Service Boundaries. Boundary lines shown as following, or approximately following, section lines, platted lot lines, or forest service boundaries, or other property lines as shown on the Official Zoning District Map shall be construed as following such lines.
4. Boundaries Following Streams or Rivers. Boundary lines shown as following, or approximately following, the centerline of streams or rivers, or other continuously flowing watercourses shall be construed as following the thread of the channel of such watercourses. In the event of a natural change in the location of such streams, rivers, or other watercourses, the zoning district boundary shall be construed as moving with the thread. In any instance where the thread extends beyond a City boundary, the zoning district boundary shall become coterminous with the City boundary.

5. Boundaries Following Ridgelines. Boundaries following or approximately following ridgelines shall be construed as following such lines.
  6. Boundaries Following Bench Lines. Boundaries shown as following or approximately following bench lines shall be construed as following the top of the bench.
  7. Parallel Boundaries. Boundaries shown as separated from, and parallel or approximately parallel to any of the features identified in subsection shall be construed to be parallel to such features and at such distances as shown on the Official Zoning District Map.
- D. Boundary dispute. Any person who disputes the location of a zoning district boundary, as interpreted by the administrator, may request review of the administrator's decision using the appeals procedure of this code.



# Legend

-  Agriculture
-  Commercial
-  Residential
-  Mixed Use



**PLEASE NOTE:**  
THIS DRAWING IS TO BE  
USED ONLY FOR  
REFERENCE PURPOSES.  
THE COUNTY IS NOT  
RESPONSIBLE FOR ANY  
INACCURACIES HEREIN  
CONTAINED.



## SECTION 6

### ALLOWED USES

What this Section Does. This section establishes the permitted uses in each district and further establishes certain uses as conditional uses. The table also establishes specific performance standards that apply to certain types of development, addition to the general performance standards that apply to all development.

- A. Prohibited Uses. Any use not explicitly permitted by this Ordinance shall be prohibited.
- B. This Land Use Table establishes the allowed uses in each zoning district and specifies when specific standards are applied to certain uses. The table entitled "Land Use Table" identifies the specific standards that apply to the allowed use that is listed in the same row of the table. The individual row represents the defined zones in section 5. The (P) represents the permitted use with the zone. The (C) represents the those uses that are conditional within the zone and will require a conditional use permit as described in section 8. The blank areas represent the uses that are not allowed within the defined zone.

**Land Use Table**

Uses	Agricultural	Residential	Commercial	Mixed Use
Accessory Building	P	P	P	P
Accessory Uses	P	P	P	P
Agricultural Uses	P	C		C
Airfields/ Airports Landing Stripes	C	C	C	C
Amusement Parks			C	C
Animal Hospitals/ Veterinarian Service	P		P	P
Auction Establishments			P	C
Auto Sales & Service	C		P	C
Bed & Breakfast	C	C	P	P
Billboards				C
Bottling & packaging of products without processing or manufacturing on premises			C	C
Bowling Alley			P	C
Broadcast Tower	C		C	C
Business and Professional offices			P	P
Confined Animal Feeding Operation				
Cargo Containers	P		C	C
Cemeteries or mausoleums	C		C	
Child or day care centers	C	C	C	C
Churches/ Religious Temples	C	C	C	C
Clinics			P	P
Club/Lodges/Tavern			P	C
Clubs / Lodges which are non-profit and/or fraternal in nature			P	C
College / University	C		C	

Uses	Agricultural	Residential	Commercial	Mixed Use
Commercial fresh vegetable/ fruit stands Temporary or Seasonal	P	P	P	P
Commercial Signage			P	C
Communication Stations/Towers	C		C	
Construction Trades	C	C	P	C
Cottage Industries	P	C	P	C
Country Clubs	C		C	
Cultural Centers, museums & art galleries	C	C	P	C
Dog Kennels	C		C	C
Dwelling (secondary)	C	C		P
Dwelling (primary)	P	P	C	P
Elementary or Secondary Schools	C	C	C	C
Extraction of sand/gravel or other minerals	C			
Farm building directly related to agricultural uses	P	P	P	P
Farm Labor Housing	P	C		C
Financial institutions and offices			P	P
Food Processing	C		C	
Forestry	P	C	P	
Freight or trucking yards or terminals			C	
General Farming	P	P	P	C
General retail stores (up to 10,000 sq. ft.)			C	C
Golf Courses	C	C	C	
Gov't or Public Offices			P	P
Greenhouses and gardens or areas for the raising of agricultural crops for retail up to 5,000 sq. ft.	P	C	P	P
Grocery or convenience stores (up to 10,000 square feet)			C	P
Gun Ranges/Rifle ranges/ Pistol ranges	C			
Home Business	P	P	P	P
Home Occupation	P	P	P	P
Hospital			C	C
Hotels and motels			C	C
Laundry			C	C
Livestock Feed Yard	P			
Manufactured Home Parks		C	C	C
Manufacturing			C	C
Manufacturing non consumable products			C	C
Medical/dental clinic offices			P	C

Uses	Agricultural	Residential	Commercial	Mixed Use
Mini storage/Mini warehouses			C	C
Mortuaries			P	P
Municipal Sewer Treatment Facilities				
Nursing Home Etc.			P	C
Oil or natural gas drilling operation or the extraction of minerals	C			
Outdoor sale lots			P	C
Outdoor storage			C	
Parks & Playgrounds	P	P	P	P
Potato warehouses	C			
Private Garages	P	P	P	P
Private Tennis Courts	P	P	P	P
PUD				
Public fairgrounds and/or publicly owned rodeo arenas/ stables	C		C	C
Public Utilities	C	C	C	C
Public utility receiving or transforming stations, or oil field equipment yards	C	C	C	
R.V. Park			C	C
Radio, T. V., F.M. Stations			P	C
Ranches	P	P	P	
Recreational Buildings (up to 10,000 square feet)		C	P	P
Recycling Center			C	C
Restaurants and Cafés			P	P
Row House				C
Salvage Yards				
Sexually Oriented Business				
Temporary Bldgs. (1 year)	P	P	P	C
Temporary construction work bldg.	P	P	P	P
Temporary Dwellings	C	C	C	
Theaters and indoor entertainment			P	P
Truck & tractor repair			C	C
Townhouse				C
Wholesale display and sales			C	C
Wholesale facilities without processing or manufacturing on premises			C	C
Wind Energy	C	C	C	C
Zero lot lines		C	C	P

C. Similar Use Determination. If a proposed use is not listed in Land Use Table Allowed Uses, it may be considered an allowed use if the administrator determines the proposed use is sufficiently similar to one of the uses listed in the Land Use Table use allowed under this

determination shall be an authorized use with the same permissions and restrictions as the use to which it is determined to be similar. The administrator's decision to allow or disallow a proposed use under this determination may be appealed to the city council.

## SECTION 7

### NONCONFORMITIES

What this Section Does. This section provides for non-conforming uses and buildings within the zone to exist along as they were established on the date of the adoption of this ordinance. While the purpose of these rules is to help eliminate nonconformities, it is recognized that routine maintenance, repair and, in some cases, a change from one nonconforming use to another nonconforming use, or a replacement of a nonconforming building may be necessary to prevent community blight.

#### A. Nonconforming Uses and Buildings:

1. Any nonconforming use that ceases for sixty (60) consecutive months shall be deemed terminated and any future use of the property shall be in conformance with this code. A cessation of use shall not be measured by the owner's intent, but solely by the fact that the use ceases for a period of sixty (60) months.
2. There shall be no limit on repair or maintenance activities on buildings containing nonconforming uses or nonconforming buildings, provided that no such activity shall increase the degree of nonconformity, except that a minor increase in nonconformity may be permitted to provide handicapped access to a structure, as required by law.
3. A nonconforming use may change to another nonconforming use provided that the new use is no more intense than the existing nonconforming use. Intensity shall be measured by traffic and noise generation, parking requirements, level of activity, operational characteristics and similar factors.
4. Buildings that are nonconforming because they violate one or more dimensional standard of this code may be replaced, but only where the effect of the replacement is to lessen the nonconformity. Notwithstanding, any nonconforming building destroyed by fire or other catastrophe may be replaced if the degree of nonconformity is not in any way increased and if the replacement is commenced within 12 months of the building's destruction and diligently pursued to completion.

B. Nonconforming Lot. A legally platted nonconforming lot may be developed with a single-family house pursuant to applicable performance standards and procedural requirements of this code.

C. Nonconforming Buffers. There shall be no expansion of outdoor storage and materials handling areas, solid waste storage and handling areas, or parking areas into nonconforming buffers.

D. Nonconforming Signs. Any nonconforming sign that is not used for twelve (12) consecutive months shall be deemed terminated and the owner of the property on which the sign is located shall remove the sign. No permit shall be issued for the placement or erection for a new conforming sign on any lot or parcel on which there is a nonconforming sign.

## SECTION 8

### GENERAL PROVISIONS

What this Section Does: The purpose of this section is to provide guidance to the Planning Commission in making recommendations on the initial zoning of areas being annexed to the City and in evaluating petitions for amendments to the City's zoning map.

#### A. Amendment

1. Ordinance and Map may be Amended. This Zoning Ordinance, including the Map, may be amended, supplemented, changed, or modified from time to time, but all proposed amendments shall be submitted first to the Planning Commission for its recommendations which recommendations shall be submitted to the City Council for its consideration.
2. Petition to Zoning Administrator. Any person seeking an amendment of the Zoning Ordinance or Map shall submit a written petition to the Zoning Administrator. Petitions for amendments shall include:
  - a. a description of the proposed change, including a legal description of the properties involved in proposed zoning map changes,
  - b. a statement of reasons for the proposed change, and
  - c. a statement explaining how the proposed change is in accord with the City's comprehensive plan. The Planning Commission may also recommend zoning amendments to the City Council on its own initiative.
3. Fee. The filing fee for petitions for zoning amendments shall be set by resolution adopted by City Council.
4. Hearing. Upon receipt of a petition for a zoning amendment and the required fee, the Zoning Administrator shall schedule a hearing on the proposed amendment before the Planning Commission. All hearings on proposed zoning amendments shall be held within sixty (60) days of the receipt of the petition by the Zoning Administrator. Notice for the hearing shall be given as described in I.C. 67-6509.
5. Protest. In case of a protest against a change in the Zoning Ordinance, or Map, signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or those within a three hundred (300) foot radius of the exterior boundaries of such lots in such change, such amendment shall not become effective except by a favorable vote of at least one-half plus one ( $\frac{1}{2} + 1$ ) of the members of the full City Council.
6. Resubmittal. Any given petition to amend the Zoning Ordinance, including, but not limited to, changes in the boundaries of zones, shall not again be submitted to the Zoning Administrator within six (6) months following final action by the City Council concerning the same subject matter.

B. Basis for Zoning Additions to the City and Zoning Amendments

1. Written findings shall be prepared in support of all initial zoning and zoning map amendment decisions if required by Idaho Code Section 67-6535.
2. The zoning of all areas shall be in harmony with the City's adopted comprehensive plan, as required by Idaho Code Section 67-6511. Because the comprehensive plan provides only general guidance for zoning decisions, the Planning Commission shall also take the following considerations into account:
  - a. The potential for disruption of agricultural irrigation and drainage systems;
  - b. The potential for damage to neighboring properties or public facilities (including streets, culverts, bridges, and existing storm drains) from accelerated storm water or snow melt run-off;
  - c. The potential for traffic congestion as a result of development or changing land use in the area and need that may be created for wider streets, additional turning lanes and signals, and other transportation improvements;
  - d. The potential for exceeding the capacity of existing public services, including, but not limited to: schools, public safety services, emergency medical services, solid waste collection and disposal, other public utilities, and parks and recreational services;
  - e. The potential for nuisances or health and safety hazards that could have an adverse affect on adjoining properties; and
  - f. Recent changes in land use on adjoining parcels or in the neighborhood of the proposed zoning map amendment.

## SECTION 9

### SUPPLEMENTARY REGULATIONS TO ZONES

#### Effects of Supplementary Regulations

What this Section Does: The regulations herein set forth in this Section qualify or supplement, as the case may be, the regulations within zones appearing elsewhere in this Ordinance.

- A. **Sale of Lots Below Minimum Space Requirements.** No parcel of land which has less than the minimum width and area requirements for the zone in which it is located may be cut off from a larger part of land for the purpose (whether immediate or future) of building or development as a lot.
- B. **Clear View of Intersecting Streets and Ways.** For the purpose of insuring reasonable visibility and safety in the residential districts and in the business districts which require buildings to be set back from the right-of-way line, the triangle of land formed on any corner lot by drawing a line between the points on the two lot lines, which points are each thirty (30) feet from the intersection of said lot lines, shall be free from structure or other obstructions.

Any triangle of land formed along any street by drawing a line between a point on the lot line parallel to the street (which point is fifteen [15] feet from an alley or driveway which abuts the street) and a point on the near side of the alley or driveway (which point is fifteen [15] feet from the lot line) shall be free from structures or other obstructions, except as otherwise permitted in this section.

Trees in such triangles shall be trimmed from the ground level to at least seven (7) feet above the curb. Shrubs, fences and walls in such triangles shall not exceed three (3) feet in height.

- C. **Prohibition of Uses.** Uses of land which are not expressly permitted within a zone are expressly prohibited therein, except that the provisions of this Ordinance shall not apply to properties or land owned by the United States Government. Nevertheless, the provisions of this Ordinance are applicable not only to private persons, agencies and organizations to the full extent that they may be enforceable in connection with the activities of any such public agencies or organizations.
- D. **Commercial Parking Plan Approval.** At the time a building permit is requested for any commercial building or structure, or at the time any new use of land or occupancy that would require off-street parking is established, a site plan showing the proposed layout and development of parking and loading areas shall be submitted. That plan shall show all parking spaces and loading areas, all access drives and aisles, and other parking and loading area improvements required by this Ordinance. The Zoning Administrator shall disapprove site plans that are inconsistent with the requirements of this Ordinance. Where required parking is not provided on-site (See Parking Space Requirements Commercial Uses) the applicant shall submit a map showing the location of the proposed parking.
- E. **Required Parking for Commercial Uses.** The number of parking spaces to be provided by commercial uses is shown in Parking Space Requirement Commercial Uses. The requirements given in that table do not include the need for parking for service or delivery vehicles housed at the site and one space shall be added for each such vehicle.

## PARKING SPACE REQUIREMENTS COMMERCIAL USES

Except as noted spaces are per 1000 gross sq ft

USES	SPACES	USES	SPACES
Building Materials, Hardware, and Farm Equipment	3	Business Services	4
General Merchandise	4	Travel Services	4
Food Retail	4	Physician, Dental, and Out Patient Clinics	6
Automotive, Marine Craft, Aircraft, and Accessories Sales & Service.	4	Hospital Services	2 per bed
Apparel and Accessories	4	Rest Homes, etc	1 per 3 beds
Furniture, Home Furnishings, and Equipment	3	All Other Medical Services	4
Eating & Drinking Places	15	All other Professional Services	4
Other Retail Trade, NEC (Not Elsewhere Contained)	4	Contract Construction Services NEC	3
Other Retail Trade, NEC (Not Elsewhere Contained)	4	Miscellaneous Services NEC	4
Shopping Center - mixed uses Under 20,000 sq ft	5	Office Parks - Mixed Uses	4
Shopping Center - mixed uses Over 20,000 sq f	5	Commercial Places of Assembly, including Theaters	0.3 per seat
Finance, Insurance, and Real Estate Services	4	Bowling Alleys, Arcades, Health Clubs, Similar Amusements,	6
Personal Services - Beauty & Barber	6	Amusement Enterprises	4
Personal Services - All Other	5	Motels and Hotels	1 per sleeping room

F. Size of Parking Spaces. For the purposes of this Ordinance, a parking space shall be designed to be a minimum of ten (10) feet in width and twenty (20) feet in length. No part of a required parking space shall be used for driveways, aisles or other required improvements.

G. All parking will provide for accessible parking spaces as required by the ADA Standards for Accessible Design.

- H. Lighting. All sources of parking area illumination shall be directed and, when necessary, shielded so as not to produce direct glare on adjacent properties.
- I. Landscaping. Purpose: The purpose of the landscaping requirements in this Ordinance shall be to bring relief from heat, noise and glare through proper placement of green plants and trees, and to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings.
1. Required Landscaping Buffers. Wherever a development in the Residential or Agricultural Zone adjoins land zoned Commercial, or unincorporated land designated for commercial or industrial use in the City's Comprehensive Plan, a minimum ten (10) foot wide landscaped buffer shall be provided.
- J. Location of Commercial Gas Pumps. Gasoline pumps shall be set back not less than twenty (20) feet from any street line to which the pump island is at right angles, and fourteen (14) feet from any street line to which the pump island is parallel, and not less than twelve (12) feet from any residential zone boundary line. If the pump island is set on an angle on the property with respect to the street, it shall be so located that automobiles stopping for service will not extend over the property line. In no case shall gasoline pumps be set closer than fourteen (14) feet from any street line.
1. Canopies, when supported by columns may be located within the setback, but not closer to a street than fourteen (14) feet. Projection within fourteen (14) feet from a street shall be deemed to be a marquee.
- K. Commercial Flammable Liquid Storage. No flammable liquid may be stored unless, and until, said storage is found to be in compliance with the fire prevention code, and approved by the Fire Department of the City of Swan Valley.
- L. Home Occupations. The term "home occupation" applies only to such uses which may be conducted within a residential dwelling without in any way changing the appearance or condition of the residence. Before the Zoning Administrator shall issue a permit for a Home Occupation the applicant must submit a detailed plan of the business.

## SECTION 10

### SPECIAL PROVISIONS

What this Section Does: The provisions within this section of the Ordinance are in place to provide special protection to areas that maybe considered as sensitive areas. Special performance standards apply to all developments and specific performance standards are additional standards that apply to certain uses.

- A. Sensitive Lands. This section implements the comprehensive plan by establishing performance standards designed to protect the natural resources that contribute to the environmental quality and economic value of the city.
- B. Common Open Space. The total area of reserved common land within the development shall not be less than 20% of the entire parcel. The open space shall be shown on the recorded subdivision plan with appropriate notation that it shall not be used for future building lots and shall not be further subdivided.

The common open space shall be usable for low-intensity recreation, such as hiking, skiing and picnicking, agriculture or other outdoor living purposes, including structures accessory thereto, and for preserving the natural features of the site, and for active recreation use. The use of any open space may be further limited or controlled at the time of final subdivision approval where necessary to protect adjacent properties.

- C. River and Stream setback. All development along waters of the U.S and tributaries to the river or other streams shall be setback at least 75 feet from the tributary or stream.
1. Measurement. Setbacks shall be measured from the top of the bank of the river / stream or from the mean high-water mark of the, whichever is further from the thread or center of the watercourse.
  2. Setback. The protected setback shall remain free from development that includes but is not necessarily limited to buildings, parking, driveways, roads, open storage and similar land disturbing activities. Setbacks shall be left in or reclaimed to the native riparian vegetation. An exception to this setback is established for essential development.
  3. Notwithstanding the above established setbacks, essential roads and utilities may be approved to cross the setback when no reasonable alternative alignment exists that avoids the setback crossing. Furthermore, boat ramps and docks may be constructed in the river setback provided the ramp or dock occupies no more than 24 feet of the river edge. In waters of the U.S. permits from the pertaining state agencies are required.
  4. Wetlands. Jurisdictional wetlands may be disturbed only in compliance with a permit from the U.S. Army Corps of Engineers.
- D. Area of Special Concern: An area of special concern is any area where at least one of the following conditions exist: 1) There is evidence that ground water, at sometime of the year, comes within ten feet of the ground's surface at any location in the proposed development; 2) There is evidence that soil depth to fractured bedrock is ten feet or less or there exists a predominance of gravel or coarse grained sediment; or 3) The proposed development is within an area where the known nitrate concentration in ground or surface water is 5mg/liter or higher.

1. Determination of Area of Special Concern:
  - a. Demonstration of depth of groundwater to the ground surface can be made by excavating test holes and observing redoximorphic features (soil mottling), or by installing ground water piezometers (observation wells) and measuring ground water depths weekly over the period of known or suspected high ground water (spring runoff or irrigation induced high ground water early to midsummer).
  - b. Determining the level of existing nutrient and/or pathogen contamination can be made by reviewing existing ground and surface water quality data. Data sources include the Idaho Department of Water Resources Statewide Ground Water Monitoring Network; the Eastern Idaho Public Health Department, the Idaho Department of Agriculture ground water monitoring data, and the Idaho Department of Environmental Quality ground and surface water monitoring results, sub-basin assessments and Total Maximum Daily Load (TMDL) plans.
2. Water Quality Impact Analysis Required: A Water Quality Impact Analysis is required for any proposed large soil absorption system handling a volume equal to or greater than 2,500 gallons per day, and any of the following developments occurring in an area of special concern as defined above.
  - a. Subdivisions that contain more than two lots;
  - b. Commercial or industrial facilities generating 600 gallons or more of wastewater per day; and
  - c. Any development where a central septic system is proposed which serves two or more lots or buildings, which are under, separate ownership.
3. Water Quality Impact Analysis: If required, the developer shall have performed by an approved professional (as determined by the Idaho Department of Environmental Quality (DEQ)) a Level One Water Quality Impact Analysis to determine if the cumulative impact of the proposed on-site wastewater treatment (or central septic) systems will create a nutrient problem for ground or surface waters.
  - a. Procedures for Conducting a Water Quality Impact Analysis:
    - 1) A Water Quality Impact Analysis must be performed by a qualified party with experience in subsurface resource evaluation practices. The work is typically performed by environmental consultants with a background in geology, hydrogeology, soil science, geochemistry, or related engineering disciplines.
    - 2) Prior to performing a Water Quality Impact Analysis, the project representative and Water Quality Impact Analysis professional must meet with the DEQ and the Eastern Idaho Public Health Department to discuss the elements and objectives of the Water Quality Impact Analysis.
    - 3) The Water Quality Impact Analysis must be submitted to the DEQ and done in accordance with the criteria as outlined by the DEQ.

- E. Hillside Preservation of Natural Features: In order to preserve, retain, enhance and promote the existing and future appearance, natural topographic features, qualities and resources of hillsides, special consideration shall be given to the following:
1. Skyline and ridge tops;
  2. Rolling grassy land forms, including knolls, ridges and meadows;
  3. Tree and shrub masses, grass, wild flowers and topsoil;
  4. Rock outcroppings;
  5. Stream beds, draws and drainage swales, especially where tree and plant formations occur;  
and
  6. Characteristic vistas and scenic panoramas.
- F. Flood Channels: No building or structure, fence or other obstruction, may be constructed within any natural waterway which has been designated as a flood way by the City Council, and no such waterway may be otherwise reduced in effectiveness in any manner by the dumping of garbage or other refuse or earth, or by leveling, or by obliteration. All buildings shall be set back seventy-five (75) feet of the banks of such designated natural flood channels.

**SECTION 11**

**REPEAL OF EXISTING ORDINANCES**

All ordinances in conflict with this Ordinance are hereby repealed, specifically including, but not limited to, Ordinance 50.

**SECTION 12**

**EFFECTIVE DATE**

This ordinance shall take effect after its passage, approval and publication according to law. PASSED AND APPROVED BY THE MAYOR AND CITY COUNCIL OF SWAN VALLEY, Idaho, this 11 day of September, 2023.

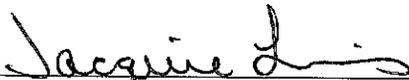


**SEAL**

BONNEVILLE  
COUNTY

Attest: (SEAL)

  
\_\_\_\_\_  
Michael Allen, Mayor

  
\_\_\_\_\_  
Jacquie Lewis, City Clerk