

ARTICLE VI. CONDITIONAL USE

SECTION 601. AUTHORIZATION – Uses designated as Conditional Uses in this Ordinance may be permitted only upon authorization by the Board in accordance with the standards and procedures established in this Article.

SECTION 602. GENERAL PROVISIONS – The following provisions shall be applicable to all Conditional Use Permits and applications therefor:

1. Conditional Use Permits shall be granted at the sole discretion of the board. Such permits shall not be considered a right of property ownership;
2. Conditional Use Permits shall be granted for the purposes of allowing a use on the property designated on the application, and are not transferable to other properties;
3. Conditional Use Permits shall be valid on the designated property regardless of ownership, so long as the use is not discontinued, expanded, or altered;
4. Conditional Use Permits shall be invalid immediately upon termination of the permitted use or upon cessation of said use for a period exceeding one hundred eighty (180) days, except under the following circumstances:
 - a. If cessation of a Use is the result of an act of nature, the Permit shall be held to be valid until such time as the User has voluntarily terminated the Use;
 - b. If the nature of the Use is the facilitation of timber harvest operations, the Permit shall be invalid upon cessation of said Use for a period exceeding three hundred sixty five (365) days.
5. Conditional Use Permits shall be granted for the use as specified on the application. Expansion or alteration of the permitted use, unless specifically allowed by the Board at the time of grant, shall render the Permit invalid.
 - a. Alteration of the permitted use shall require a new application, and the acquisition of approval in the same manner as required for a new permit, as provided by procedures contained herein.

SECTION 603. APPLICATION FOR A CONDITIONAL USE – No Conditional Use shall be granted unless the circumstances enumerated below can be demonstrated to exist:

1. The use has been denoted in Article IV as a Conditional Use in the District in which the property is located;
2. The use, if not a designated a Conditional Use in the District in which the property is located, is considered by the Board to be an appropriate usage of said property meeting the following conditions:
 - a. The proposed use is substantially similar to a designated Conditional Use, or;
 - b. The proposed use is in accordance with provisions governing the Purpose of the Zoning district in which the property is located, and;
 - c. The proposed use is in accordance with the general objectives of the Comprehensive Plan

SECTION 604. PROCEDURE FOR GRANTING A CONDITIONAL USE PERMIT – To obtain a Conditional Use Permit, the following procedure shall be followed:

1. The property owner or lessee shall file an Application for Conditional Use Permit with the Administrator, which shall include, at minimum:
 - a. A completed copy of the Application for Conditional Use Permit as designated by the Administrator.
 - b. A statement of the proposed use for the property.
 - c. If the applicant is the lessee, a written statement from the property owner approving of the proposed use.
 - d. A fee, as adopted by resolution of the Board of Clearwater County Commissioners.
 - e. Such other information as the Administrator, Commission or Board may request and that is necessary to determine the disposition of the application. This may include, but need not be limited to business plans, environmental impact statements, statements or licenses from affected County, State, or Federal agencies, maps plans, and diagrams, or other documentation as requested.
2. The Administrator shall cause the Application for Conditional Use Permit to be placed on the agenda of the Commission, and shall notify interested parties as prescribed in Article XV.
3. The Commission shall conduct a public hearing, as provided in Article XV, at which the applicant shall be present, to determine whether the proposed use meets the Standards stipulated in Section 605, and shall by majority vote recommend approval, recommend approval with conditions, recommend disapproval, or postpone a decision (until a new public hearing shall be called) on the application.
4. The Administrator shall notify the applicant in writing of the recommendation of the Commission within ten (10) days of said recommendation.
5. The Administrator shall cause the Application for Conditional Use Permit to be placed on the agenda of the Board, which shall notify interested parties as prescribed in Article XV.
6. Not more than thirty (30) days from receipt of the recommendation by the Commission, the Board shall consider the application, and shall approve, conditionally approve, deny, or postpone a decision regarding the application pending further hearing. When meeting to consider the application, the meeting shall be open to the public, but shall not be a public hearing, unless:
 - a. A public hearing has been requested in accordance with Section 1101 of this Ordinance; or,
 - b. A public hearing has been called by a motion of a Board member, and by majority vote or unanimous consent of the full board, at which time the Board shall observe the hearing and notification procedures provided in Article XV of this Ordinance;
 - c. The Board makes a material change to the permit as recommended upon by the Commission. In the case of such material change, further notice, which shall

include the nature of the change, and a public hearing, as provided in Article XV, shall be held by the Board prior to final action on the Conditional Use.

7. Upon approving or denying the Conditional Use Permit, the Board shall specify in writing to the applicant within ten (10) days of Board action:
 - a. The Ordinance and Statutory standards used in evaluating the application
 - b. The reasons for approval or denial
 - c. Any conditions to be met by the applicant to maintain compliance

8. Upon receipt of the notice of Board action:
 - a. If the Conditional Use has been approved, the applicant may commence usage;
 - b. If the Board has voted to disapprove the use, the applicant may appeal using the procedure outlined in Article XIII;
 - c. If the Board has voted to disapprove the use, and the applicant chooses not to appeal, commencement, expansion, or continuance of the use shall be a violation of this Ordinance.

SECTION 605. STANDARDS FOR APPROVAL – The Commission shall review the particular facts of the case and shall compare them with the following standards, and shall find adequate evidence that the proposed use complies with said standards.

1. The following standards shall apply to all uses:
 - a. Shall comply with all health regulations mandated by the State of Idaho;
 - b. Shall comply with all County, State, and Federal regulations;
 - c. Shall not create excessive additional requirements at public cost for public facilities and services;
 - d. Shall not create a public nuisance as defined by Idaho Code;
 - e. Shall be in accordance with general principles of the Comprehensive Plan, and shall be in no way materially detrimental to the Plan or this Ordinance;
 - f. Shall not involve uses, activities, processes, materials, equipment, or conditions of operation that are detrimental to the health of persons, the security or value of property, or the welfare of the public in general by reason of increase in traffic, noise, smoke, odors, pests, or dust which is considered by the Board to be beyond reasonable levels;
 - g. Shall be shown to provide material, commercial, cultural, recreational or other benefit to the people of the vicinity, or of the County in general;
 - h. Shall not cause devaluation of established, developed property;
 - i. Shall maintain a plan for remediation of adverse impact upon natural resources.

2. The following standards shall apply to the specific uses enumerated hereafter:
 - a. Where Farming is proposed as a Conditional Use:

- a. The number of Horses and/or Cattle allowed shall at no time exceed one head for the first one-half acre, and one head for each additional one-third acre (not including sucklings).
 - b. The number of Sheep allowed shall at no time exceed five (5) head of feeder sheep or three (3) head of breeding sheep for the first one-half acre, and ten (10) head of sheep for each additional acre (not including sucklings).
 - c. The number of Fowl allowed shall be decided by the Board, determined according to limitations by specific case.
 - d. The keeping of Goats or Swine in or adjacent to a residential zone shall be prohibited.
 - e. Animals shall be kept in such a manner as not to constitute a nuisance with respect to neighboring property.
- b. Where a place of Religious Worship is proposed as a Conditional Use:
- a. Lot size shall be adequate to allow proper parking and access;
 - b. Facilities may have, in addition to permitted signage, one (1) bulletin board not exceeding fifteen (15) square feet in area, to be set back no less than ten (10) feet from the edge of the street.
- c. Where a Mobile Home Court is proposed as a Conditional Use:
- a. The minimum lot area of the entire Mobile Home Court shall be two (2) acres;
 - b. Individual lots within the Court shall have an area of not less than five thousand (5000) square feet, exclusive of roadways, recreation areas, common areas, and other accessory facilities.
 - c. Two (2) parking spaces shall be provided for each individual lot. In addition, Guest parking spaces shall be provided in the Court within two hundred 200 feet of the most distant individual site. One guest parking space shall be provided for every two lots.
 - d. Individual lots shall be assigned unique alphanumeric designation, and such designation shall be clearly posted at each lot in distinct, legible characters no less than three (3) inches high, and shall be affixed to a background having a color which contrasts with that of the characters. Such identification shall be oriented so as to face the road upon which the lot fronts.
 - e. Yard requirements for individual lots shall be a minimum of ten (10) feet for side yards and twenty (20) feet for front and rear yards. Corner lots fronting public streets shall have a minimum side yard depth of twenty (20) feet.
- d. Where a Quarry for the production of Sand, Gravel, or other Crushed Rock is proposed as a Conditional Use:
- a. Open pit sand and gravel excavation or processing shall not be permitted nearer than one thousand (1000) feet from the nearest dwelling, exclusive of that of the quarry owner;

- b. Crushing shall occur during daylight hours only, except by special permission of the Board;
 - c. The County Road and Bridge Department shall be notified prior to the commencement of any new hauling operations from the site;
 - d. Excavation shall not be permitted nearer than thirty (30) feet to the right of way line of any public road or street;
 - e. A rock crusher, washer, or sorter shall not be located nearer than one thousand (1000) feet from the nearest dwelling, exclusive of that of the quarry owner;
 - f. Excavation shall not be permitted nearer than one hundred (100) feet from any property line, exclusive of property lines separating properties owned by the quarry owner;
 - g. Where the operation affects a natural water course or is to include the washing of sand or gravel, the impact on the water source or the impact of washing shall be identified and State water pollution standards met;
 - h. To the maximum extent possible, sites quarried for rock, gravel, or sand shall be rehabilitated to establish naturally appearing contours, and shall be covered with topsoil.
- e. Where a Quarry for the production of materials not specified above or a Mine is proposed as a Conditional Use:
- a. Applicant shall submit a description of all phases of proposed operation, including types of equipment which will or might be necessary to carry out operation. Where the operation will include sand or gravel washing, the estimated daily water usage, source of water, and disposition of water shall be submitted;
 - b. Applicant shall submit a legal description of the proposed site;
 - c. Applicant shall submit a topographic map having a minimum contour interval of 25 feet, and a minimum scale of 1 inch : 300 feet, which shall encompass the proposed site, and shall extend beyond the site no less than three hundred (300) feet in all directions. The Board may require additional or more detailed information, as necessary;
 - d. Applicant shall submit, at the time of application, a restoration plan which provides for the return of the site to a condition of practical usefulness and reasonable aesthetic value within a prescribed time period not to exceed six (6) months from the date of cessation of operations;
 - e. Applicant shall provide financial guarantees as required by the Board to secure the performance of the restoration plan;
 - f. Conditional Use Permits for Quarrying and Mining shall be valid for a period of no more than five (5) years. Applicant may apply for additional permits to operate the same site, so long as all conditions and standards are met.
- f. Where a Wrecking Yard is proposed as a Conditional Use:
- a. Wrecking yards shall be enclosed by a sight obscuring barrier of not less than eight (8) feet in height. Applicant shall provide dimensioned drawing showing the perimeter of said barrier;

- b. Applicant shall submit plans for disposal or storage of lead-acid batteries, tires, petroleum products, and any other materials considered hazardous or pollutant;
 - c. Limits of Wrecking yards shall not be nearer any body of water than one hundred (100) feet;
 - d. Applicant shall submit a fire suppression plan;
 - e. Applicant shall comply with all State and Federal standards governing those sites, however denoted, which deal in the disposal, storage, or dismantling of vehicles.
- g. Where an Airport Approach Zone is proposed as a Conditional Use:
- a. Airport Approach Zones shall meet all Federal Aviation Administration (FAA) standards;
 - b. Schools and places of Public Assembly are prohibited within an Airport Approach Zone;
 - c. No structure shall be constructed in an Airport Approach Zone which exceeds a height of thirty-five (35) feet.
- h. Where a Sign is proposed as a Conditional Use:
- a. A sign proposed as a conditional use may identify a business other than those on the premises, provided that the sign conforms to all other standards for signage in the Zone in which it is constructed.
- i. Where a Billboard is proposed as a Conditional Use:
- a. The maximum size of a Billboard (exclusive of support structure) shall not exceed two hundred (200) square feet, and shall not exceed twenty-five (25) feet in length or twenty-five (25) feet in height, inclusive of support structure;
 - b. Billboards shall meet all standards mandated by Idaho Code;
 - c. Lighting of Billboards shall be prohibited, except by explicit permission of the Board;
 - d. Billboards shall have no moving parts;
 - e. Flashing, blinking, or intermittent lights attached to or otherwise illuminating Billboards are prohibited;
 - f. Any feature which creates, in the judgment of the Board, an undue or hazardous distraction to motorists shall be prohibited.
- j. Where an outdoor Sport Shooting Range is proposed as a Conditional Use:
- a. Applicant shall submit a lead abatement plan;
 - b. Shooting areas shall be no nearer than one mile to any structure or road in the direction of the target. Shooting areas shall be no nearer than one thousand three hundred (1300) feet to any dwelling, exclusive of the owner's, in any other direction;

- c. Applicant shall submit list of shot sizes, calibers, projectile weights, or any other ballistic characteristics of projectiles that will be allowed to be utilized at the site;
 - d. Applicant shall submit safety plan for the proposed site, stating rules and regulations imposed on shooters, and approximate response times for medical or law enforcement officers;
 - e. The sale or consumption of Alcoholic beverages shall be prohibited on the premises;
 - f. Applicant shall submit a site plan which shall clearly show shooting areas, target areas, shot fall zones, and ranges in feet or yards from shooting areas to all points within 1760 yards (5280 feet) in no less than 250-yard (750 foot) intervals. Site plan shall include locations and detailed drawings of all bunkers, berms, bullet traps, or other features designed to arrest projectiles.
- k. Where a Telecommunications Structure is proposed as a Conditional Use:
- a. Applicant shall submit records of all required Federal Communications Commission and Federal Aviation Administration permits;
 - b. Applicant shall submit plans for any structure of a height exceeding the maximum building heights for the Zone in which the structure is to be constructed;
 - c. Applicant shall submit photographs of the site, taken from the vicinity of the three nearest residences;
 - d. Applicant shall submit copies of all lease and ownership agreements, including those which allow or disallow collocation of applications (antennas, etc) which may be used by surrounding local governments and law enforcement agencies;
 - e. Applicant shall agree, in writing, to dismantle any and all structures within one (1) year of cessation of operations.

SECTION 606. ADDITIONAL CONDITIONS IMPOSED BY THE BOARD -- In permitting a Conditional Use or the modification of an existing Conditional Use, the Board may impose, in addition to those standards and requirements expressly specified by this Ordinance, any additional conditions which it considers necessary to protect the best interests of the surrounding property or the County as a whole. Violations of such conditions as the Board may impose shall be considered a violation of this Ordinance. These conditions may include, but need not be limited to, those:

1. Requiring more restrictive standards than those generally required in this Ordinance, such as:
 - a. Increasing the required lot size;
 - b. Limiting the height of buildings;
 - c. Controlling the number and location of driveways;
 - d. Increasing street widths;
 - e. Increasing the number of off-street parking and loading spaces;

- f. Limiting the number, size, and location of signs;
 - g. Requiring additional fencing or landscaping to protect nearby property.
2. Controlling the sequence or timing of development;
 3. Requiring studies or reports from independent or private agencies, at applicant expense, to determine compliance, economic or environmental impact, or other factors which relate to the standards applicable to uses;
 4. Requiring bonds or other financial guarantees to ensure compliance with Ordinance provisions;
 5. Requiring insurance or other guarantees to secure life, safety, or property.