

_____ COUNTY

PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: _____

Date: _____, _____, 20__ (can be pre-filled)

PLEASE PRINT LEGIBLY

Name: _____

Physical Address (not post office box)(some prefer city of residence):

Choose one:

___ Support the application ___ Neutral ___ Oppose the application

Do you wish to testify? ___ Yes ___ No

If you do **not** wish to testify orally, your comments on this sheet will be read into the record – so long as they are written legibly, signed below and do not exceed the space allotted.

Written signature (only if not testifying)

RESOLUTION NO. _____
Snake River County

TITLE: LAND USE PUBLIC HEARING PROCEDURES

WHEREAS: Idaho Code §67-6534 requires that counties maintain a regular set of procedures for public hearings held by the Snake River County Planning and Zoning Commission and the Board of County Commissioners in matters governed by the Local Land Use Planning Act; and

WHEREAS: From time to time it is beneficial to review and revise those hearing procedures to better facilitate input from the public and to promote a thorough and expeditious hearing;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that Snake River County hereby adopts the following procedures to be applied in matters concerning land use-related public hearings:

Section 1. Public Notice

- a. If a public hearing is required by law or ordinance, the planning commission and, when applicable, the Board of County Commissioners shall hold at least one public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the county's official newspaper. Notice of public hearing should only be published when an application is complete in a manner sufficient to address the requirements established by ordinance and application forms.
- b. In the case of annexations, conditional use permits, site-specific rezones, subdivisions, and variances, notice shall also be provided to property owners within the land being considered; those record owners of lands within three hundred feet (300') of the external boundaries of the land being considered; and, optionally, within any additional areas that may be substantially impacted by the proposal as determined by the planning and zoning commission or by decision of the community development department staff. Contents of the mailed notice must contain the information required by law and when practical should include information guided by this Resolution such as requirements of testimony, default time limits (or issue-specific time limits, if known), timing for allowing written submissions, and other significant conditions or restrictions on testifying.
- c. When mailed notices would be required to be sent to two hundred (200) or more property owners, a notice of public hearing, at least 2" x 4" in size, published in the county's official newspaper at least 15 days prior to the hearing, shall be considered adequate in lieu of otherwise required mailed notices. (alternative notice needs to match your ordinance)
- d. For site-specific matters, the subject property should be posted with signs describing the type of action to be considered, contact information for the Planning and Zoning

Department, and the time, date and location of the hearing. Such signage shall be posted on the site as required by law.

Section 2. General Rules for Testimony in a Quasi-judicial or Annexation-related Public Hearing:

- a. At the commencement of the public hearing, the Commission/Board, or the Chairman may establish a time limit to be observed by all speakers. This resolution provides the default time limits as follows: Applicant (to describe application and reasons that it meets requirements) – not to exceed fifteen (15) minutes. Staff explanation – not to exceed fifteen (15) minutes. Individual testimony – pro, neutral and con – three (3) minutes per person (up to fifteen (15) minutes for spokesman in cases where spokesmen are pre-authorized by the chairman). Rebuttal by the applicant (no new evidence – only information from the record to rebut assertions by contrary testimony) – as needed.
- b. No person shall be permitted to testify or speak before the hearing agency at a public hearing unless such person has signed his name and written his contact address on sign-up sheets to be provided by the county. This requirement shall not apply to staff or technical witnesses directed by the chairperson to give evidence or information to the hearing agency.
- c. The presiding officer, or the Commission/Board, is authorized to revise the default time frames and order of proceedings so long as due process rights are maintained. In the event of disagreement by governing board members with procedural rulings by the chairman, the governing board may suspend or amend any one or more of these rules by majority vote of members of the governing board then in attendance, provided that due process rights are preserved.
- d. Anyone who intends to appear as a representative of a group at a hearing where spokesmen will be allowed pursuant to directive by the Chairman should contact the Planning Department at least five (5) days prior to the hearing. Staff may then apprise the representative of procedures for the hearing and any special limits or allowances concerning testimony.
- e. No person shall be permitted to speak before the Commission/Board at a public hearing until such person is recognized by the chairperson.
- f. Testimony should directly address the subject at hand.
- g. Testimony should not be repetitious with other entries into the record.
- h. Testimony should not be personally derogatory.
- i. Testimony should comply with time restrictions established by the hearing agency.
- j. If oral testimony fails to comply with the aforementioned standards, the chairperson may declare such testimony out of order and require it to cease.
- k. All public hearing proceedings shall be recorded electronically or stenographically and all persons speaking at such public hearings shall speak before a microphone in such a manner as will assure that the recorded testimony or remarks will be complete.

Section 3. Order for Quasi-Judicial Public Hearing:

Quasi-judicial hearings involve site-specific decisions (such as considering a request to rezone specific property or consider a variance request) as opposed to legislative hearings which require decisions that have a broad application (such as a change in the text of a zoning or subdivision ordinance, which does not necessarily affect one specific parcel of land). Quasi-judicial Public hearings should follow the order of events set forth below:

- a. Brief introduction of the subject of the hearing by County staff.
- b. Presentation by applicant. (Decision makers should address their questions to the applicant at this time – if possible.)
- c. County staff report. (Decision makers should address their initial questions to staff at this time – if possible.)
- d. Open Public Hearing: Testimony from public in the following order: (Questions from the decision makers should be asked of the person testifying before they leave the podium whenever possible.)
 1. In favor of proposal
 2. Neutral respecting proposal
 3. Opposed to proposal
- e. Rebuttal testimony from applicant. (Decision makers should ask any final questions.) If new facts are elicited that have not been part of the record, the public must be given an opportunity to respond to the new facts – perhaps by reopening opposing testimony.
- f. Close Public Hearing
- g. Discussion of hearing subject among governing board members. Questions may also be directed to County staff during this period. Any procedural rules requiring a motion prior to discussion are hereby suspended for purposes of such discussion. Decision makers may table the matter until later in the meeting if other public hearings are pending or to a later meeting for deliberations.
- h. The final decision should include a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan for rezoning requests or upon relevant ordinance and statutory decision criteria for other requests, pertinent constitutional principles and factual information contained in the record. It is essential that all decision criteria be addressed in the final written decision.
- i. When a final decision has been made, a copy of the final decision shall be sent promptly by electronic mail, or by U.S. Mail if requested, to a permit or approval applicant and to any other affected property owner entitled to mailed notice by local ordinance or state law who has requested notice of the final decision on the sign-up sheets at the public hearing or otherwise. Applicants or affected property owners shall have no more than fourteen (14) days after a final decision is rendered to request reconsideration by the final decision-maker. Any such request must identify specific deficiencies in any final decision. Failure to request reconsideration may invalidate a subsequent judicial appeal. After considering the identified deficiencies, the final

decision shall be issued and distributed as above. If no decision is made within the sixty (60) day timeframe for reconsideration, notice of that fact shall be sent promptly by electronic mail, or by U.S. Mail if requested, to a permit or approval applicant and to any other affected property owner entitled to mailed notice by local ordinance or state law who has requested notice of the final decision on the sign-up sheets at any public hearing concerning the application or otherwise.

Section 4. Standards for Written Testimony:

Written testimony and exhibits from the public to be admitted at a public hearing shall comply with the following standards:

- a. Written testimony and exhibits must be submitted at least seven (7) calendar days prior to the date of the pertinent public hearing. This provision may be varied through notice to potential hearing participants.
- b. Written testimony should include the signature and address of the submitter.
- c. Written testimony should address the issue at hand.
- d. Written testimony should not be personally derogatory.
- e. If written testimony or an exhibit fails to comply with the aforementioned standards, the chairperson or Commission/Board may declare such testimony inadmissible.

Section 5. Exhibits:

All exhibits, photographs, diagrams, maps, evidence and other material presented during the public hearing should be marked or otherwise identified and entered into the record. Exhibits from the Applicant must be submitted at least twenty (20) days prior to the hearing and shall be marked or identified prior to publication of any notice of public hearing. Original exhibits that are capable of duplication may be released to the presenting party if requested in writing, and if acceptable to the Community Development Director and legal counsel. If original exhibits are released, photocopies or reproducible photos of the originals should be maintained in the record.

Section 6. Records Maintained:

The County Clerk should maintain records of all public meetings in the following manner:

- a. Transcribable verbatim recordings of the proceedings should be maintained in conformance with Idaho Code §67-6536 or its successor.
- b. Originals or accurate duplicates of written submittals to the hearing record and copies of applications should be maintained in conformance with policies adopted pursuant to Idaho Code §31-871 or its successor.
- c. Minutes which catalog the occurrences at the public hearing shall be maintained as required by applicable sections of the Idaho Code.

Section 7. Procedures for Legislative Public Hearings.

Public hearings on legislative matters brought pursuant to requirements established by the Local Land Use Planning Act should take place after notice has been provided as required by law. Prior to publishing notice of legislative public hearing a draft of the legislative proposal

should be prepared and be available for public inspection no later than the day the notice of public hearing is published. Procedural limits on duration of testimony may be established by the chairman, subject to approval by the governing board. Legislative public hearings do not require final decisions in a manner comparable to those for quasi-judicial proceedings.

This resolution shall be in full force from the date of its adoption until superseded by a resolution addressing the same subject matter.

Approved by the Board of County Commissioners on the _____ day of _____, 201__.

Chairman, BoCC

ATTEST:

Snake River County Clerk

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Div. 13.1. Summary of Review Authority

The following table summarizes the review and approval authority of the various reviews bodies and officials that implement and administer the Code.

Approval Process	Cross-reference	Review and Approval Authority						Public Notice				
		Administrator	Historic Preservation Commission	Design Review Advisory Committee	Board of Zoning Appeals	Planning and Zoning Commission	City Council	Neighborhood Meeting	Web	Posted	Mailed	Published
Legislative Review												
Comprehensive Plan Amendment		R	R ⁽¹⁾	R	--	R-PH	D-PH	N	Y	N	N	Y
Code Text Amendment		R	R ⁽¹⁾	R	--	R-PH	D-PH	N	Y	N	N	Y
Zoning Map Amendment (Rezoning)		R	R ⁽¹⁾	R	--	R-PH	D-PH	Y	Y	Y	Y	Y
Conditional Use Permit		R	R ⁽¹⁾	R	--	R-PH	D-PH	Y	Y	Y	Y	Y
Planned Unit Development		R	R ⁽¹⁾	R	--	R-PH	D-PH	Y	Y	Y	Y	Y
Subdivision Review												
Short Plat		R	--	--	--	R-PH	D-PM	N	N	N	N	N
Preliminary Plat		R	--	--	--	D-PH	A-PH	N	Y	Y	N	N
Final Plat		R	--	--	--	R-PH	D-PM	N	Y	N	N	N
Site Plan Review												
Site Plan Review		D	--	--	A-PH	--	--	N	N	N	N	N
Design Review		R	--	R-PM	--	D-PH	A-PH	N	Y	N	N	N
Historic Review												
Minor Certificate of Appropriateness		D	A-PH	--	--	--	--	N	N	N	N	N
Major Certificate of Appropriateness		R	D-PH	--	--	--	A-PH	N	Y	Y	Y	Y
Quasi-Judicial Review												
Variance		R	R-PM ⁽¹⁾		D-PH			N	Y	Y	Y	Y
Appeal of an Administrative Decision		R			D-PH			N	Y	Y	Y	Y

KEY: R = Review & Recommendation D = Final Decision A = Appeal PH = Public Hearing PM = Public Meeting Y = Required N = Not Required

(1) The Historic Preservation Commission provides review when it has jurisdiction over the application.

(2) Any appeal related to a requirement in Articles 1 through 8 must be filed with the Board of Zoning Appeals under **Sec. XX**.

Div. 13.2. General Provisions

13.2.1. State Statutes

- A. This Article is intended to comply with the provisions of:
1. Idaho Statutes Title 67, Chapter 65, Local Land Use Planning;
 2. Idaho Statutes Title 50, Municipal Corporations, Chapter 13 Plats and Vacations; and
 3. Idaho Statutes Title 67, Chapter 46, Preservation of Historic Sites.
- B. Where any provision of this Article is in conflict with any provision of State law, the State law controls. Where this Article is incomplete in having failed to incorporate a provision necessarily required for the implementation of State law, the provision of State law must be fully complied with.

13.2.2. Review Authority

A. City Council

The City Council has those powers and duties expressly identified in Idaho Statutes and elsewhere in the [City Code], including, but not limited to:

1. Final action on all legislative decisions, including Comprehensive Plan amendments, Land Development Code text amendments, official zoning map amendments, conditional use permits and planned unit developments.
2. Final action and acceptance of improvements on all final plats.

B. Planning and Zoning Commission

The Planning and Zoning Commission has those powers and duties identified in Idaho Statutes Title 67, Chapter 65, Local Land Use Planning, including but not limited to:

1. Review and recommendation to the City Council on all legislative decisions, including Comprehensive Plan amendments, Land Development Code amendments, official zoning map amendments, conditional use permits and planned unit developments.
2. Review and recommendation to the City Council on short plats and final plats.
3. Final action on preliminary plats.
4. Final action on design review.

C. Board of Zoning Appeals

The Board of Zoning Appeals has those powers and duties identified in Idaho Statutes Title 67, Chapter 65, Local Land Use Planning, including, but not limited to:

1. Appeals of decisions by the Administrator, including site plan reviews.
2. Final action on variances.

D. Design Review Advisory Committee

The Design Review Advisory Committee has those powers and duties identified in this Article and elsewhere in the [City Code], including, but not limited to:

1. Review and recommendation to the Planning & Zoning Commission on design reviews.

E. Historic Preservation Commission

The Historic Preservation Commission has those powers and duties identified in Idaho Statutes Title 67, Chapter 46, Preservation of Historic Sites, including, but not limited to:

1. Review and recommendation to the City Council on designation of landmarks and historic districts.
2. Appeals of minor certificates of appropriateness.

3. Final action on major certificates of appropriateness.

F. Administrator

The Planning & Zoning Administrator (known in this Land Development Code as the "administrator") has those powers and duties identified in Idaho Statutes Title 67, Chapter 65, Local Land Use Planning, including, but not limited to:

1. Review and recommendation to the City Council on all legislative decisions, including Comprehensive Plan amendments, Land Development Code amendments, official zoning map amendments, conditional use permits and planned unit developments.
2. Review and recommendation to the City Council on short plats and final plats.
3. Review and recommendation to the Planning & Zoning Commission on all preliminary plats.
4. Final action on all site plans.
5. Final action on all minor certificates of appropriateness.

Div. 13.3. Common Review Provisions

13.3.1. Applicability

The following requirements apply to applications submitted under this Article and are common to all of these procedures.

13.3.2. Application Requirements

A. Application Submittal

1. All applications must be filed with the [INSERT Department] and must be submitted on forms and in such numbers as required by the Administrator.
2. Application forms can be found on the City's website [INSERT weblink] or hard copies can be obtained at City Hall.

B. Fee Schedule

1. Filing fees have been established to help defray the cost of processing applications. The current fee schedule is available on-line on the City's website is updated and adopted by the City Council.
2. Before review of an application, all filing fees must be paid in full.

C. Completeness Determination

1. All applications must be complete before the City is required to review the application.
2. An application is considered complete when it contains all of the information necessary to decide whether or not the application will comply with all of applicable requirements of this Land Development Code.
3. The presumption is that all of the information required in the City's application forms is necessary to satisfy the requirements of this Article. However, it is recognized that each application is unique, and more or less

information may be required according to the specifics of a particular case. The applicant may rely on the Administrator to determine whether more or less information has to be submitted.

D. Application Deadline

Complete applications must be submitted in accordance with the published schedule. Schedules indicating submittal dates are developed each year and made available on-line on the City's website and to the public at City Hall.

E. Revised Application Materials

1. All revised application materials must be submitted to the Administrator, who will route the materials to the appropriate review bodies. No plans may be sent directly to the Planning and Zoning Commission, Design Review Advisory Committee, Historic Preservation Commission, Mayor or City Council.
2. No revised application materials, either hard copy or electronic, may be submitted to the Administrator less than 10 working days prior to a scheduled public meeting or public hearing.

F. Withdrawal of an Application

1. Any application may be withdrawn at any time at the discretion of the applicant by providing written notice to the Administrator.
2. No portion of a required application fee will be refunded on any application withdrawn.
3. For applications for Legislative Review, if a public hearing has been advertised, the withdrawn application will be announced at the hearing, and the application is subject to the refiling delay in Div. 13.4.14.

G. Notice of Decision

Within 5 working days after a decision is made, a copy of the decision must be sent to the applicant by the Administrator. In the case of permit issuance, the permit constitutes written notice of the decision.

13.3.3. Public Notice and Hearing Requirements

For public notice and hearing requirements see Div. 13.1. The fact that notice is not received due to an error that was not the fault of the City does not prevent the public hearing from happening, change any decision made at the public hearing, or prevent the application from continuing to move forward through the review process.

A. Published Notice

Where published notice is required, a display advertisement at least 4 inches by 2 columns in size must be published by the Administrator at least once in the official newspaper of the City at least 15 calendar days, but not more than 45 calendar days, prior to the date of the public hearing.

B. Web Notice

Where web notice is required, notice of the public hearing or public meeting must be posted on the City's website at least 15 calendar days, but not more than 45 days, prior to the date of the public hearing or meeting.

C. Posted Notice

Where posted notice is required, a sign must be posted on the property at a point visible from the nearest public street. In the case of multiple parcels, sufficient signs must be posted to provide reasonable notice to interested persons, as determined by the Administrator. Signs must be posted at least 15 calendar days prior to the date of the public hearing.

D. Mailed Notice

1. Where mailed notice is required, the City will notify by mail all owners of property included in the proposed application and all owners of property within 300 feet on all sides, as shown in the County tax records. Notice must be mailed at least 15 calendar days, but not more than 45 calendar days, prior to the date of the public hearing.
2. When notice is required to 200 or more property owners or purchasers of record, sufficient notice is provided if the City provides published notice in addition to posted notice on all external boundaries of the site.

E. Content of Notice

Required notice of a public hearing must provide at least the following:

1. A case number;
2. The address of the subject property (if available);
3. The general location of the land that is the subject of the application, which may include a location map;
4. A description of the action requested;
5. Where a map amendment is proposed, the current and proposed zoning districts;
6. The time, date and location of the public hearing or meeting;
7. A phone number and e-mail address to contact the Administrator;
8. The web address for the City; and
9. A statement that interested parties may appear at the public hearing or meeting.

Div. 13.4. Legislative Review

13.4.1. When Does Legislative Review Apply?

Legislative Review is required for the following.

A. Comprehensive Plan Amendment

A request to amend the text of the Comprehensive Plan, including the Future Acquisitions Map (if any).

B. Text Amendment

A request to amend the text of this Land Development Code.

C. Zoning Map Amendment (Rezoning)

A request to amend the Official Zoning Map from one zoning district to another, or to change the boundaries of an existing zoning district.

D. Conditional Use Permit

A request to change to or expand an existing use identified in this Article as a conditional use.

13.4.2. Who Approves the Application?

The City Council approves applications for Legislative Review, following a public hearing and review by the Planning and Zoning Commission.

13.4.3. Who Can Submit an Application?

- A. The City Council, the Planning and Zoning Commission or the Administrator may initiate an application for Legislative Review.
- B. Any person, firm, corporation or agency may initiate a Zoning Map Amendment or Conditional Use Permit application, provided they are the owner or the owner's representative of the subject property.
- C. The Historic Preservation Commission may initiate Text Amendment and Zoning Map Amendment applications that pertain to historic preservation issues.

13.4.4. How Do I Submit an Application?

A. Scheduling a Pre-Application Conference

1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards for approval.
2. To schedule a pre-application conference, call the Administrator or go to City Hall.

B. Submitting Your Application

1. Following the pre-application conference, you may start the application process. To begin, submit a complete application form and proposed site plan, along with the required review fees, to the Administrator.
2. The application form can be found on the City's website or paper copies may be obtained at City Hall.
3. The general submittal requirements for all development review applications are listed in Div. 13.3.2 and must be followed.

13.4.5. How is Public Hearing Notice Provided?

Legislative Review requires a public hearing in front of the Planning and Zoning Commission. Notice requirements for public hearings are specified in Div. 13.1.

13.4.6. How is an Application Reviewed?

A. Initial Distribution an Application

1. Upon determination of a complete application, the Administrator will promptly distribute the application for review by internal City departments and external agencies.
2. The Administrator will schedule a neighborhood presentation meeting. Notice of the meetings will be provided as specified in Div. 13.1.

B. Neighborhood Presentation Meeting

1. An applicant or authorized representative must attend and participate in a neighborhood presentation meeting to discuss the proposed application.
2. This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comments concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings.

C. Administrator Review

1. If after the internal and external review, the Administrator finds that the application and all application materials does not meet all applicable requirements of the Land Development Code, the Administrator will notify the applicant of the specific provisions that have not been met, and offer the applicant the opportunity to make changes to the application. If revised application materials are required, see Sec. 13.3.2.E.
2. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Development Code, the application will be certified as complying with all applicable requirements of the Land Development Code and scheduled for the next available Planning and Zoning Commission hearing.
3. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Development Code, no changes to the application are permitted prior to the Planning and Zoning Commission hearing.

D. Planning and Zoning Commission Public Hearing

1. The Planning and Zoning Commission will conduct a public hearing and provide a recommendation to the City Council on the application.
2. The Planning and Zoning Commission has 65 calendar days from the date of the public hearing to submit their recommendations to the City Council. This time period may be extended if both the applicant and the Planning and Zoning Commission agree on an extension.

E. City Council Action

1. Following the recommendation of the Planning and Zoning Commission, the City Council will take action on the application.
2. The City Council has 65 calendar days from the date of the public hearing to approve, approve with conditions, deny, or send the application back to the Planning and Zoning Commission for additional consideration. This time period may be extended if both the applicant and the City Council agree on an extension.
3. Amendment of this Land Development Code applicable to an owner's lands, approval of a conditional use permit, or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by Idaho Statutes Title 67, Section 67-8003, consistent with the requirements established in that section.
4. If the City Council adopts a zoning district pursuant to a request by a property owner based upon a valid, existing comprehensive plan and zoning, the City Council must not subsequently reverse its action or otherwise change the zoning classification of the property without the consent in writing of the current property owner for a period of 4 years.

13.4.7. Can Additional Studies be Required?

Before granting a conditional use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed special use.

13.4.8. What Approval Criteria Are Used?

Different types of approvals have different review criteria. The following lists are not all-inclusive but provide guidance for making decisions on each type of approval.

A. For a Comprehensive Plan Amendment

1. The Plan Amendment corrects an error or meets the challenge of some changing condition, trend or fact.
2. The Plan Amendment is in response to changes in State law, as established through amendments to the Idaho Statutes or by court decision.
3. The Plan Amendment constitutes a benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
4. The Plan Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife and vegetation.

B. For a Land Development Code Text Amendment

1. The Text Amendment corrects an error or meets the challenge of some changing condition, trend or fact.
2. The Text Amendment is in response to changes in State law, as established through amendments to the Idaho Statutes or by court decision.
3. The Text Amendment substantially conforms with the Comprehensive Plan.

4. The Text Amendment substantially conforms with the stated purpose and intent of this Land Development Code.
5. The Text Amendment constitutes a benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
6. The Text Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife and vegetation.
7. The Text Amendment will not significantly impact existing conforming development patterns, standards or zoning regulations.

C. For a Zoning Map Amendment

1. The Zoning Map Amendment corrects an error or meets the challenge of some changing condition, trend or fact.
2. The Zoning Map Amendment substantially conforms with the Comprehensive Plan.
3. The Zoning Map Amendment substantially conforms with the stated purpose and intent of this Land Development Code.
4. The Zoning Map Amendment will reinforce the existing or planned character of the area.
5. The subject property is appropriate for development allowed in the proposed district.
6. There are substantial reasons why the property cannot be used according to the existing zoning.
7. There is a need for the proposed use at the proposed location.
8. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities,

wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.

9. The Zoning Map Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife and vegetation.
10. The Zoning Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.

D. For a Conditional Use Permit

1. The use is allowed as a conditional use in the respective zoning district.
2. The use complies with the specific use standards listed in Article 9, if any, without the granting of any variance.
3. The use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.
4. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset.
5. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.

13.4.9. What Conditions Apply to a Conditional Use Permit?

Conditions may be attached to a conditional use permit including, but not limited to, conditions that:

1. Minimize adverse impact on other development;

2. Control the sequence and timing of development;
3. Control the duration of development;
4. Assure that development is maintained properly;
5. Designate the exact location and nature of development;
6. Require the provision of on-site or off-site public facilities or services;
7. Require more restrictive standards than those generally required in this Land Development Code;
8. Require mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

13.4.10. Does Approval Establish a Precedent?

No. Issuance of a conditional use permit is not considered to establish a binding precedent to grant other conditional use permits.

13.4.11. Is a Conditional Use Permit Transferable?

A conditional use permit may be transferred from one owner to another. A conditional use permit is not transferable from one parcel of land to another.

13.4.12. What About Planned Unit Developments (PUD's)?

A planned unit development is approved using the conditional use permit process outlined in this Section. Planned unit development approvals may include, but are not limited to, requirements for minimum area, permitted uses, ownership, common open space, utilities, density, arrangements of land uses on a site, and permit processing.

13.4.13. What About Development Agreements?

- A. A development agreement, as specified in Sec. 67-6509, Idaho Code, is allowed as a condition of a map amendment or conditional use permit.
- B. A development agreement may be modified only with permission of the City Council, following a public hearing and notice as would be required for the original adoption.

13.4.14. What if an Application is Denied?

- A. Decisions of the City Council are final. Anybody not satisfied with a decision of the City Council may pursue appeals to District Court within 30 calendar days of the decision. No application for Legislative Review affecting the same or any portion of property that was denied by the City Council will be accepted for filing within 12 months of the date the application was denied.
- B. The option of mediation is always available upon the written request of the applicant, an affected person, the Planning and Zoning Commission or the City Council. Mediation may occur at any point during the decision-making process or after a final decision has been made. If mediation occurs after a final decision, any resolution of differences through mediation must be the subject of another public hearing before the City Council.
- C. The applicant and any other affected persons objecting to the application shall participate in at least one mediation session if mediation is requested. The City Council selects and pays the expense of the mediator for the first meeting among the interested parties. Compensation of the mediator must be determined among the parties at the outset of any mediation.
- D. An applicant may decline to participate in mediation requested by an affected person, and an affected person may decline to participate in mediation

requested by the applicant, except that the parties must participate in at least one mediation session if directed to do so by the City Council.

- E. During mediation, any time limitation relevant to the application is suspended.
- F. The mediation process shall not be part of the official record regarding the application.

13.4.15. What Happens After Legislative Approval?

Approval of an application for Legislative Review allows you to move forward with additional approvals applicable to your development.

- A. If you are going to subdivide your property go to Div. 13.5.
- B. If you are not going to subdivide your property, then you will need a Site Plan (see Div. 13.6.) or Building Permit.
- C. If your property is designated as a landmark or located in an historic district, you will need to see the Historic Preservation Commission (see Div. 13.8.).

Div. 13.5. Subdivision Review

13.5.1. Why Review Subdivisions?

Subdivision Review ensures that all subdivision and sale of land complies with the applicable requirements of the Land Development Code and Idaho Statutes.

13.5.2. When is Subdivision Review Required?

Subdivision Review is required for any:

- A. Subdivision of land into 3 or more parcels. All of the lots or parcels must front upon a publicly-maintained street unless specifically approved by the City Council.
- B. The dedication of any street or alley through or along any tract of land except where the dedication is initiated at the request of a public body.
- C. Condominium or townhouse projects as permitted by Idaho. Additionally, the City Council may attach conditions for the provision and maintenance of open space
- D. Resubdivision of a previously-divided parcel of land into more than one parcel.
- E.

13.5.3. What Activities Are Not Considered Subdivision?

- A. A readjustment of lot lines in a recorded plat that does not reduce the area, frontage, width, depth, or building setback lines below the minimums required in the zoning district.
- B. The exchange of land for the purpose of straightening property boundaries or adding land to existing parcels by trade or sale that does not result in a change of the present land use or in any way result in land parcels which do not meet existing zoning and other regulations.

- C. A subdivision of land into parcels that are larger than 20 acres or are lots in a section of land, all as shown on the official U.S. government general land office township survey maps, including resubdivisions of those lots, all of which are designated exclusively for agricultural purposes, and do not involve any new street dedication or the creation of private easement accesses to lots or parcels which could otherwise be provided access to a publicly-dedicated street.
- D. An allocation of land in the settlement of an estate or a court decree for the distribution of property with the stipulation that the land may not be divided into more than 4 parcels with a minimum parcel to be 5 acres.
- E. The unwilling sale of land as a result of legal condemnation as defined and allowed in Idaho Code and when the dedication of a right-of-way for public purposes is initiated by a public body.

13.5.4. Who Approves the Subdivision?

There are two types of Subdivision Review - Short Plats and Major Plats, and both receive final approval from the City Council.

13.5.5. What is a Short Plat?

An alternative subdivision process that allows the application to be processed as both a preliminary plat and a final plat in a single process if all of the following conditions exist:

- A. The proposed subdivision does not exceed 5 lots;
- B. The subdivision does not require the extension of public utilities (other than individual service lines) or other municipal facilities and no substantial alteration of existing utility installations is involved;
- C. The subdivision does not require the dedication of public right-of-way.
- D. The subdivision does not require public streets and each proposed lot fronts on an existing public street that contains the necessary right-of-way width; and

- E. Each proposed lot meets all applicable requirements of this Land Development Code and no variance or waiver from a standard is requested.

13.5.6. What is a Major Plat?

A subdivision not considered a Short Plat in 10.5.6 above is considered a Major Plat.

13.5.7. Who Can Submit an Application?

Any person, firm, corporation or agency may initiate an application for Subdivision Review, provided they are the owner or the owner's representative of the property for which the application is being submitted.

13.5.8. How Do I Submit an Application?

A. Scheduling a Pre-Application Conference

1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards for approval. This initial meeting will establish whether your application will be considered a Short Plat or a Major Plat.
2. To schedule a pre-application conference call the City or go to City Hall.

B. Submitting Your Application

1. Following the pre-application conference you can start the application process. To begin, submit a complete application form, along with the required review fees, to the City.
2. Short Plat and Major Plat application forms can be found on the City's website or paper copies may be obtained at City Hall.
3. The general submittal requirements for all development review applications are listed in Div. 13.3.2 and must be followed.
4. All plats must include the minimum requirements set out in Idaho Statutes Section 50-1304, Essentials of Plats.

13.5.9. How is Public Hearing Notice Provided?

Subdivision Review requires a public hearing in front of the Planning and Zoning Commission. Notice requirements for public hearings are specified in Div. 13.1.

13.5.10. How is a Short Plat Reviewed?

- A. Once the Administrator has determined the application is complete, the Administrator will review the application. External agency review is not required for Short Plats.
- B. A Short Plat is reviewed in the same way as a Final Plat (see XX).

13.5.11. How is a Major Plat Reviewed?

- A. Major Plat approval is a two-step process. You must first get Preliminary Plat approval from the Planning and Zoning Commission and then get Final Plat approval from the City Council.
- B. Anything regulated in the Land Development Code will be reviewed for compliance by the Administrator, with additional review by internal City departments and external agencies.
- C. The application will also be reviewed by the Planning and Zoning Commission for substantial conformance with the City's adopted plans and policies.
- D. Components of an application that have been determined to meet the requirements of the Land Development Code by the Administrator may not be used as a basis for denial, or be modified by the Planning and Zoning Commission, except to comply with an adopted plan or policy.

13.5.12. How is a Preliminary Plat Approved?

A. Review by the Administrator

1. Upon determination of a complete application, the Administrator will promptly distribute the application for review by internal City departments and external agencies.
2. If after the internal and external review, the Administrator finds that the Preliminary Plat does not meet all the applicable requirements of the Land Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the Preliminary Plat.
3. If after the internal and external review, the Administrator finds that the Preliminary Plat meets all applicable requirements of the Land Development Code, the application will be certified as complying with all applicable requirements of the Land Development Code and scheduled for the next available Planning and Zoning Commission meeting.
4. Upon certification by the Administrator that the Preliminary Plat complies with applicable requirements of the Land Development Code, no changes to the application are permitted prior to the Planning and Zoning Commission meeting.

B. Review by the Planning and Zoning Commission

1. The Planning and Zoning Commission will conduct a public hearing on the Preliminary Plat.
2. The Planning and Zoning Commission has 65 calendar days after submission of the completed Preliminary Plat application to approve, approve subject to listed modifications, or deny the Preliminary Plat. This time period may be extended if both the applicant and the

Planning and Zoning Commission agree on an extension.

3. If waiver from a standard is requested as part of a Preliminary Plat, the Preliminary Plat must be approved by the City Council under Sec. 13.5.21.
4. Approval of a Preliminary Plat does not constitute approval of a Final Plat.

13.5.13. What Approval Criteria Are Used?

When reviewing or approving a Preliminary Plat, the Planning and Zoning Commission considers the following:

- A. Recommendations of the Administrator, including recommendations from internal City departments and external agencies;
- B. Compliance with the applicable requirements of the Land Development Code; and
- C. Substantial conformance with the City's applicable adopted plans and policies.

13.5.14. What Happens After Preliminary Approval?

Following approval of a Preliminary Plat, plans and specifications for the installation of improvements required for a Site Plan or Building Permit may be prepared and submitted.

13.5.15. How Long is a Preliminary Plat Valid?

An approved Preliminary Plat expires 2 years after the approval date, unless the applicant has filed a complete application for a Final Plat.

13.5.16. Can Development be Phased?

Once a preliminary plat has been approved, final plats may be submitted in phases. The Preliminary Plat remains valid, provided that a Final Plat consistent with

the Preliminary Plat is submitted and completed within 5 years.

13.5.17. What if I Need Revisions?

- A. Minor revisions to an approved Preliminary Plat that reflect the same basic street and lot configurations as used for the original approval may be approved by the Administrator.
- B. Any request for a revision to an approved Preliminary Plat that increases the number of building lots, decreases the amount of common open space or alters a street or block pattern must be initiated and processed as a new application.

13.5.18. What if a Preliminary Plat is Denied?

If unsatisfied with the decision of the Planning and Zoning Commission, you may file an appeal with the City Council within 30 calendar days of the decision. The City Council has to make a decision on the appeal within 30 calendar days from the date of the public hearing on the appeal. This time period may be extended if both the applicant and the City Council agree on an extension. Decisions will be made based on the record presented to the Planning and Zoning Commission and the substantial evidence standard applies.

13.5.19. What About Construction Drawings?

Plans for the improvements required by this Land Development Code must be prepared by a registered engineer. The subdivider must submit construction drawings with the final plat for all improvements required in that portion of the subdivision contained in the final plat.

13.5.20. What About Public Improvements?

- A. Prior to recording the final plat, the subdivider must file with the City Clerk a surety bond in the form of a performance bond, letter of credit from a bank or other financial institution, cash, or other acceptable

guarantee, to ensure actual construction of such improvements and their completion according to plans as submitted to and approved by the City.

- B. The improvements, when covered by a surety bond, shall be constructed within 2 years from the date of recording of the final plat; provided, however, the City may extend the period 1 year upon a showing of just cause by the subdivider, and resubmission of the surety bond in an adjusted amount approved by the City.
- C. The surety bond or other guarantee shall be in the amount of 125% of the estimated cost of the improvements as determined by the City.
- D. Financial assurances will be returned upon satisfactory completion of work as determined by the City.
- E. In the event construction is not completed or in the event construction is completed but not in substantial conformity with the approved plans for the project, the financial assurances will be forfeit to the City. Forfeiture of the financial assurances does not in any way require the City to complete the project nor does forfeiture preclude the City from seeking other redress or remedy for failure to comply with the approved plans or for failure to complete the project, including, but not limited to, refusal to issue an occupancy permit or any other remedy at law or in equity, through judicial action or through any other action as may be determined by the City Council.

13.5.21. How is a Final Plat Approved?

A. Review by the Administrator

1. Before applying for Final Plat approval, the requirements of 10.9. must be met. A Short Plat must meet these same requirements.
2. Upon determination of a complete application, the Administrator, will promptly distribute the application for review by internal City departments and external agencies.

3. If after the internal and external review, the Administrator finds that the Final Plat does not meet all the applicable requirements of the Land Development Code or substantially conform with the Preliminary Plat, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the Final Plat.
4. If after the internal and external review, the Administrator finds that the Final Plat meets all applicable requirements of the Land Development Code and substantially conforms with the Preliminary Plat, the application will be certified as complying with all applicable requirements of the Land Development Code and then scheduled for the next available City Council meeting.
5. Upon certification by the Administrator that the application complies with all applicable requirements of the Land Development Code, no changes to the application are permitted prior to the City Council meeting.

B. Review by the City Council

1. The City Council will conduct a public meeting on the Final Plat. The City Council has 45 calendar days after submission of the completed Final Plat application to approve, approve subject to listed modifications, deny, or send the application back to the Planning and Zoning Commission for additional consideration. This time period may be extended if both the applicant and the City Council agree on an extension.
2. The Final Plat will be reviewed for substantial conformance with the approved Preliminary Plat by the City Council. The City Council will also accept any dedication of land or public improvements as part of approving a Final Plat. The Final Plat must be signed by the Mayor.

3. Once approved, the Administrator will record the Final Plat in the County records and file the original or a copy with the City.

13.5.22. What Standards Can Be Waived or Modified?

When the City Council, with a recommendation from the Planning and Zoning Commission, finds that because of topographic or other conditions peculiar to the site, the literal enforcement of a Preliminary Plat or Final Plat requirement may result in unnecessary hardship, the Council may waive or modify the requirements. Before a waiver or modification request is granted, the City Council must find all of the following:

- A. That the practical difficulties or unnecessary hardship were not created by the owner of the property or the applicant;
- B. That the practical difficulties or unnecessary hardship are not solely financial;
- C. That the waiver or modification will not substantially or permanently injure adjacent property or its improvements;
- D. The waiver or modification requested is the minimum required to resolve the difficulties that will make possible the legal use of the land, building or structure;
- E. The waiver does not reduce the lot size below the minimum lot size allowed in the zoning district; and
- F. That the public health, safety and welfare are secured.

13.5.23. What if a Final Plat is Denied?

Decisions of the City Council are final. Anybody not satisfied with a decision of the City Council may pursue appeals to **District Court** within 30 calendar days of the decision.

13.5.24. How Long is a Final Plat Valid?

If the subdivider has not completed construction of all proposed improvements identified in the development agreement within 5 years of the date of final plat

approval, the City will, at its discretion, commence proceedings for the vacation of the subject plat, in accordance with Idaho Code Section 50-1306A.

Div. 13.6. Site Plan Review

13.6.1. Why Review Site Plans?

Site Plan Review ensures that all construction and development complies with the applicable requirements of the Land Development Code.

13.6.2. When is a Site Plan Required?

- A. Site Plan Review is required for all:
 - 1. New construction, including any activity that requires a building permit;
 - 2. Building additions, parking lot and site expansions; and
 - 3. Tree removal, land disturbance or grading activity (see 10.9.).
- B. Site Plan Review is not required for a single-family dwelling or a two-family dwelling on a single lot.
- C. Site Plan Review is not required for any building structural improvements required to meet the current Fire Code.
- D. If your project is an historic landmark or is located in an historic district, your application will be reviewed under Div. 13.8.

13.6.3. Who Approves the Site Plan?

The Administrator approves site plans.

13.6.4. Who Can Submit an Application?

Any person, firm, corporation or agency can submit an application for Site Plan Review, provided they are the owner or the owner's representative of the subject property.

13.6.5. How Do I Submit an Application?

A. Scheduling a Pre-Application Conference

1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards required for approval.
2. To schedule a pre-application conference call the City or go to City Hall.

B. Submitting Your Application

1. Following the pre-application conference, you can start the application process. To begin, submit a complete application form, along with the required review fees, to the City.
2. Site Plan Review application forms can be found on the City's website or paper copies can be obtained from City Hall.
3. The general submittal requirements for all development review applications are listed in Div. 13.3.2 and must be followed.

13.6.6. How is Notice Provided?

A public hearing is not required for either Site Plan Review, therefore, no formal notice of the submittal is published, mailed or posted.

13.6.7. How is a Site Plan Reviewed?

- A. Once the Administrator has determined the application is complete, the Administrator will review the application.
- B. Anything regulated in the Land Development Code will be reviewed for compliance by the Administrator, with additional review by internal City departments and external agencies, as necessary.
- C. Following review of the Site Plan, the Administrator will approve or deny the application. A decision will be made within 20 working days of receiving a complete application. This time period may be

extended if both the applicant and the Administrator agree on an extension.

- D. If the Administrator finds that the Site Plan does not meet all the applicable requirements of the Land Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the Site Plan.
- E. Approval or denial of a Site Plan is based on whether or not the submittal meets or fails to meet the applicable requirements of the Land Development Code. The Administrator may not modify a standard in the Land Development Code unless the requested modification is allowed in Div. 13.6.2.
- F. If you are unsatisfied with the Administrator's decision, an appeal may be filed with the Zoning Board of Appeals, within 30 calendar days of the decision.

13.6.8. What Standards Can Be Modified?

A. Applicability

The Administrator may modify the following standards during Site Plan Review. Any other modification beyond those listed below must be considered by the Board of Zoning Appeals as a variance subject to Div. 13.9.

1. Setbacks

A reduction of up to 20% of the numeric standard for a minimum building setback.

2. Build-to

- a. An increase or reduction of up to 10% of the numeric standard for the minimum or maximum primary street or side street setback.
- b. A reduction of up to 5% of the minimum build-to percentage.

3. Ground Floor Elevation

A reduction of the minimum ground floor elevation by up to 1 foot.

4. Ground and Upper Story Floor Heights

A reduction of the minimum ground-story and upper-story floor heights by up to 10%.

5. Transparency

A reduction of the minimum transparency requirements by up to 5%.

6. Blank Wall Area

An increase of the maximum allowed blank wall area by up to 15%.

7. Street-Facing Entrances

An increase in the minimum distance between street-facing entrances by up to 10%.

8. Parking

A reduction in the minimum required vehicle parking spaces by up to 20%.

B. Criteria for Approval

The Administrator must consider the following when approving a request for a modification:

- 1. There are clear and compelling reasons that are not purely financial why the required standard cannot be met; and
- 2. The approved modification is the minimum amount necessary to meet the objectives identified above.

13.6.9. What if I Need Revisions?

- A. Revisions to an approved Site Plan may be allowed by the Administrator for the following:
 - 1. Up to a 10% increase or any decrease in gross floor area of a single building;

2. Up to a 10% reduction in the approved setbacks from exterior property lines; and
 3. Relocation of parking areas, internal driveways or structures where such relocation occurs more than 100 feet from exterior property lines.
- B. Any other changes must be resubmitted as a new application.

13.6.10. How Long is a Site Plan Valid?

An approved Site Plan expires 1 year after the approval date unless the applicant has filed a complete application for a Building Permit.

13.6.11. What if a Site Plan is Denied?

If unsatisfied with the Administrator's decision on a Site Plan, you may file an appeal with the Zoning Board of Appeals within 30 calendar days of the decision. The Board will review the appeal based on the record of the Administrator's decision.

13.6.12. What Happens After Site Plan Approval?

Upon approval of a Site Plan, application for building permits may be made.

Div. 13.7. Design Review

13.7.1. Why Review Design?

Design Review occurs only in Design Overlay Zones and ensures that the guidelines in the Commercial Design Standards are met.

13.7.2. When is Design Review Required?

- A. Design Review is required within Design Overlay Districts for all:
 - 1. New construction, including any activity that requires a building permit;
 - 2. Where an existing use or development is proposed to be modified through partial redevelopment or exterior remodeling, the review is conducted only on that portion of the use or development that is to be modified.
- B. Design Review is not required for a single-family dwelling or a two-family dwelling on a single lot.
- C. Design Review is not required for any building structural improvements required to meet the current Fire Code.
- D. If your project is an historic landmark or is located in an historic district, your application will be reviewed under Div. 13.8.

13.7.3. Who Approves the Design?

The Planning and Zoning Commission approves your design following a recommendation by the Design Review Advisory Committee.

13.7.4. Do My Allowed Uses Change?

The orientation or design of some uses (for example, drive-through facilities or parking lots) may be modified by the Commercial Design Standards.

13.7.5. Is Concurrent Review Allowed?

Design Review may occur at the same time as Site Plan Review.

13.7.6. Who Can Submit an Application?

Any person, firm, corporation or agency can submit an application for Design Review, provided they are the owner or the owner's representative of the subject property.

13.7.7. How Do I Submit an Application?

A. Scheduling a Pre-Application Conference

- 1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards required for approval.
- 2. To schedule a pre-application conference call the City or go to City Hall.

B. Submitting Your Application

- 1. Following the pre-application conference, you can start the application process. To begin, submit a complete application form, along with the required review fees, to the City.
- 2. Design Review application forms can be found on the City's website or paper copies can be obtained from City Hall.
- 3. The general submittal requirements for all development review applications are listed in Div. 13.3.2 and must be followed.

13.7.8. How is Notice Provided?

Design Review requires a public hearing in front of the Planning and Zoning Commission. Notice requirements for public hearings are specified in Div. 13.1.

13.7.9. How is a Design Reviewed?

A. Administrator Review

Once the Administrator has determined the application is complete, the Administrator will review the application. Anything regulated in the Land Development Code will be reviewed for compliance by the Administrator. If the Administrator finds the

project design does not meet all the applicable requirements of the Land Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the design.

B. Design Review Committee Recommendation

Within 20 working days of receipt of a complete application, the Design Review Committee will review the application for conformance to the guidelines of the Commercial Design Standards and make a recommendation to the Planning and Zoning Commission.

C. Action by Planning and Zoning Commission

Within 20 working days of recommendation from the Design Review Advisory Committee, the Planning and Zoning Commission will approve, approve subject to listed modifications, deny the application for design review. The Commission may require conditions necessary to make the proposed project compatible with the applicable guidelines of the Commercial Design Standards.

D. Appeal

If you are unsatisfied with the Administrator's decision, an appeal may be filed with the Zoning Board of Appeals, within 30 calendar days of the decision.

13.7.10. How do the Guidelines Apply?

Guidelines or guiding principles are not mandatory, but not ignorable either. The words "should," "preferred" and "recommend" indicate guidelines, or parameters for interpreting, applying, and modifying the project design. This Commercial Design Standards also contain illustrations and photographs. The graphics are intended to be interpreted as examples of recommended, acceptable or unacceptable elements, styles or design treatments. Guidelines are intended to be balanced, and applied with discretion. Alternative designs that meet or

exceed the intent of the Guiding Principles and design guidelines are encouraged.

13.7.11. Criteria for Approval

The applicant has the burden of proof of demonstrating conformity with the guidelines in the Commercial Design Standards. The Planning and Zoning Commission must consider the following when approving the project design:

- A. The project design meets all applicable Land Development Code requirements.
- B. On balance, the project meets or exceeds the guidelines of the Commercial Design Standards.

13.7.12. What About Seasonal Vendors?

Applications for design review of a seasonal vendor project are reviewed against the standards and guidelines for the respective zone, however the Design Review Advisory Committee may recommend and the Planning and Zoning Commission may approve waivers for non-applicable or overly burdensome requirements in situations where the proposed seasonal use will not conflict with guiding principles or the values and objectives for the applicable district.

13.7.13. How Long is Design Review Approval Valid?

An approved project design expires 1 year after the approval date unless the applicant has filed a complete application for a Building Permit.

13.7.14. What if Your Project Design is Denied?

If unsatisfied with the Administrator's decision on your project design, you may file an appeal with the City Council within 15 calendar days of the decision. The Council will review the appeal based on the record of the Planning and Zoning Commission's decision.

13.7.15. What Happens After Design Approval?

Upon approval of a project design, application for a building permit may be made.

Div. 13.8. Historic Review

13.8.1. What is Historic Review?

Historical and architectural heritage is among its most valued and important assets. The purpose of historic review is to safeguard local heritage by preserving the City's historic and architecturally worthy properties, areas, buildings, structures, monuments, streetscapes, squares and neighborhoods.

13.8.2. When is Historic Review Required?

- A. Historic Review is required for any property designated as an historic landmark or located in an historic district.
- B. Historic Review is required for all:
 - 1. New construction, including any activity that requires a building permit; and
 - 2. Building additions, parking lot and site expansions.
- C. To determine if Historic Review applies to your property, look at the Official Zoning Map, which can be viewed on the City's website or at City Hall.

13.8.3. What is a Certificate of Appropriateness?

- A. A Certificate of Appropriateness is a document approving a proposal to make a material change to an historic landmark or in the appearance of a property, structure or site in an historic district.
- B. There are two types of Certificates of Appropriateness - Minor Certificates of Appropriateness approved by the Administrator, and Major Certificates of Appropriateness approved by the Historic Preservation Commission.

13.8.4. What is a Minor Certificate of Appropriateness?

Minor Certificates of Appropriateness include modifications to the following.

- A. Windows (including storm shutters);
- B. Roofs;
- C. Residential accessibility structures;
- D. Storage sheds/ playhouses;
- E. Doors (including storm shutters);
- F. Drainage;
- G. Utility meters: electric, gas, cables;
- H. Exhaust/supply fans/plumbing vents;
- I. Fences/gates/walls;
- J. HVAC;
- K. Exterior lighting;
- L. Shutters;
- M. Siding and trim;
- N. Railings;
- O. Awnings;
- P. Skylights; and
- Q. Other similar changes as determined by the Administrator with the consent of the chair of the Historic Preservation Commission.

13.8.5. What is a Major Certificate of Appropriateness?

Anything not identified as a Minor Certificate of Appropriateness in Div. 13.8.4 is considered a Major Certificate of Appropriateness.

13.8.6. Who Can Submit an Application?

Any person, firm, corporation or agency can submit an application for a Certificate of Appropriateness, provided they are the owner or the owner's representative of the subject property.

13.8.7. How Do I Submit an Application?

A. Scheduling a Pre-Application Conference

1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards required for approval. This initial meeting will establish whether your application will be considered Minor or Major.
2. To schedule a pre-application conference call the City or go to City Hall.

B. Submitting Your Application

1. Following the pre-application conference you can start the application process. To begin, submit a complete application form, along with the required review fees, to the City.
2. Minor and Major Certificate of Appropriateness application forms can be found on the City's website or paper copies can be obtained from City Hall.
3. The general submittal requirements for all development review applications are listed in Div. 13.3.2.

13.8.8. How is Notice of an Application Provided?

- A. A public hearing is not required for a Minor Certificate of Appropriateness, therefore no formal notice of the submittal is published, mailed or posted.
- B. Major Certificates of Appropriateness require a public hearing in front of the Historic Preservation

Commission. Notice requirements for public hearings are specified in Div. 13.1.

- C. Also, Major Certificates of Appropriateness are advertised on the Historic Preservation Commission agenda, which is made available on the City's website at least 7 days before the scheduled public hearing.

13.8.9. How is a Minor Certificate Reviewed?

- A. Once the Administrator has determined the application is complete, the Administrator will review the application.
- B. External agency review is not required for a Minor Certificate of Appropriateness.
- C. Following review of the application for a Minor Certificate of Appropriateness, the Administrator will approve or deny the application. A decision will be made within 10 working days of receiving a complete application. This time period may be extended if both the applicant and the Administrator agree on an extension.
- D. The only basis for denial of a Minor Certificate of Appropriateness will be that the application:
 1. Does not meet all the applicable requirements of this Land Development Code;
 2. Is incompatible with the originally approved Certificate of Appropriateness; or
 3. Is inconsistent with any applicable design guidelines.
- E. If the Administrator denies the Minor Certificate of Appropriateness, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application, along with notice that the applicant may file for a Major Certificate of Appropriateness to accomplish the requested action

if found otherwise to be in compliance with the Land Development Code.

- F. If unsatisfied with the Administrator's decision, you may file an appeal as an application for a Major Certificate of Appropriateness with the Historic Preservation Commission.

13.8.10. How is a Major Certificate Reviewed?

A. Review by the Administrator

1. Upon determination of a complete application, the Administrator will promptly distribute the application for review by internal City departments and external agencies.
2. If after the internal and external review, the Administrator finds that the application does not meet all applicable requirements of the Land Development Code, the Administrator will notify the applicant of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application.
3. If after the internal and external review, the Administrator finds that the application meets all applicable requirements of the Land Development Code, the application will be certified as complying with all applicable requirements of the Land Development Code and then scheduled for the next available Historic Preservation Commission public hearing.
4. Upon certification by the Administrator that the application complies with applicable requirements of the Land Development Code, no changes to the application are permitted prior to the Historic Preservation Commission public hearing.

B. Review by the Historic Preservation Commission

1. The Historic Preservation Commission must approve or reject an application for a Major Certificate of Appropriateness within 45 calendar days after the filing of a complete and compliant application.
2. Failure of the Historic Preservation Commission to act within the 45-day period constitutes approval. This time period may be extended if both the applicant and the Historic Preservation Commission agree on an extension.
3. The Historic Preservation Commission will approve, with or without conditions, the application and issue a Certificate of Appropriateness if it finds that the proposed material change in appearance would not have a substantial adverse effect on the aesthetic, historical or architectural significance and value of the historic landmark or district, and if the Historic Preservation Commission finds the application is consistent with the criteria in Div. 13.8.11.
4. The Historic Preservation Commission will deny an application for a Certificate of Appropriateness if it finds that a proposed material change would be detrimental to the interests of the historic district and the public and is inconsistent with the criteria in Div. 13.8.11.

13.8.11. What Approval Criteria Are Used?

When reviewing or approving a Major Certificate of Appropriateness, the Historic Preservation Commission considers the following.

- A. The historic, architectural and aesthetic features of any existing structure, its use, and its importance to the City. The Historic Preservation Commission will, in making such judgments, consider the results

of any available historic properties and structures surveys or will otherwise attempt to discern the structure's historic importance.

- B. The nature and character of the surrounding areas and the consistency of the proposed application with the nature and character.
- C. The general design, the character and appropriateness of design, scale of buildings, arrangement, texture and materials of the structure in question and the relation of the elements to similar features of structures in the surrounding area.
- D. The Historic Preservation Commission will consider the extent to which the proposed action is consistent with historic district guidelines or other applicable design guidelines. Among other grounds for considering a design inappropriate are the following defects:
 - 1. Character foreign to the area;
 - 2. Arresting and spectacular effects;
 - 3. Violent contrasts of material;
 - 4. A multiplicity or incongruity of details resulting in a restless and disturbing appearance; and
 - 5. The absence of unity and coherence in composition not in consonance with the density and character of the present structure or surrounding area.

13.8.12. What if an Application is for Demolition?

- A. In any case involving the demolition or partial demolition of a structure, before granting approval, the Historic Preservation Commission may call on the Building Official to provide a report on the state of repair and structural stability of the structure under consideration.

- B. Where, in the opinion of the Historic Preservation Commission, a proposed demolition or alteration of any building or structure would be detrimental to the interest of the historic district, the Commission may take steps to ascertain what the City Council can do to preserve the building, including consultation with interested private civic groups, interested private citizens, and other public boards or agencies.
- C. The Historic Preservation Commission will either disapprove the application or, if within the 45-day time limitation, delay action on the application and make such recommendations as deemed appropriate to the City Council.
- D. Where authorized by the City Council, in cases where it is reasonably necessary or appropriate for the preservation of a unique historic property, the Historic Preservation Commission may enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise, of the property or any interest in the property.
- E. The Historic Preservation Commission or the City Council on appeal must consider any or all of the following criteria in determining whether or not to grant a permit to move, remove, capsize or demolish in whole or in part a building or structure within the local historic district.
 - 1. Is the building or structure of such architectural or historical interest that its moving, removing, capsulating or razing would be to the detriment of the public interest?
 - 2. Is the building or structure of such interest that it could be made into an historic shrine?
 - 3. Is the building or structure of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?

4. Would retention of the building or structure help preserve and protect an historic place or area of historic interest in the City?
5. Would retention of the building or structure promote the general welfare by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage and making the City a more attractive and desirable place in which to live?

13.8.13. What if I Need Revisions?

After the issuance of a Certificate of Appropriateness, no material change in the appearance of an historic property or of a structure or site within an historic district can be made or permitted, until all requirements of this Section are met.

13.8.14. How Long is a Certificate Valid?

Approval of a Certificate of Appropriateness will expire 1 year after the date of approval, unless the applicant has filed a complete application for a Building Permit.

13.8.15. What if a Certificate is Denied?

If unsatisfied with the decision of the Historic Preservation Commission, you may file an appeal with the City Council within 30 calendar days of the decision. The City Council has to make a decision within 30 calendar days from the date of the public hearing on the appeal. This time period may be extended if both the applicant and the City Council agree on an extension. Decisions will be made based on the record presented to the Historic Preservation Commission and the substantial evidence standard applies.

Div. 13.9. Variance

13.9.1. Why Request a Variance?

A variance is the process by which an applicant can, when meeting specific hardship criteria, request a deviation from certain provisions of the Land Development Code.

13.9.2. Who Approves Variances?

- A. The Board of Zoning Appeals is authorized to approve Variances.
- B. The Board of Zoning Appeals can only approve Variances related to the zoning requirements of the Land Development Code and can only hear and decide on requests relating to Articles 1 through 8.

13.9.3. Who Can Request a Variance?

Any person, firm, corporation or agency can submit an application for a Variance provided they are the owner or the owner's representative of the property for which the application is being submitted.

13.9.4. How Do I Submit a Request For a Variance?

A. Scheduling a Pre-Application Conference

- 1. Before submitting an application, you must schedule a pre-application conference with the Administrator to discuss the procedures and standards required for approval.
- 2. To schedule a pre-application conference call the City or go to City Hall.

B. Submitting Your Application

- 1. Following the pre-application conference, you can start the application process. To begin, submit a complete application form, along with the required review fees, to the City.

- 2. Design Review application forms can be found on the City's website or paper copies can be obtained from City Hall.
- 3. The general submittal requirements for all development review applications are listed in Div. 13.3.2 and must be followed.

13.9.5. How is Notice Provided?

- A. Variances require a public hearing in front of the Board of Zoning Appeals. Notice requirements for public hearings are specified in Div. 13.1.
- B. Variances are advertised on the Board of Zoning Appeals agenda, which is made available on the City's website at least 7 days before the scheduled public hearing.

13.9.6. How is a Request For a Variance Reviewed?

A. Initial Review of an Application

- 1. Once the Administrator has determined the application is complete, the Administrator will distribute the application.
- 2. The Administrator will place the application on the next agenda for the Board of Zoning of Appeals.
- 3. The Administrator will provide a report and recommendation to the Board of Zoning Appeals.

B. Board of Zoning Appeals Public Hearing

Following receipt of the recommendation of the Administrator, the Board of Zoning Appeals will conduct a public hearing to approve, approve with conditions, deny or send the request back to the Administrator for additional consideration.

13.9.7. What Approval Criteria Are Used?

The Board of Zoning Appeals will not approve a Variance unless there are extraordinary and exceptional

conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other properties in the same zoning district. In making this determination, the Board of Zoning Appeals will consider all of the following criteria:

- A. A literal interpretation of the provisions of this Land Development Code would effectively deprive the applicant of rights commonly enjoyed by other properties of the zoning district in which the property is located;
- B. Granting the requested variance will not confer upon the property of the applicant any special privileges that are denied to other properties of the zoning district in which the property is located;
- C. The requested variance will be in harmony with the purpose and intent of this Land Development Code and will not be injurious to the neighborhood or to the general welfare;
- D. The special circumstances are not the result of the actions of the applicant;
- E. The variance requested is the minimum variance that will make possible the proposed use of the land, building or structure;
- F. The variance does not permit a use of land, buildings or structures, which is not permitted by right in the zoning district; and
- G. The variance does not reduce the lot size below the minimum lot size allowed in the zoning district.

13.9.8. What if a Request is Denied?

Decisions of the Board of Zoning Appeals are final. Anybody not satisfied with a decision of the Board of Zoning Appeals may pursue an appeal to District Court within 30 calendar days of the decision.

13.9.9. What Happens After Variance Approval?

Approval of a request for a Variance allows you to move forward with additional approvals as applicable to your development.

13.9.10. How Long is a Variance Valid?

A variance runs with the land and remains valid in perpetuity.

Div. 13.10. Administrative Appeal

13.10.1. Who Can Appeal an Administrative Decision?

Anybody unsatisfied with a decision by the Administrator on an application that is related to a requirement in Articles 1 through 8 can file an appeal with the Board of Zoning Appeals as shown below.

13.10.2. How Do I Submit an Appeal?

- A. To begin the appeal process, submit a complete application form, along with the required review fees, to the City. The appeal application must be filed within 30 calendar days of the date of decision of the Administrator.
- B. Administrative Appeal application forms can be found on the City's website or paper copies can be obtained from City Hall.
- C. The general submittal requirements for all development review applications are listed in Div. 13.3.2 and must be followed.

13.10.3. How is Public Hearing Notice Provided?

Notice of a public hearing in front of the Board of Zoning Appeals is required as shown in Div. 13.1.

13.10.4. How is an Administrative Appeal Reviewed?

- A. Any appeal received and all papers constituting the record relating to the action appealed will be transmitted by the Administrator to the Board of Zoning Appeals for a public hearing within 30 calendar days of receipt by the Administrator of a complete application.
- B. The Board of Zoning Appeals will conduct a public hearing and make findings and render a decision within 30 calendar days after the public hearing on the administrative appeal.

13.10.5. Can I Still Pursue Other Approvals?

The filing of an appeal means you can no longer move forward with any other approvals related to your development project, unless the Administrator certifies to the Board of Zoning Appeals that in the Administrator's opinion not moving forward would cause immediate peril to life or property.

13.10.6. What Approval Criteria Are Used?

The criteria for approving or denying the request are the same used for the original decision by the Administrator. The Board of Zoning Appeals may affirm or reverse the Administrator's decision based on the applicable standards in this Land Development Code.

13.10.7. What if a Request is Denied?

Decisions of the Board of Zoning Appeals are final. Anybody not satisfied with a decision of the Board of Zoning Appeals may pursue an appeal to **District Court**, within 30 calendar days of the decision

Div. 13.11. Nonconformities

13.11.1. Nonconforming Building or Structure

A. Defined

A principal or accessory building or structure that does not meet the requirements for the applicable zoning district.

B. Expansion

A nonconforming building or structure may be expanded, enlarged or extended where the expansion, enlargement or extension is for a conforming use in the applicable zoning district. Any expansion, enlargement or extension of a nonconforming building or structure must meet the dimensional requirements for the applicable zoning district and all other requirements of this Land Development Code.

C. Damage or Destruction

1. In the event that a nonconforming structure devoted to a conforming residential or civic use is damaged or partially destroyed by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause, such structure may be restored within the existing footprint and to the condition existing immediately before the damage or destruction.
2. In the event that a nonconforming structure devoted to a conforming non-residential use is damaged or partially destroyed by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause to the extent of 50% of the value of the structure prior to the damage or destruction, such structure may only be restored in conformance with this Land Development Code, unless a variance is granted by the Board of Zoning Appeals.

13.11.2. Nonconforming Use

A. Defined

Any use of land, building or structure that does not conform to the use regulations of this Land Development Code, but which was lawfully existing (conforming) on or before the effective date of this Land Development Code or its amendment.

B. Continuance

A nonconforming use may be continued, subject to the requirements of this Section.

C. Proof of Lawful Establishment

It is the responsibility of the owner of a nonconforming use to prove to the Administrator that the use was lawfully established and existed on the effective date of adoption or amendment of this Land Development Code.

D. Change in Use

A nonconforming use may not be changed to another nonconforming use. A change in tenancy or ownership is not considered a change to another nonconforming use, provided that the use itself remains unchanged.

E. Discontinuance

A nonconforming use may not be re-established after discontinuance for 90 days. Vacancy or non-use of the building, regardless of the intent of the owner or tenant, constitutes discontinuance under this provision. If a business registration is required for the nonconforming use, and the business registration has lapsed in excess of 90 days, the lapse of business registration will constitute discontinuance.

F. Expansion

A nonconforming use may not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except

for a use allowed within the applicable zoning district.

G. Repair

A nonconforming use may not be rebuilt, altered or repaired after damage exceeding 50% of its replacement cost at the time of damage, as determined by the building inspector, except for a use that conforms with the applicable zoning district, and provided any rebuilding, alteration or repair is completed within one year of such damage.

13.11.3. Nonconforming Lot of Record

A. Defined

A lot that does not conform to the lot requirements of the applicable zoning district, but which was a conforming lot of record prior to the effective date of this Land Development Code or its amendment.

B. Use as Building Site

A nonconforming lot of record may be used as a building site, provided that the all other dimensional requirements of the applicable zoning district are met or a variance is obtained from the Zoning Board of Appeals. Where applicable, the nonconforming lot of record must meet all current requirements of the Fulton County Health Department.

13.11.4. Nonconforming Build-to Requirement

A. Additions

When an existing building is being expanded and the building doesn't meet the build-to requirement, the following provisions apply.

Front: Addition. Any addition to the front must be placed in the build-to zone. The addition does not have to meet the build-to percentage for the lot.

[GRAPHIC]

Rear: Addition. Rear additions are allowed because the addition does not increase the degree of the nonconformity.

[GRAPHIC]

Side: Addition. Side additions are not allowed because the extension increases the width of the building not located in the build-to zone.

B. New Buildings

Where a new building is being constructed on a lot or site with an existing building on it that doesn't meet the build-to requirement, the following provisions apply.

Front: New Building. All new buildings must be placed in the build-to zone until the build-to percentage for the lot has been met.

[GRAPHIC]

Rear: New Building. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.

[GRAPHIC]

Side: New Building. New buildings located outside of the build-to zone are not allowed until the build-to percentage for the lot has been met.

[GRAPHIC]

C. Replacement Buildings

New buildings located outside of the build-to zone are allowed to replace an existing building. Where the replacement building has the same or a similar footprint, it must be approved by the Design Review Advisory Committee. Where the replacement building footprint is increased, it must be approved by the City Council.

[GRAPHIC]

Div. 13.12. Enforcement and Penalties

13.12.1. Enforcement Authority

A. Administrator

The Administrator serves as the administrator of the Land Development Code and has primary enforcement authority over Articles 1 through 8.

City Engineer

The City Engineer has primary enforcement authority over Article 9.

13.12.2. Violation

Any action or inaction that violates the provisions of this Land Development Code or any permit issued subject to this Land Development Code may be subject to an enforcement action. Such action may be declared a misdemeanor and the City Council may provide for punishment by fine or imprisonment or by both.

13.12.3. Notice of Violation

- A. If the City determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this Land Development Code, it must issue a written notice of violation to the applicant or other responsible person. Where a person is engaged in activity covered by this Land Development Code without having first secured a permit for that activity, the notice of violation will be served on the owner or the responsible person in charge of the activity being conducted on the site.
- B. The notice of violation must contain:
 1. The name and address of the owner or the applicant or the responsible person;
 2. The address or other description of the site upon which the violation is occurring;

3. A statement specifying the nature of the violation;
 4. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this Land Development Code and the date for the completion of such remedial action;
 5. A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
- C. A statement that the determination of violation may be appealed to the City by filing a written notice of appeal within 30 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice will be sufficient).

13.12.4. Remedies and Penalties

Where a violation of this Land Development Code exists with respect to the use of any building, structure, or land, the City may employ the following remedies and penalties.

A. Citation

If the violation is by a tenant, person, corporation, firm or other entity who is not the owner of record of the building, structure or land, issue a citation for the violation of the City Code to that person or entity. In addition, the City may provide written notice, either personally or by certified mail, to the owner of record of such building, structure or land. Notice must contain a description of the violation and a 30-day period within which to abate or correct the violation. If the owner of record does not bring the use of the building, structure or land into compliance within 30 days, the owner shall be cited for violation of the City Code. Each day any violation continues shall constitute a separate offense.

B. Bond Forfeiture

If, through inspection, it is determined that a person has failed to comply with an approved plan, a written notice to comply must be served upon that person. The notice must set forth the measures necessary to achieve compliance with the plan and state the time within which such measures must be completed. If the person fails to comply within the time specified, that person will be deemed in violation of this Section and, in addition to other penalties, will be deemed to have forfeited their performance bond, if required to post one. The local issuing authority may call the bond or any part of the bond to be forfeited and may use the proceeds to hire a contractor to bring the site into compliance.

C. Withhold Permits and Licenses

If the violation is by the owner of record of the building, structure or land, or his agent, assign, employee or representative, in addition to other remedies available, the City may refuse or deny all City permits, licenses, certificates or applications to that owner or his agents until the violation is abated or corrected.

D. Withhold Utility Service

The City may, in addition to other remedies, notify the Building Inspector of the violation and direct, require, or encourage that public utility service be withheld until the structure or premises is no longer in violation of this Land Development Code.

E. Withhold Certificate of Occupancy

The City may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described in the notice.

F. Suspension, Revocation or Modification of Permit

The City may suspend, revoke or modify any permit authorized by this Land Development Code. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described in the notice, provided the permit may be reinstated upon such conditions as the City may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

G. Monetary Penalties

Any person who violates any provision of this Land Development Code, or any permit condition or limitation established pursuant to this Land Development Code, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the City issued as provided in this Section will be liable for a civil penalty not to exceed \$2,500 per day. For the purpose of enforcing the provisions of this Section, notwithstanding any provisions in any City charter to the contrary, municipal courts are authorized to impose penalty not to exceed \$2,000 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of City ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this Land Development Code under City ordinances approved under this Section will be authorized to impose penalties for such violations not to exceed \$2,000 for each violation. Each day during which violation or failure or refusal to comply continues is a separate violation.