

CITY of DIETRICH ZONING ORDINANCE

CITY of DIETRICH ORDINANCE # 56

Adopted November 1, 1999

DIETRICH PLANNING AND ZONING COMMITTEE
DIETRICH CITY COUNCIL

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CITY OF DIETRICH ORDINANCE NO. 56

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING REGULATION WITHIN THE CITY OF DIETRICH, IDAHO, PROVIDING FOR THE INTERPRETATION; DEFINITIONS; ADMINISTRATION; ESTABLISHMENT AND PURPOSE OF DISTRICTS; OFFICIAL ZONING MAP; DISTRICT REGULATIONS; SUPPLEMENTARY REGULATIONS; FENCES; SIGNS; PARKING; PLANNED UNIT DEVELOPMENTS; SPECIAL USE PERMITS; VARIANCES; NONCONFORMING USES; AMENDMENTS AND ENFORCEMENT.

PREAMBLE AND INTRODUCTION

WHEREAS, the City of Dietrich is a growing community; and

WHEREAS, the community of Dietrich is concerned about preserving a rural quality of life and protecting its natural surroundings; and

WHEREAS, the City Council finds it necessary to protect those attributes as well as promote the physical and economic health, safety, and general welfare of current and future residents by establishing a sound Zoning Ordinance and planning for the future growth of Dietrich; and

WHEREAS, the City Council, in recognition of the need to balance numerous factors when setting forth a Zoning Ordinance, has given careful consideration to the following:

1. Protection of existing development;
2. Sufficient flexibility to allow for desirable community expansion;
3. Compatibility of the Zoning Ordinance and Zoning Map with accepted zoning principles;
4. Understanding of the provisions of this Ordinance by all residents;
5. Reasonableness and legality of enforcement provisions;
6. Compliance of this Zoning Ordinance with the statutory requirements of the State of Idaho and the decisions of the Supreme Court of Idaho; and
7. Compliance with a proposed City of Dietrich Comprehensive Plan.

WHEREAS, the City Council finds that a positive approach to community development through a sound Zoning Ordinance is necessary to encourage imaginative and diverse development;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DIETRICH, IDAHO, AS FOLLOWS:

**ARTICLE I.
PURPOSE, TITLE, AND INTERPRETATION.**

1.1 PURPOSE.

This Ordinance is enacted for the purpose of promoting public health, safety, and general welfare; to conserve and protect property and property values; to secure the most appropriate use of lands; to control the density of population; to prevent traffic congestion; and to facilitate adequate and economical provisions for public improvements and services; all in accordance with the proposed City of Dietrich Comprehensive Plan for the desirable future physical development of the City of Dietrich; to provide a method of administration and to prescribe means of enforcement of the provisions hereafter described.

1.2 TITLE.

This Ordinance shall be known as the "**Zoning Ordinance of the City of Dietrich, Idaho**".

1.3 AUTHORITY.

This Zoning Ordinance is adopted pursuant to authority granted **by Title 67, Chapter 65 of the Idaho Code and Article 12, Section 2 of the Idaho Constitution**, as amended or subsequently codified.

1.4 MOST RESTRICTIVE STANDARDS SHALL GOVERN.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and the general welfare. Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive or that imposing the higher standards shall govern.

1.5 COMBINING OF PERMITS.

The Commission is hereby required to coordinate with other departments and agencies concerning all permits that may be required in this Ordinance and previously or subsequently adopted Dietrich City Ordinances. A one-stop permit application procedure may be developed with the respective departments and agencies for the purpose of reducing errors, misunderstandings, confusion and unnecessary delay for everyone involved.

1.6 SEPARABILITY CLAUSE.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

1.7 EXISTING PERMITS AND PRIVATE AGREEMENTS.

This Ordinance is not intended to abrogate or annul any permits issued before the effective date of this Ordinance or any easement, covenant or other private agreement.

1.8 REPEAL.

All ordinances of the City of Dietrich or parts of any such ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**ARTICLE II.
DEFINITIONS.**

2.1 INTERPRETATION OF TERMS OR WORDS.

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

2.1.1 The word "**person**" includes a firm, association, organization, partnership, trust, company, corporation or any other entity capable of owning or holding any interest in real property, as well as an individual.

2.1.2 The word "**shall**" is a mandatory requirement, the word "**may**" as used herein is permissive.

2.1.3 The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, unless the context clearly indicates otherwise.

2.1.4 The words "**used**" or "**occupied**" include the words "intended, designed, maintained, arranged or occupied".

2.2 MEANING OF TERMS OR WORDS.

2.2.1 ACCESSORY USE or STRUCTURE

A use or structure on the same lot with and of a nature customarily incidental and subordinate to the lot's principal use or structure.

Which is clearly incidental to the use of the principal building, or other structure or use of land;

Which is customary in connection with the principal building, or other structure or use of land; and

Which is ordinarily located on the same lot with the principal building, or other structure or use of land.

2.2.2 AIRPORT. Any runway, landing area or other facility designed or used either publicly, privately or commercially by any person for all landing and taking-off of aircraft, including all associated taxiways, aircraft storage and tie-down areas, hangars, passenger terminals and other buildings.

2.2.3 AGRICULTURAL LAND. An economic endeavor engaged in the growing of food or fiber. Agricultural activities including farming, pasture, agriculture, horticulture, forestry, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce, provided however, that the operation of any such accessory uses shall be secondary to that of normal agriculture activities.

2.2.4 ALTERATION. Alteration shall mean any change in size, shape, character, occupancy or use of a building or structure.

2.2.5 ANIMAL UNIT. A unit to measure the quantity of animals at any given location. For example:

Horse	1.0 AU
Cattle over 700 pounds	1.0 AU
Cattle 400 to 700 pounds	0.7 AU
Calf under 400 pounds	0.2 AU

Sheep, Lambs or Goat	0.2 AU
Swine	0.4 AU
Turkey or Goose	0.02 AU
Laying Hen/Broiler or Ducks	0.01 AU
Rabbit	0.01 AU
Fish (500 pounds)	1.0 AU
Other species not specified (500 pounds)	1.0 AU

- 2.2.6 ANIMALS FOR FAMILY FOOD PRODUCTION.** Domestic animals generally used for human food production (including cattle, sheep, poultry, rabbits and fish) that are raised with the intent to supply food for those who raise them.
- 2.2.7 APARTMENT.** A multiple family dwelling containing three (3) or more dwelling units in which all units, exclusive of a unit that may be occupied by the owner, are rented or leased.
- 2.2.8 BASEMENT.** Any floor level below the first story in a building, provided such floor level is more than four (4) feet below grade for more than 50% of the perimeter.
- 2.2.9 BED and BREAKFAST INN.** A building which has no more than eight (8) sleeping rooms available for rent for short term (less than fifteen (15) days) residential occupancy, serves breakfast as part of the rent in a common dining area and has access to all sleeping rooms through a main entrance.
- 2.2.10 BOARDING and ROOMING HOUSE.** A building in which the proprietor resides and which has not more than six (6) rooms available for rent or lease for residential occupancy and in which no cooking or dining facilities are provided in the individual rooms.
- 2.2.11 BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.
- 2.2.12 BUFFER.** For the purposes of this Ordinance, the term "buffer" includes but is not limited to a landscape strip, solid fence or solid wall designed to lessen the negative impacts one land use may have on another.
- 2.2.13 BULK REQUIREMENTS.** The combination of controls which establishes the maximum size of a building and its location on the lot, including:
- A. The size of buildings and other structures.
 - B. The shape of buildings and other structures.
 - C. The location of exterior walls of buildings and other structures, in relation to property lines, streets and other buildings or structures.
 - D. Open space requirements.
 - E. Lot area per dwelling unit
- 2.2.14 BULKY RETAIL.** Retail sales of bulky items including but not limited to farm equipment, manufactured homes, furniture, appliances, farm and garden supplies.
- 2.2.15 CHANNEL.** A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, and which, in the absence of evidence

to the contrary, shall be presumed to consist of the area between the boundaries of vegetation on either side of the watercourse.

- 2.2.16 COMMISSION.** The Planning and Zoning Commission of the City of Dietrich, Idaho.
- 2.2.17 CONDITIONAL.** A use or occupancy of land permitted only upon the issuance of special use permit and subject to the limitations and restrictions specified in such permit in addition to all other applicable regulations and provisions of this Ordinance.
- 2.2.18 CONDOMINIUM.** A multi-family dwelling containing two (2) or more dwelling units in which each unit is under single ownership, excluding the ground beneath the unit.
- 2.2.19 CONVENIENCE STORE.** A small-scale grocery operation that may provide self-service gasoline.
- 2.2.20 DAY CARE BUSINESS.** The care and supervision, provided for compensation, during part of a twenty-four hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's own home. This term includes pre-schools, nursery schools, play schools, kinder-care, and any like or similar operation.
- 2.2.20.1 Day Care Center.** A day care operation providing care for thirteen or more children.
- 2.2.20.2 Day Care Facility.** A day care operation providing care for no more than twelve children at any one time and having not more than four employees.
- 2.2.20.3 Day Care Home.** A day care operation providing care for six or fewer children at any one time, having not more than three employees and operating between the hours of 7:00a.m. and 6:00p.m.
- 2.2.20.4 Child.** Any person under 12 years of age.
- 2.2.20.5 Employee.** Any person working for compensation in any day care business.
- 2.2.21 DIRECT ILLUMINATION.** For the purposes of the sign regulations (**Section 8.2**) of this Ordinance, "**direct illumination**" shall refer to internally lit and neon signs.
- 2.2.22 DUPLEX.** A multiple family dwelling under single ownership containing two (2) dwelling units in which at least one (1) of the units is rented or leased or is intended for rent or lease.
- 2.2.23 DWELLING UNIT.** A building or separate portion thereof having a single kitchen, and at least one (1) bathroom, to be occupied exclusively as a residence.
- 2.2.24 ERECTED.** The word "**erected**" includes built, constructed, reconstructed, moved upon, or any other physical operations on the premises required for building. Excavations, fill, drainage, and the like shall be considered a part of erection.
- 2.2.25 FAMILY.** One (1) or more persons related by blood, marriage or adoption or a group of no more than five (5) unrelated adult persons, excluding servants, and their children by blood or adoption living together in a dwelling unit.
- 2.2.26 FENCE.** A natural or artificial barrier intended to be an enclosure or an enclosure or to delineate a boundary and located within twenty feet of a property line. For the purposes of this Ordinance, the term "fence" shall include hedges and walls.

- 2.2.27 FLOOD.** General and temporary condition of partial or complete inundation of normally dry lands from 1) the overflow of inland waters and/or 2) the unusual and rapid accumulation of runoff or surface waters from any source.
- 2.2.27.1 One Hundred (100) Year Flood.** Flood having an indicated average frequency of occurrence once in one hundred (100) years, although the flood may occur in any year.
- 2.2.27.2 One Hundred (100) Year Flood Elevation.** The maximum high water elevation of the one hundred (100) year flood at any given point on the floodplain.
- 2.2.28 FLOODPLAIN.** A relatively flat area or low land adjoining a body of water, which has been or may be inundated by water from the one hundred (100) year flood.
- 2.2.29 FLOODWAY.** That portion of the flood hazard area that includes the channel and the portion of the adjacent area that conveys the major portion of the flow for the one hundred (100) year flood.
- 2.2.30 FLOOR AREA.** The gross area included within the surrounding exterior walls of a building or portion thereof, including all floor levels, exclusive of vent shafts, courts, attics, garages or other enclosed automobile parking areas subject to the following restrictions:
- 2.2.30.1** The basement of a single or multiple family dwelling is not included as floor area, and
- 2.2.30.2** The basement of any other building is included as floor area.
- 2.2.31 FRONTAGE.** The distance along the front lot line.
- 2.2.32 GRADE.** The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
- 2.2.33 GARAGE.** A building or portion thereof, in which a motor vehicle containing flammable or combustible liquid or gas in its tank is or intended to be stored, repaired or kept.
- 2.2.34 HEIGHT OF BUILDING.** The vertical distance above a reference datum measured to the highest point of the roof regardless of the roof design. The reference datum shall be selected by either of the following, whichever yields a greater height of a building:
- A.** The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
- B.** The elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in item A. above is more than ten (10) feet above lowest grade.
- C.** The height of a stepped or terraced building is the maximum height of any segment of the building.
- 2.2.35 HOME OCCUPATION.** A business related activity conducted entirely within a dwelling that is incidental and secondary to the use of a dwelling as a residence and does not negatively impact the surrounding neighborhood. Home Occupations are defined for the purpose of this Ordinance as those activities that represent a departure from the daily routine associated with a residential use and could, therefore, impact the neighborhood. Home Occupations, where permitted, shall meet the following requirements:

- A. The home occupation shall not change the residential character of the dwelling or neighborhood.
- B. There shall be no exterior advertising.
- C. There shall be no exterior storage on the premises of material or equipment associated with the home occupation.
- D. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property lines.
- E. The home occupation shall not create the need for additional parking.
- F. Storage of explosive, combustible or hazardous materials shall conform to the regulations and restrictions adopted by the City in the Uniform Building Code.

2.2.36 HOTEL. A building which is used for short term occupancy, offering sleeping accommodations to the public on a nightly basis and access to all sleeping rooms through a main entrance, and which may provide food, entertainment or various personal services.

2.2.37 HYBRID PRODUCTION FACILITY. A commercial operation or use in which, on one premise, finished consumer goods are manufactured or produced and those same goods are offered for sale to the general public. Hybrid production facilities must be similar in size, scale and scope of operation with adjacent or nearby uses.

2.2.38 INDIRECT ILLUMINATION. For the purposes of the sign regulations of this Ordinance, "indirect illumination" shall refer to a source of light separate from the sign itself.

2.2.39 KITCHEN. A room or area for storage, preparation and cooking of food.

2.2.40 LOADING SPACE. Off-street. Space logically and conveniently located for pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required parking spaces are filled.

2.2.41 LOT. Plot, parcel or tract of land with fixed boundaries of sufficient size to meet minimum zoning requirements for use, coverage, and area; and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or an approved private street and may consist of:

- A. A single lot of record;
- B. A combination of complete lots of record, or of portions of lots of record.

2.2.42 LOT. Corner. A lot located at the intersection of two (2) or more streets.

2.2.42.1 Lot, Normal Corner. A corner lot where the streets border the outside or convex lot lines.

2.2.42.2 Lot, Reverse Corner. A corner lot where the streets border the inside or concave lot lines.

2.2.43 LOT COVERAGE. The percent of the total lot occupied by the principal building.

2.2.44 LOT LINE FRONT. The property line dividing a lot from a street. On a corner lot, only one (1) street line shall be considered the front lot line and the main or front entrance to

the primary building on the lot shall face such lot line. For buildings located on a corner with more than one business within the building, the lot front is the side where the business street address is listed.

- 2.2.45 LOT LINE, REAR.** The lot line opposite the front lot line.
- 2.2.46 LOT LINE, SIDE.** Any lot line other than the front or rear lot lines.
- 2.2.47 LOT OF RECORD.** A lot that is part of a subdivision recorded in the office of the County Recorder or a lot described by metes and bounds, the description of which has been so recorded.
- 2.2.48 LOT WIDTH.** The distance parallel to the front lot line, measured between side lot lines through that part of the building or structure where the lot is narrowest.
- 2.2.49 LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.
- 2.2.50 MAJOR ADDITION.** Any extension having a floor area of two hundred (200) square feet or greater to an existing building. Extensions to dwellings that do not increase the total number of dwelling units shall not be considered as major additions.
- 2.2.51 MANUFACTURED HOME.** A structure constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq.
- 2.2.52 MOBILE HOME.** A transportable dwelling that is built on a permanent chassis and is designed for use without a permanent foundation when connected to the required utilities.
- 2.2.53 MOBILE HOME PARK.** Any site or tract of land under single or joint ownership upon which two (2) or more mobile homes are parked for living quarters, including any roadway, building, structure, or recreational facility or enclosure used or intended for use as a part of the facilities of such park.
- 2.2.54 MOTEL.** A building or group of buildings which are used for short term occupancy, offering sleeping accommodations to the public on a nightly basis, which may provide food and entertainment totally within the primary building of the motel.
- 2.2.55 MULTIPLE-FAMILY DWELLING.** A building containing two (2) or more dwelling units. For the purposes of this Ordinance the term "multiple family dwelling" includes duplex, apartment townhouses and condominiums.
- 2.2.56 NON-CONFORMING USE.** An existing non-conforming use at the time of adoption of this Ordinance or a legal building, structure, or use of land which;

A. Exists, or for which a valid building permit exists, at the effective date of this Ordinance, and which violates any of the provisions of this Ordinance; or

B. Exists, or for which a valid building permit exists, at the effective date of any amendment to this Ordinance and which violates any of the provisions of such amendment.

2.2.57 NUISANCE ODOR. An objectionable stench, especially from the decomposition of animal waste, which impacts an adjacent property owner in an overwhelming manner.

2.2.58 OUTPATIENT ANIMAL SERVICES. The examination, care, treatment and grooming of domestic animals, excluding livestock, within an outpatient facility. Outpatient Animal Services shall, as a minimum, meet the following requirements:

A. Outpatient Animal Services shall not have or make any provision for boarding any animal.

B. Any animal brought to the service location shall stay under the direct control and supervision of the animal's owner or owner's representative.

C. Any and all animals brought to the service location shall be leashed or caged at all times except when under the direct control of the person or persons giving service.

D. Each veterinary service shall create and exclusively use an entrance to the service apart from any other entrance to any other associated use.

2.2.59 PARKING SPACE. Space used for the temporary, transient storage of private passenger vehicles used for personal transportation. Parking shall not include storage for any other purpose other than specified above.

2.2.60 PERSONAL SERVICE. Any enterprise conducted for gain which primarily offers services to the general public such as but not limited to shoe repair, watch repair, barber shops, beauty parlors and similar activities.

2.2.61 PLANNED UNIT DEVELOPMENT. A project controlled by one (1) owner, partnership or corporation and characterized by a unified site design, involving varying the normal zoning requirements and restrictions so that the maximum long range benefit can be gained and the unique features of the site preserved and enhanced.

2.2.62 PUBLIC SERVICE FACILITY. A public facility established for the protection and welfare of the surrounding neighborhood including but not limited to a police station, fire station or ambulance center.

2.2.63 PUBLIC USE. Use for a public purpose by a city, school district, county, state or any other public agency or a public utility.

2.2.64 PUBLIC UTILITY FACILITY. A structure or facility including poles or towers exceeding forty-eight (48) feet in height used by a public utility, including but not limited to gas, electric or telephone.

2.2.65 RESEARCH and DEVELOPMENT. Specialized non-polluting activities with emphasis on investigation, experimentation, testing, engineering, inventing and conceptually designing prototypes and new technologies or associated light manufacturing. These technologies may include electronics, computer and data systems, medical and precision instruments, machine components, communication systems and equipment, and other technological instruments, equipment and systems.

- 2.2.66** **SCHOOLS.** The term schools shall include pre-schools, kindergarten, elementary, junior-high and high schools, colleges and universities.
- 2.2.67** **SEMI PUBLIC USE.** Churches, Sunday schools, parochial schools, colleges, hospitals and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.
- 2.2.68** **SERVICE STATION.** A personal service establishment involving the dispensing of vehicle fuels and/or automobile repair.
- 2.2.69** **SETBACK.** The distance, measured at right angles to a given lot line, between said lot line and an imaginary line parallel to said lot line, defining an area between such lines within which no building may be placed.
- 2.2.70** **SHORT TERM OCCUPANCY.** The rental of any unit or structure of portion thereof for a period of not more than thirty (30) days.
- 2.2.71** **SIGN** - Any structure or natural object, or part thereof, or device attached thereto or painted or represented thereon, which shall be used to attract the attention to any product, place, activity, person, institution, organization or business, or which displays or includes any letter, work, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, an announcement, direction or advertisement.
- 2.2.71.1** **Sign, Advertising:** Any sign that includes descriptive phrases or logos intended for advertising purposes.
- 2.2.71.2** **Sign, Directional:** Any sign that contains only a name of any building or use and its addresses or the distance to such building or use.
- 2.2.71.3** **Sign, Identification:** Any sign that contains only a name or address of any building or use.
- 2.2.71.4** **Sign, Offsite:** Any sign that is unrelated to a building or use situated or conducted on the lot where such sign is located.
- 2.2.71.5** **Sign, On-site:** Any sign that is related to a building or use situated or conducted on the lot where such sign is located.
- 2.2.71.6** **Sign, Permanent:** Any sign that is erected in any given location for a period of one (1) year or more.
- 2.2.71.7** **Sign, Portable:** A sandwich-board sign not attached to a building to be placed on the ground for temporary use during business hours.
- 2.2.71.8** **Sign, Projecting:** Any sign that is attached to a building and any part of which is six (6) or more inches from such building.
- 2.2.71.9** **Sign, Temporary:** Any sign that is erected in any given location for a period of less than one (1) year or more.
- 2.2.72** **SINGLE FAMILY DWELLING.** A detached building, including attached or detached carports and automobile garages, containing living facilities including provisions for sleeping, eating, cooking and sanitation for not more than one (1) family.

- 2.2.73** **SOLAR ACCESS.** An unobstructed exposure to sunlight and solar radiation upon land or a building.
- 2.2.74**
2.2.75 **SOLAR ENERGY SYSTEMS.** Any device, structure, or mechanisms that use solar radiation as an energy source for heating, cooling or electrical energy.
- 2.2.75.1** **Active.** An indirect thermal system in which solar heat is collected and stored in devices separated from the building space to be conditioned using conventional energy systems (fans, pumps, etc.).
- 2.2.75.2** **Passive.** The collection and storage of solar radiation for heating or cooling by non-mechanical means.
- 2.2.75.3** **Hybrid.** A system that employs aspects of both active and passive designs.
- 2.2.76** **SOUTH.** Thirty degrees east or west of true south. In Dietrich, true south is approximately eighteen degrees east of magnetic south.
- 2.2.77** **STREAM ALTERATION.** To obstruct, diminish, destroy, alter, modify, relocate, or change the existing shape of the natural channel within or below the mean high water mark. It includes removal of material or structures in the stream channel.
- 2.2.78** **STREET.** A public thoroughfare that affords the principal means of access to abutting property.
- 2.2.79** **STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. For the purposes of Flood Hazard Regulations. The definition shall include gas or liquid storage tanks that are located principally above ground.
- 2.2.80** **SUNSPACE.** An area of building designed and constructed to collect and retain energy, usually for human habitation.
- 2.2.81** **TOWNHOUSE.** A dwelling unit in a multiple family dwelling, which is owned together with the ground under the unit.
- 2.2.82** **TRELLIS.** A light construction of lattice work no more than 8 feet in height. Said latticework shall be of open design.
- 2.2.83** **USABLE OPEN SPACE.** An area not encumbered with any roadway, parking area, or substantial structure maintained for either informal or structured recreational uses.
- 2.2.84**
2.2.85 **USE.** The purpose for which land or a building thereon is designed, arranged, intended, or for which it is or may be occupied or maintained.
- 2.2.86** **VARIANCE.** A modification of the requirements of the zoning regulations as to lot area, lot coverage, width, depth, front yard, side yard, rear yard setback, parking space, or other regulation affecting the size or shape of a structure or the placement of structures upon lots, or the size of the lots and signs. A variance shall not include a modification of allowed uses.
- 2.2.87** **YARD.** That portion of the open area on a lot existing open and unobstructed from the ground upward from a given lot line for a depth or width specified by the setback regulations for the District in which the lot is located.

ARTICLE III. ADMINISTRATION

3.1 GENERAL.

For the purpose of carrying out the provisions of this Ordinance, an Administrator and a Commission are hereby created.

3.2 ADMINISTRATOR.

The Council shall appoint an Administrator to administer this Ordinance. The Administrator may be provided with the assistance of such other persons as the Council may direct. The duties of the Administrator shall include but not be limited to:

3.2.1 Advise interested citizens of the Zoning Ordinance provisions.

3.2.2 Inform the news media regarding land use and zoning matters of public interest.

3.2.3 Aid applicants in the preparation of required forms and permit applications. Where practical related permits may be combined for the convenience of the applicant.

3.2.4 Recommend enforcement of this Ordinance in accordance with Article XV of this Ordinance.

3.2.5 Receive, file and transmit to the Commission and Council all applications, past history, transcripts and other communications on which they must act. Advise the Commission and the Council of pertinent provisions of the Ordinance regarding proposals.

3.2.6 Maintain permanent and current records of applications, zoning changes, variances, special use permits, planned unit developments and of the hearings and action thereon.

3.2.7 Inspect and make recommendations upon all filed plats pursuant to the Dietrich Subdivision Ordinance.

3.2.8 Maintain a current Official Zoning Map and interpret boundaries of zone districts.

3.2.9 Provide a liaison between the Commission and Council.

3.3 PLANNING AND ZONING COMMISSION.

3.3.1 There is hereby created the Dietrich Planning and Zoning Commission consisting of no more than seven (7) and no less than three (3) voting members, appointed by the Mayor and confirmed by a majority vote of the City Council, all of whom shall have been residents of Lincoln County for the two (2) years prior to appointment to the Commission and shall be residents of the City of Dietrich at the time of appointment, except that one third of the members (1/3) may reside outside the corporate limits of the City of Dietrich, but within the City's Area of Impact.

3.3.2 Each member must remain a resident of the City, or in the case of the City's Area of Impact, within the impact area, during the term of his or her office on the Commission.

3.3.3 Each member shall serve for a term of five (5) years. The terms shall be staggered in groups of three (3), two (2), and one (1), respectively. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as original appointments, but replacements shall serve only until the expiration of the original

appointments; replacements shall serve only until the expiration of the original term. Members shall be selected without respect to political affiliation. .

3.3.4 Members may be removed for cause by a majority vote of the Council. Any member who misses three (3) consecutive Commission meetings will be deemed to have resigned and shall be replaced in the manner provided by this Ordinance.

3.3.5 The Commission shall elect a chairperson and create and fill any other offices that it may deem necessary. The Commission may establish sub-committees, advisory committees or neighborhood groups to advise and assist in carrying out the responsibilities and duties of the Commission. The Commission may appoint non-vote ex-official advisors as may be deemed necessary.

3.3.6 The Commission shall maintain a record of meetings, hearings, resolutions, studies, findings, permits and actions taken. All meetings and records shall be open to the public. At least one (1) regular meeting shall be held each month for not less than nine (9) months in a year. A majority of voting members of the Commission shall constitute a quorum.

3.3.7 Expenditures and Staff - With approval of the city council through the legally required budgetary process, the commission may receive and expend funds, goods, and services from the federal government or agencies and instrumentalities of state or local governments or from civic and private sources and may contract with these entities and provide information and reports as necessary to secure aid. Expenditures by the commission shall be within the amounts appropriated by the city council. Within such limits, the commission is authorized to hire or contract with employees and technical advisors, including, but not limited to, planners, engineers, architects, and legal assistants.

3.3.8 The Commission shall have the following duties:

A. Initiate amendments to the Zoning and Subdivision Ordinances, the Comprehensive Plan and make recommendations to the Council.

B. Review all proposed amendments to these ordinances, the Comprehensive Plan, and make recommendations to the council.

C. Review subdivision proposals according to the process outlined in the Subdivision Ordinance and make recommendations to the Council.

D. Review applications for zoning changes, planned unit developments and make recommendations to the Council.

E. Review and grant or deny special use permits and attach such conditions as will uphold the intent of the Ordinance.

F. Review and grant or deny variance applications.

3.4 CONFLICT OF INTEREST.

The Council, in creating the Commission, shall provide that the areas and interests within its jurisdiction are broadly represented on the Commission. A member or employee of the Council or Commission shall not participate in any proceeding or action when the member or employee, or their employer, business partner, business associate or any person related to them by affinity or consanguinity with the second degree has an

economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of this Section shall be a misdemeanor.

3.5

APPEALS.

Any interested party may appeal in writing any final decision of the Administrator or Commission to the Council by filing an appeal with the Dietrich City Clerk within fifteen (15) days from the date of the decision. The appeal shall specifically state the decision appealed and reasons for the appeal. If no appeal is filed within the fifteen (15) day period the decision shall be deemed final.

**ARTICLE IV
ESTABLISHMENT AND PURPOSE OF DISTRICTS**

The following districts are hereby established:

4.1 GENERAL RESIDENTIAL DISTRICT (GR).

4.1.1 PURPOSE.

The purpose of the **GR District** is to provide areas for a variety of residential uses and a limited number of other uses compatible with this type of residential development. The intent is to preserve the favorable amenities associated with a residential neighborhood.

4.1.2 PERMITTED USES.

Permitted uses for the **GR District** are limited to the following:

Residences

- Multi-family dwellings
- Single Family Residences

Community Facilities

- Bus pickup shelters
- Churches
- Day Care Homes
- Historic Sites and Monuments
- Open space
- Parks, playgrounds and golf courses
- Schools

Businesses

- Home Occupations

4.1.3 CONDITIONAL USES.

Conditional uses for the **GR District** are limited to the following:

Residences

- Mobile home parks

Lodging

- Bed and Breakfast Inns
- Boarding and Rooming Houses
- Recreational Vehicle Parks

Community Facilities

- Day Care Centers
- Day Care Facilities
- Non-Motorized Transportation / recreation pathways
- Public service and public utility facilities

Businesses

- Commercial Facilities Catering to Mobile Home or Recreational Vehicle Parks

4.1.4 ACCESSORY USES.

Accessory uses for the **GR District** are limited to the following:

- Commercial Facilities incidental to golf courses
- Detached Garages
- Gardens
- Greenhouse/private
- Horses / Pets and Family Food Production Animals

A maximum of two (2) animal units (AU) per acre are permitted as an accessory use on lots of a one-half (1/2) acre minimum size.
(Exceptions: 2 horses may be kept on a one-half (1/2) acre lot. Pigs need to be kept clean and at least 50 feet from a property boundary to avoid nuisance odors.)

Storage Buildings
Swimming Pools

4.1.5 BULK REQUIREMENTS.

4.1.5.1 Minimum Lot Size - eight thousand (8,000) square feet.

4.1.5.2 Minimum Lot Width - seventy five (75) feet except as follows:

Townhouse sub-lots shall conform to the standards established in the Uniform Fire code, as adopted by the City of Dietrich.

4.1.5.3 Maximum Building Height - thirty-five (35) feet.

4.1.5.4 Minimum Front Yard Setback - twenty (20) feet.

4.1.5.5 Minimum Side and Rear Yard Setback - one (1) foot for every three (3) feet or fraction thereof of building height and no side or rear yard shall be less than ten (10) feet except as follows:

The Townhouse sub-lot side yard setback along the common wall boundary line shall be zero feet.

4.1.6 MOBILE HOME PARKS. Should a special use permit be granted for a Mobile Home Park, the bulk requirements of listed under **B District** shall be considered the minimum requirements for this **GR District**

4.2 BUSINESS DISTRICT (B).

4.2.1 PURPOSE.

The purpose of the B District is to provide areas for general business, commercial activities and a limited number of residential uses.

4.2.2 PERMITTED USES.

Permitted uses for the **B District** are limited to the following:

Residences

- Dwelling units within business buildings
- Mobile home parks
- Multi-family dwellings
- Single Family Residences

Lodging

- Bed and Breakfast Inns
- Boarding and Rooming Houses
- Hotels
- Motels
- Recreational Vehicle Parks

Community Facilities

- Bus pickup shelters
- Colleges, vocational/technical trade schools
- Day Care Centers
- Day Care Facilities
- Historic Sites and Monuments
- Hospitals
- Medical Clinics
- Non-Motorized Transportation / recreation pathways
- Nursing Homes / Sanitariums
- Open space
- Professional offices
- Public service and public utility facilities
- Recreation uses (indoor and outdoor)
- Schools
- Swimming Pools

Businesses

- Automobile Sales
- Building maintenance firms
- Catering Services
- Commercial Facilities Catering to MH or RV parks
- Construction and building supply sales
- Convenience Stores
- Electrical and Plumbing Contractors
- Entertainment and Recreational Uses
- Home Occupations
- Light Manufacturing
- Mercantile (Wholesale and Retail)
- Mini Storage
- Nurseries and garden centers
- Pharmacies and Medical Supply Stores
- Photographic processing laboratories
- Printing and publishing establishments
- Research and Development
- Restaurants

Service Stations
Telecommunication broadcasting studios
Veterinary Clinics and animal hospitals
Wholesale Distributors

4.2.3 **CONDITIONAL USES.**
Conditional uses for the B District are limited to the following:

Community Facilities

Churches
Day Care Homes
Onsite Day Care for Children of employees only
Parks, playgrounds and golf courses

Businesses

Agricultural Purposes
Automobile body and fender operations
Commercial Facilities incidental to golf courses
Hybrid Production Facilities
Parking lots and parking garages not w/ permitted use
Sales, rental and servicing of trailers, farm implements
Warehouse and storage facilities

4.2.4 **ACCESSORY USES.**
Accessory uses for the B District are limited to the following:

Detached Garages
Storage Buildings

4.2.5 **BULK REQUIREMENTS.**

4.2.5.1 **Minimum Lot Size** - six thousand (6,000) square feet.

4.2.5.2 **Minimum Lot Width** - fifty (50) feet.

4.2.5.3 **Maximum Building Height** - thirty five (35) feet.

4.2.5.4 **Minimum Front Yard Setback** - twenty (20) feet.

4.2.5.5 **Minimum Side and Rear Yard Setback** - one (1) foot for every three (3) feet or fraction thereof of building height no side or rear yard shall be less than ten (10) feet.

4.2.6 **ADDITIONAL REGULATIONS.**

4.2.6.1 **Project features** that may have a negative impact upon adjacent property shall be buffered from said property.

4.2.6.2 **Mobile home parks** shall be no less than one half (1/2) acre in size and shall comply with the following:

4.2.6.2.1 **Minimum Park Width** - seventy-five (75) feet.

4.2.6.2.2 **Minimum Front Yard Setback** - twenty-five (25) feet.

4.2.6.2.3 **Minimum Side and Rear Yard Setbacks** - ten (10) feet.

4.2.6.2.4 **Maximum Building Height** - thirty-five (35) feet.

4.2.6.2.5

The following shall be provided for all mobile home parks according to plans approved by the Planning Commission:

- A.** Water and sewer systems.
- B.** Twenty-four (24) foot wide paved and lighted driveways.
- C.** Four (4) foot wide paved and lighted walkways.
- D.** Usable open space at a minimum of twenty-five (25%) percent of the total lot area excluding paved areas.
- E.** Sanitary service building connection to City sewer and water and a method for refuse disposal.
- F.** Each manufactured home space shall have a minimum area of one thousand eight hundred (1,800) square feet and a minimum width of thirty (30) feet.
- G.** A minimum of ten (10) feet of clear path shall be provided between manufactured homes.

4.3 LIGHT INDUSTRIAL DISTRICT (LI).

4.3.1 PURPOSE.

The purpose of the **LI District** is to provide areas for light industrial operations and limited related or associated retail sales. Limited related retail sales is defined as restricted to retail sales clearly associated with and secondary to the permitted use and of the type not normally located in downtown business districts (e.g. the retail sale of auto parts by an auto dealership). The area is characterized by outdoor display areas, industrial and service type traffic usage and patterns and light manufacturing or construction related services. The intent is to group these uses that demand similar circulation patterns and service requirements together and provide regulations to preserve the integrity of the industrial uses while insuring the health, welfare and safety of the community.

4.3.2 PERMITTED USES.

Permitted uses for the **LI District** are limited to the following:

Community Facilities

- Bus pickup shelters
- Historic Sites and Monuments
- Open space
- Public service and public utility facilities

Businesses

- Automobile body and fender operations
- Automobile Sales
- Building maintenance firms
- Construction and building supply sales
- Electrical and Plumbing Contractors
- Fabrication of wood, metal, plastic or other materials
- Home Occupations
- Hybrid Production Facilities
- Industrial Laundry / dry cleaning service
- Light Manufacturing
- Nurseries and garden centers
- Photographic processing laboratories
- Printing and publishing establishments
- Research and Development
- Sales, rental and servicing of trailers, farm implements
- Service Stations
- Telecommunication broadcasting studios
- Warehouse and storage facilities
- Wholesale Distributors

4.3.3 CONDITIONAL USES.

Conditional uses for the **LI District** are limited to the following:

Residences

- Single Family Dwelling on 5-acre parcel

Community Facilities

- Non-Motorized Transportation / recreation pathways
- Onsite Day Care for Children of employees only
- Professional offices

Businesses

- Agricultural Purposes

Catering Services
Mercantile (Wholesale and Retail)
Mini Storage
Parking lots and parking garages not w/ permitted use
Personal Services Establishments
Veterinary Clinics and animal hospitals

4.3.4 **ACCESSORY USES.**

Accessory uses in the **LI District** are limited to the following:

Storage Buildings

4.3.5 **BULK REQUIREMENTS.**

4.3.5.1 **Minimum Lot Size** - six thousand (6,000) square feet.

4.3.5.2 **Minimum Lot Width** – seventy-five (75) feet.

4.3.5.3 **Maximum Lot Coverage** - not more than seventy-five percent (75%) of the lot shall be covered by buildings.

4.3.5.4 **Maximum height of buildings or structures** – thirty-five (35) feet.

4.3.5.5 **Minimum Front Yard Setback** - twenty (20) feet.

4.3.5.6 **Minimum Side and Rear Yard Setback** - none except where the subject property is located adjacent to the following districts; GR, MH, or LB in which case the side and rear yard setback shall be twenty-five (25) feet. No building shall be less than ten (10) feet from any street.

4.3.6 **ADDITIONAL REQUIREMENTS.**

4.3.6.1 No land or building in the LI District shall be used or occupied in any manner creating dangerous, injurious, noxious or any other objectionable conditions, which could adversely affect the surrounding areas or adjoining premises. Appropriate measures shall be taken to reduce dangerous and objectionable conditions to acceptable limits as established by the following requirements:

4.3.6.1.1 **Fire Hazards** - Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and fire prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved as specified in the Uniform Fire Code.

4.3.6.1.2 **Radioactivity or Electrical Disturbances** - No activity shall emit harmful radioactivity or electrical disturbances.

4.3.6.1.3 **Noise** - Objectionable noise, as determined by the Commission, which is due to volume, frequency or beat, shall be muffled or otherwise controlled. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement. The Commission may set standards for maximum noise levels.

4.3.6.1.4 **Vibration** - Vibration that can be detected without instruments on any adjoining lot or property shall be prohibited.

- 4.3.6.1.5** **Air and Water Pollution** - Air and water pollution shall be subject to the requirements and regulations established by the State of Idaho. All users shall be connected to the City of Dietrich sewer system and comply with the requirements for using the system.
- 4.3.6.1.6** **Glare** - No direct or reflected glare shall be permitted which is visible from any property outside the LI District or from any street.
- 4.3.6.1.7** **Erosion** - No erosion by man, wind or water shall be permitted which will carry objectionable substances onto neighboring properties.
- 4.3.6.2** All materials, with the exception of trees and plant materials stored on the premises, and all machinery and vehicles other than those for sale, display or parked temporarily shall be stored within a building or within a wall or fence not less than five (5) nor more than six (6) feet in height. Subject to approval of the Administrator earth berms and landscaping with sufficient height and density may be substituted for a wall or fence.
- 4.3.6.3** Landscaping shall be provided and maintained in all required yards.
- 4.3.6.4** Landscape screening shall be provided and maintained in the required yards adjacent to the GR or B zone districts to protect these areas from undue intrusion of noise, light, odor and other influences. Such landscaping shall, at a minimum, consist of:
- 4.3.6.4.1** A hedge, berm, solid wall or solid fence not less than five (5) not more than six (6) feet in height along any side or rear yards.
- 4.3.6.4.2** One (1) row of deciduous or evergreen trees or a mixture of each placed no further apart than fifteen (15) feet.
- 4.3.6.4.3** Lawn, low growing evergreen shrub, evergreen or ground cover on the balance of the required landscaped yards.

4.3.7 **CONFLICTING and PROHIBITED USES.**

Conflicting uses are those that are incompatible with the permitted uses in the LI District and shall be prohibited within the district and shall require buffering if adjacent to the LI district. These prohibited uses include but are not limited to the following:

Residences

- Dwelling units within business buildings
- Mobile home parks
- Multi-family dwellings
- Single Family Residences

Lodging

- Hotels
- Motels

Community Facilities

- Churches
- Hospitals
- Nursing Homes / Sanitariums
- Schools
- Heavy Industry
- Restaurants

4.4 AGRICULTURAL DISTRICT (A).

4.4.1 PURPOSE.

The purpose of the **A District** is to provide areas for a variety of agricultural land. The intent is to preserve the rural quality of the peripheral areas of the town.

4.4.2 PERMITTED USES.

Permitted uses for the **A District** are limited to the following:

Residences

Single Family Dwelling on 5-acre parcel

Community Facilities

Bus pickup shelters

Day Care Homes

Historic Sites and Monuments

Non-Motorized Transportation / recreation pathways

Open space

Businesses

Agricultural Purposes

Home Occupations

4.4.3 CONDITIONAL USES.

Conditional uses for the **A District** are limited to the following:

Lodging

Bed and Breakfast Inns

Businesses

Entertainment and Recreational Uses

4.4.4 ACCESSORY USES.

Accessory uses for the **A District** are limited to the following:

Detached Garages

Storage Buildings

4.4.5 BULK REQUIREMENTS.

4.4.5.1 Minimum Lot Size - five (5) acres.

4.4.5.2 Maximum Building Height - equal to the distance to the nearest boundary.

4.4.5.3 Minimum Front Yard Setback - fifty (50) feet.

4.4.5.4 Minimum Side and Rear Yard Setback - ten (10) feet.

**ARTICLE V.
OFFICIAL ZONING MAP**

5.1 OFFICIAL ZONING MAP.

The districts established in Article IV of this Ordinance are shown on the Official Zoning Map of Dietrich, Idaho, which Official Zoning Map, together with all explanatory matter thereon, is hereby adopted as part of this Ordinance.

5.2 INTERPRETATION OF DISTRICT BOUNDARIES.

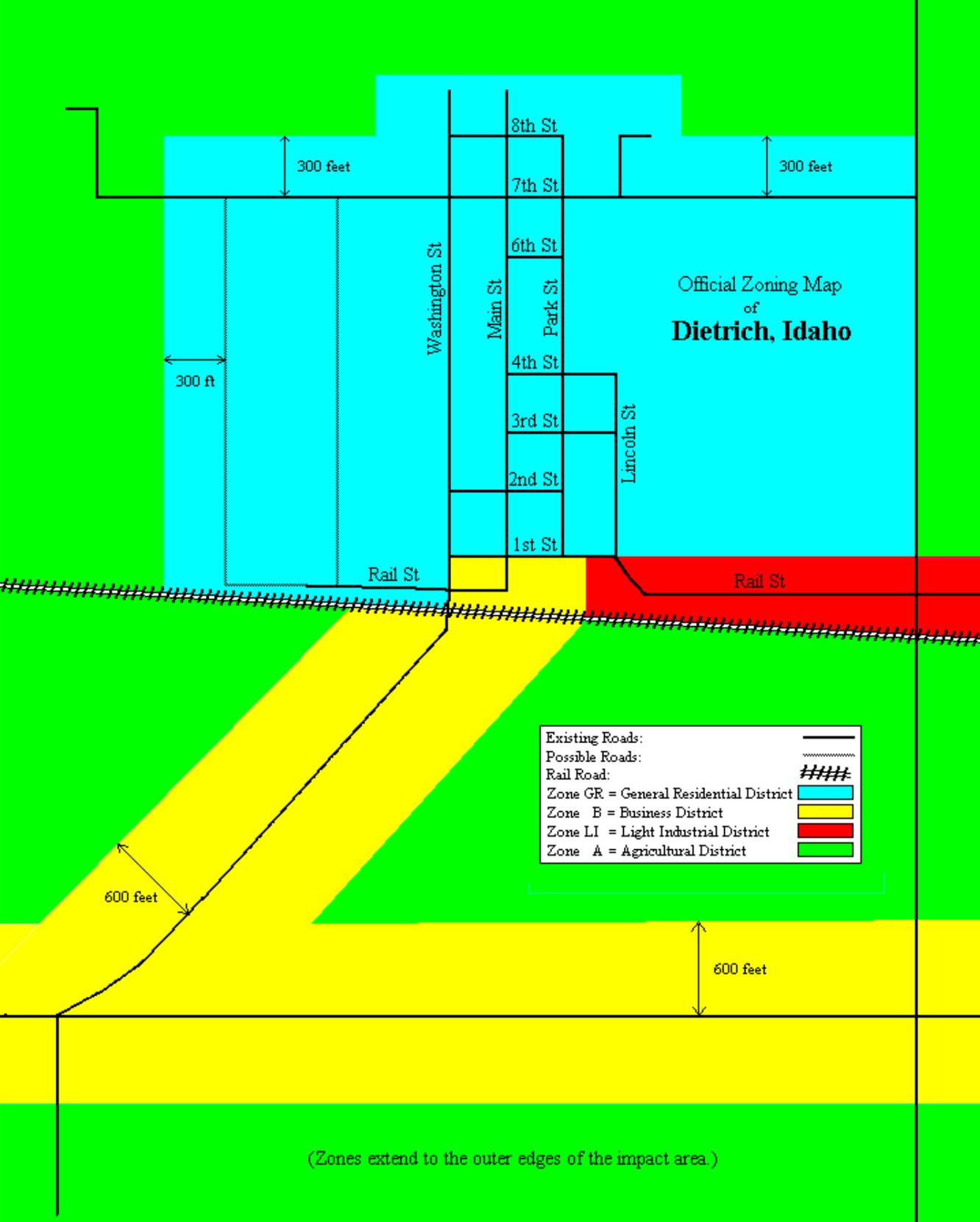
Unless otherwise defined on the Official Zoning Map, district boundary lines are lot lines; the centerlines of streets, alleys, railroad rights-of-way or streambeds; municipal corporate lines; or other lines drawn to scale on the Official Zoning Map.

If a lot is divided by a zoning district boundary line at the time of enactment of this Ordinance or by subsequent amendments, the less restrictive zoning requirements may be extended not more than twenty five (25) feet into the more restrictive zoning district adjacent to the zoning district boundary line.

5.3 AMENDMENT.

The Official Zoning Map shall be amended according to the procedure set forth in Article XIV of this Ordinance.

Official Zoning Map



**ARTICLE VI
DISTRICT REGULATIONS**

6.1 COMPLIANCE WITH REGULATIONS.

6.1.1 The regulations for each district set forth by this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

6.1.2 No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

6.1.3 No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Ordinance shall meet at least the minimum requirements set forth herein.

**ARTICLE VII
FENCES and SIGNS**

7.1 FENCES.

7.1.1 GENERAL PROVISIONS.

The following requirements shall apply in all districts:

- 7.1.1.1** No fence may be located, constructed or maintained in such a way as to obstruct the view of intersections by motorists and pedestrians.

7.1.2 SPECIFIC STANDARDS.

The following provisions shall apply in addition to those specified in **Section 7.1.1.**

- 7.1.2.1** For all uses in the GR district, fences shall not exceed four (4) feet in height when located within the required front yard setback and six (6) feet when located within the required side and rear yard setbacks.

- 7.1.2.2** For all uses in LI, and B Districts, fences shall not exceed six (6) feet in height.

- 7.1.3** **ENTRYWAY GATES** shall be permitted only as part of an approved fence, shall contain material sized no larger than twice the size of the material utilized in the fence, shall be located no less than ten (10) feet from any existing or proposed structure and shall be no more than eight (8) feet in height. The height limitation may be waived in the A District.

7.2 SIGNS.

- 7.2.1** **TITLE** - This Section shall be known as the **Dietrich Sign Ordinance.**

7.2.2 PURPOSE.

The purpose of this Section to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design of such devices without creating detriment to the general public.

7.2.3 DEFINITIONS:

- 7.2.3.1** **Building Frontage.** The width of a building facing the street to which the building or business is oriented. In the case of corner lots the frontage shall be one of the streets to which the building is oriented, to be determined by the Administrator.

- 7.2.3.2** **Sign.** Every advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement, or promotion of the interest of any person, entity, product or service. The definition of sign shall also include the sign structure, supports, lighting system, and any attachments, ornaments or other features used to draw the attention of others.

- 7.2.3.3** **Temporary Sign.** A sign that is intended for use during a specified, limited time, and removed from display following that specified time.

- 7.2.3.4** **Wall Sign.** Any sign attached parallel to, but within nine inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

7.2.3.5 Window Sign. Any sign installed upon or within three feet of a window for the purpose of viewing from outside the premises. This term does not include merchandise displayed.

7.2.4 APPLICATIONS and PERMITS:

7.2.4.1 No person shall erect, alter, or relocate any permanent or temporary sign greater than four square feet in face area within the City without first obtaining a Sign Permit from the City.

7.2.4.2 Appropriate fees will be established by a separate resolution of the Dietrich City Council.

7.2.5 REMOVAL OF ILLEGAL OR UNSAFE SIGNS:

Any sign which has been determined to be unsafe by the Dietrich Building and Safety Official, of which has been constructed, erected or maintained in violation of this Section, must be repaired, made safe, made in conformance with this Ordinance, or removed within ten working days after receipt of certified notice from the City. Failure to respond to remedy the violation is unlawful, and the person having charge or control over the sign will be guilty of a misdemeanor.

7.2.6 PROHIBITED SIGNS.

No person shall erect, maintain or relocate any sign as specified in this Section in any District.

7.2.6.1 Signs creating traffic hazards. A sign at or near any public street, or at the intersection of any public streets, situated in such a manner as to create a traffic hazard by obstructing vision. Additionally, any sign at any location that would interfere with, obstruct the view of or be confused with any authorized traffic sign.

7.2.6.2 Hazardous signs. A sign which, due to structural weakness, design defect, or other reason, constitutes a threat to the health, safety and welfare of any person or property

7.3 FENCE and SIGN PERMIT

Fence and sign permits shall be issued by the Fence and Sign Ordinance Administrator, as appointed by the City Council. The Administrator shall review all permit applications and issue those permits that meet the requirements of **Section 7.1 and 7.2**. All records pertaining to the permits shall be maintained for public inspection.

7.3.1 FENCE PERMIT. A fence permit shall be required for all fences in all districts.

7.3.2 SIGN PERMIT. A sign permit shall be required for all signs over four (4) square feet in size per face.

7.3.3 APPLICATION. The application for a fence or sign permit shall include, at a minimum, the following:

7.3.3.1 Name and address of applicant.

7.3.3.2 Proposed location of the fence or sign.

7.3.3.3 Drawing of fence or sign, to scale, showing its relationship to any adjacent buildings or structures and property lines (include color for signs).

- 7.3.3.4 Applications for sign permits must also include the following:
 - 7.3.3.4.1 A site plan drawn to scale which specifies the building frontage, the location of the sign structure or drawings which show the scale of the sign in context with the scale of the building if the sign is to be mounted on the building.
 - 7.3.3.4.2 A rendering of the text and graphics to be displayed on the sign.
 - 7.3.3.4.3 Type of materials to be used
 - 7.3.3.4.4 Method of installation and copy of a State of Idaho electrical installation permit for any illuminated sign.
 - 7.3.3.4.5 Fees for fence and sign permits are established in a separate resolution.

**ARTICLE VIII.
OFF-STREET PARKING AND LOADING SPACES**

- 8.1 **GENERAL REQUIREMENTS.**

No building or structure shall be erected, its occupancy changed, or its use changed unless permanently maintained off-street parking and loading spaces, where appropriate, have been provided in accordance with the provisions of this Ordinance.
- 8.2 **STANDARDS.**
 - 8.2.1 **Location of Parking Spaces.** The following regulations shall govern the location of off-street parking spaces and areas.
 - 8.2.1.1 Parking spaces for all single-family dwellings shall be located on the same lot as the use for which they are intended to serve.
 - 8.2.1.2 Parking spaces for commercial, industrial, multi-family or institutional uses shall be located not more that three hundred (300) feet from the principal use.
 - 8.2.2 **Maintenance.** The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all dust, trash, other debris and snow.
 - 8.2.3 **Surfacing.** All required parking and loading spaces, together with driveways, aisles, and other circulation areas, shall be surfaced with asphalt, concrete, compacted gravel or other dustless material.
 - 8.2.4 **Drainage.** All parking and loading areas shall provide for on-site drainage of surface water to prevent the drainage of such water onto adjacent properties, walkways or into the public right-of-way.
 - 8.2.5 **Lighting.** Any parking area that is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property.

ARTICLE IX PLANNED UNIT DEVELOPMENT

9.1 **PURPOSE.**

The City of Dietrich recognizes that strict adherence to the bulk regulations set forth in this Ordinance on a lot-by-lot basis is not always the most effective manner in which to carry out the intent of this Ordinance and the goals and objectives of the Comprehensive Plan. The planned unit development (PUD) process encourages flexibility and creativity in the development of land in order to improve the design, character, and quality of new development with the end goal of meeting the requirements for project approval outlined in Section 9.5.4.2 of this Ordinance.

Specific purposes of the planned unit development process include:

- 9.1.1 Promoting flexibility in the type, design, and siting of structures to preserve and take advantage of the site's unique natural resources or scenic features, and to avoid or mitigate any hazardous areas, thereby improving the character and quality of new development.
- 9.1.2 Encouraging more efficient use of land, public streets, utilities and government services.
- 9.1.3 Preserving open space for the benefit of residents of planned unit developments, as well as the community in general.
- 9.1.4 Achieving a compatible relationship between the uses in the planned unit developments as well as the community in general.
- 9.1.5 Encouraging the use of renewable resources and energy conservation measures.

9.2 **GENERAL REQUIREMENTS.**

- 9.2.1 **Planned Unit Developments** are permitted in all zone districts.
- 9.2.2 **Minimum lot size** for a PUD is one (1) acre. All land within the development shall be contiguous except for intervening streets and waterways.
- 9.2.3 **A tract or parcel of land that is** proposed for PUD development must be in one (1) ownership or the subject of an application filed jointly by the owners of all property included.
- 9.2.4 **Street and lot orientation**, landscaping, and placement of structures shall provide for solar access to all south roofs and walls to the maximum extent feasible in order to promote energy efficiency.
- 9.2.5 **Buildings** may not be so arranged that any structure is inaccessible to emergency vehicles.
- 9.2.6 **Underground utilities**, including telephone and electrical systems, shall be required within the limits of all PUDs, except where lava rock makes it impracticable.
- 9.2.7 **Development Plan.** A Final Development Plan including the information described in Section 9.5.1 shall be filed with the City Clerk to serve as a record of the approved land uses and project site design. Minor changes in the location, siting or character of buildings and structures may be authorized by the Administrator. All requests shall be in writing and supported by such documentation as reasonably required by the

Administrator. If the Administrator determines that the proposed modification represents a significant change to the proposed project, the City Council shall consider the request according to the hearing procedure set forth in Section 9.5.3 of this Article.

9.2.8 Density. Uses shall relate to those already established in the standard zone districts as described in Article IV of this Ordinance and densities shall be no greater than those established for uses in the standard zoning regulations except the Council may grant additional density according to Section 9.3.4 Density Bonus.

9.2.9 Phased Development.

9.2.9.1 The development of the PUD may be planned in phases provided that as part of the general submission, a development schedule is approved which describes:

9.2.9.1.1 An application for detailed submission in phases.

9.2.9.1.2 The parcels that are to be constructed upon in each phase and the date of each phase submission.

9.2.9.1.3 The number of units to be built in each submission.

9.2.9.1.4 A schedule for the construction of improvements, of making contributions, for various amenities, public services and facilities, open space and employee housing.

9.2.9.2 Each stage within the PUD shall be so planned and related to existing and/or planned services and facilities, including commercial space, such that each phase is self-sufficient and not dependent on later phases and so that failure to proceed to the subsequent stages will not have any adverse impacts on the PUD, its surroundings, or the community in general. Each stage shall also be planned so as to insure that open space and any other amenities will be provided along with proposed residential construction at each phase of construction.

9.2.10 Common Usable Open Space. The following minimum requirements shall apply to common usable open space, defined for the purpose of this Article as an area not encumbered by any roadway, parking area or substantial structure and which is maintained for the purpose of being used and enjoyed for either informal or structured recreational uses by the residents of the PUD project.

9.2.10.1 A proportionate, undivided interest in all common, usable open space shall be granted in perpetuity to each lot or unit owner within the PUD.

9.2.10.2 The deed shall contain restrictions against any encroachment into the common open space area.

9.2.10.3 A long-term maintenance plan shall be provided.

9.2.10.4 The property owners shall be responsible for maintaining the common usable open space for the benefit of the residents of the PUD.

9.2.11 Public Easement. In each case where a PUD project is located adjacent to public lands, a public easement to those lands shall be provided.

9.3 BULK REQUIREMENTS.

9.3.1 The Council may grant modifications or waivers of zoning requirements to carry out the intent of this Article and Ordinance and the land use policies of the City.

9.3.2 In no case shall uses, including accessory uses, be permitted which would otherwise be prohibited in the district in which a PUD or portion thereof is to be located.

9.3.3 In order to provide flexibility in the type and design of structures, the maximum height of buildings and structures may be varied in consideration of the following factors:

9.3.3.1 Geographic location.

9.3.3.2 The probable effect on surrounding slopes and terrain.

9.3.3.3 Adverse visual effect on adjacent sites or other areas in the immediate vicinity; potential problems for adjacent sites caused by shadows, loss of circulation or loss of view.

9.3.3.4 Effect on the general area with respect to the creation of extreme contrast in building height or interruption of vistas or obstruction of open space.

9.3.3.5 Uses within the building or structure.

9.3.4 DENSITY BONUS.

9.3.4.1 The following maximum increases in density may be granted singularly or cumulatively only if the accompanying conditions are met:

9.3.4.1.1 Ten percent (10%): Solar, wind, mini-hydro or geothermal energy will provide at least fifty percent (50%) of the total energy needs of the PUD.

9.3.4.1.2 Twenty percent (20%): Solar, wind, mini-hydro or geothermal energy will provide one hundred percent (100%) of the total energy needs of the PUD.

9.3.4.1.3

9.3.4.1.4 Ten percent (10%): At least twenty five percent (25%) of the property included in the PUD is located in the floodplain and no development occurs within the floodplain.

9.3.4.1.5

9.3.4.1.6 Ten percent (10%): A recreational resource such as tennis courts, ball fields, swimming pool or gymnasium maintained by a homeowners' association or other administrative entity established by contract as part of the PUD is made available to either the residents of the PUD exclusively or the general public.

9.3.4.2 Density bonuses for project amenities and benefits to the community other than those listed here may be granted in order to carry out the purpose and intent of this Article and the land use policies of the City.

9.4 OFF-STREET PARKING.

9.4.1 The number of off-street parking spaces required by this Ordinance may be increased or decreased in consideration of the following factors:

9.4.1.1 The estimated number of cars owned by future occupants of dwellings in the PUD.

9.4.1.2 The parking needs of any non-residential uses.

9.4.1.3 The varying time periods of use, whenever joint use of common parking is proposed.

9.4.2 Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the City shall obtain assurances that the nature of the occupancy will not change.

9.5 PLANNED UNIT DEVELOPMENT PERMIT.

Any person proposing to develop a PUD shall obtain a PUD Permit, as herein provided, prior to any construction, subdivision, or sale or offering for sale of any units, structures, or land within the subject property. The goal of the following Section is to provide some certainty for the applicant as to how the permit process is to occur with the goal of minimizing the processing time. Pre-application conferences with the Administrator are encouraged in order to acquaint the applicant with the PUD process and allow Staff to informally review the proposed project. Once the application is deemed complete, the Administrator shall work closely with the applicant and other City staff members to bring the required information before the Planning Commission in a timely manner.

9.5.1 APPLICATION.

An application for approval of a proposed PUD shall be made to the Planning and Zoning Commission upon forms furnished by the City, and as part thereof shall include three (3) copies of the development plan. An application shall not be deemed filed until complete and all required fees paid. The City Clerk shall certify the date when an application is deemed complete for the purpose of beginning the review process and the time limitations set forth herein. The original application shall be kept on file at City Hall and a copy of the dated application form shall be given to the applicant.

The application form shall contain the following information and exhibits:

9.5.1.1 Name, address and telephone number of applicant.

9.5.1.2 Name, address and telephone number of registered surveyor and/or registered engineer assisting in the preparation of the Preliminary Development Plan.

9.5.1.3 Legal description of the property.

9.5.1.4 A vicinity map at a scale approved by the Administrator, showing property lines, streets, existing and proposed zoning and such other items as the Administrator may require to show the relationship of the PUD to the Comprehensive Plan.

9.5.1.5 A Preliminary Development Plan at an appropriate scale showing location and type of proposed land uses; layout dimensions and names of existing and proposed streets, rights-of-way, utility easements, community open space, layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas and such other characteristics as the Administrator deems necessary.

9.5.1.6 A drainage plan showing the location, size, and direction of all water courses and drainage flows, all drainage canals, and structures, the proposed method of disposing of runoff water, and the location and size of all drainage easements relating thereto, whether they are located within or outside of the proposed development

9.5.1.7 A landscaping plan showing the location and size of existing mature trees, and established shrub masses, and showing the location, size and type of proposed landscaping of the project.

- 9.5.1.8** A surveyed contour map of the existing topography of the property and a contour map of the proposed development with contour lines at a maximum interval of five (5) feet to show the existing and proposed configuration of the land together with the documentation upon which said contour maps were prepared.
- 9.5.1.9** A current title report together with a copy of the owner's recorded deed to said property. A copy of the applicant's option to purchase or unrecorded contract of sale for said property together with the written notarized consent of the owner(s) of record to said PUD shall be sufficient evidence of ownership to allow processing of said application. Withdrawal of consent of an owner of record shall be deemed withdrawal of the application.
- 9.5.1.10** Location of on-site parking spaces and access thereto, including the dimensions of the spaces and the width and length of access.
- 9.5.1.11** Proposed schedule for the development of the site.
- 9.5.1.12** Studies may be reasonably required prior to or during the review process by the Administrator, Commission or Council of the social, economic, fiscal or environmental effects of the proposed development.
- 9.5.1.13** Additional information as reasonably required at the discretion of the Commission, prior to or during the review process.
- 9.5.1.14** List of names and address of the owners of each parcel within three hundred (300) feet of the subject property.
- 9.5.1.15** A fee established in a separate resolution adopted by the City Council.
- 9.5.2** **CONCURRENT SUBMISSION.**
A Planned Unit Development Permit Application may be submitted and reviewed concurrently with other applications affecting the same piece of property with the approval of the Administrator. Concurrent submissions shall be voted on separately.
- 9.5.3** **PLANNING & ZONING COMMISSION ACTION.**
- 9.5.3.1** Upon the filing of an application, the City Clerk shall submit it for review and comment to the Planning, Fire, Water, Sewer and Streets Departments, and shall, at the expense of the person submitting the application, publish a Public Notice of a hearing before the Planning and Zoning Commission, which notice must be published once in a local newspaper of general circulation at least fifteen (15) days prior to the hearing. The Official Zoning Map is required in conjunction with the PUD application. A notice must be provided in accordance with Section 13.4.2.1 of this Ordinance. The Commission shall conduct a public hearing and review the application, all supporting documents and plans, and recommendations of City staff, in making their recommendation to the Council.
- 9.5.3.2** In any public hearing on a PUD application, the presiding officer may order the hearing to be continued for up to thirty (30) days at the same place, in which case no further published notice shall be required.
- 9.5.4** **CITY COUNCIL ACTION.**
- 9.5.4.1** At least ten (10) days prior to a noticed public hearing held according to the procedure set forth in Section 9.5.3, the applicant shall submit a Final Development Plan containing the following:

- 9.5.4.1.1** Name and address of the property owner or person having a presently existing interest in the property for which the PUD is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for Final Development Plan.
- 9.5.4.1.2** All the information included as part of the Preliminary Development Plan as approved by the Commission.
- 9.5.4.1.3** Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.
- 9.5.4.2** The City Council shall, after hearing and review of the application and all supporting documentation, plans, etc. either approve the plan or disapprove the plan or approve with supplementary conditions that relate directly to the following findings of fact. These findings are required in order to approve the modification or waiver of any standard zoning regulation. If approved shall find that the facts submitted with the application and presented to them establish that:
- 9.5.4.2.1** The proposed development can be completed within one (1) year of the date of approval or phased according to a development schedule as described in Section 9.2.9; and
- 9.5.4.2.2** The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic; and
- 9.5.4.2.3** The PUD will not create excessive additional requirements at public cost for public facilities and services; and
- 9.5.4.2.4** The PUD is in general conformance with the Comprehensive Plan; and
- 9.5.4.2.5** The existing and proposed utility services are adequate for the population densities and non-residential uses proposed; and
- 9.5.4.2.6** The development plan incorporates the site's significant natural features; and
- 9.5.4.2.7** Each phase of such development shall contain all the necessary elements and improvements to exist independently from proposed future phases in a stable manner; and
- 9.5.4.2.8** Adequate and common useable open space shall be provided.
- 9.5.4.3** **Conditions of Approval.**
The Council may attach conditions to a PUD as it deems necessary to mitigate potential adverse impacts to the City's system of infrastructure, further the City's land use policies as established in the Comprehensive Plan, or to ensure that the benefits derived from the development justify a departure from the standard zoning regulations. Such conditions may include, but are not limited to, those which will:
- 9.5.4.3.1** Minimize adverse impact on surrounding properties, developments or public services, facilities or utilities.
- 9.5.4.3.2** Describe the sequence and time of development.

- 9.5.4.3.3 Describe the duration of development.
- 9.5.4.3.4 Assure that development is maintained properly.
- 9.5.4.3.5 Require the provision for on-site or off-site public improvements, facilities or services when the proposed development is found to create a significant adverse impact on off-site public streets, facilities, utilities or services, including but not limited to bridges, intersections, road, traffic control devices, water mains, sewer mains, fire equipment, and recreational facilities.
- 9.5.4.3.6 Require methods or manner of construction to minimize impact on adjacent properties or to prevent erosion or runoff and similar environmental impacts.
- 9.5.4.3.7 Require dedications of land or cash in lieu thereof for streets, parks, or similar uses.
- 9.5.4.3.8 Require additional plans or engineering revision for any aspect of the development plan.
- 9.5.4.3.9 Require provision of adequate employee housing.
- 9.5.4.3.10 Require written agreements executed by the developer to secure performance of any requirement or condition to be imposed as part of the approval including, but not limited to, development, services or annexation agreements.
- 9.5.4.3.11 Require submission of a revised development plan to incorporate changes made therein during the review process.
- 9.5.4.3.12 Require dedication of lands, personal property or improvements to the City.
- 9.5.4.3.13 Require recordation of documents with the Lincoln County Recorder including, but not limited to, Declarations of Covenants and Restrictions, easements, restrictive covenants, management agreements and similar documents establishing and guaranteeing the creation, operation and maintenance of the project, including, but not limited to provisions that such documents may not be amended without the prior written consent of the City Council.
- 9.5.4.3.14 Require that utility lines be placed underground.
- 9.5.4.4 **Notification by the Administrator.** The Administrator shall give the applicant written notice of the Council's decision by mail within ten (10) days after the Council has reached a decision.
- 9.5.4.5 **Expiration and Extension of Approval Period.** If a project is to be phased, construction of the second and succeeding phases shall be contingent upon completion of the preceding phase unless the requirement is waived by the City Council. Further, if construction on any PUD or phase of any PUD ceases or is not diligently pursued for a period of one (1) year without the prior consent of the City Council, the PUD permit shall at that time become null and void.
- 9.5.4.6 **Waiver of Time Periods.** If the Dietrich City Council determines that an emergency exists and that the public welfare would be promoted thereby, it shall have the authority to waive the time requirements for a public hearing pursuant to Section 10.4.3 and order a joint public hearing of the Dietrich City Council and Planning and Zoning Commission. Provided, however, the joint public hearing shall be preceded

by at least one (1) publication in a newspaper of general circulation of the public hearing.

9.5.4.7 **Revocation.** The Council, upon request of the Commission, an individual, or itself, may consider and revoke a PUD permit for any of the following grounds:

9.5.4.7.1 Violation of this Ordinance.

9.5.4.7.2 Violation of the conditions of the permit after notice of the violation.

9.5.4.7.3 Causing or allowing a nuisance in connection with the premises.

9.5.4.8 If the Council finds that probable cause exists for revocation of a PUD permit, the City Clerk shall give notice of a hearing to the permittee and the public in the same manner as notice of a hearing for an application for a PUD permit. The Council shall hold a hearing on the question of revoking the permit and, if it finds that grounds for revocation exist, it shall revoke the permit.

**ARTICLE X.
SPECIAL USE PERMITS**

10.1 PURPOSE.

The City of Dietrich recognizes that certain uses possess unique and special characteristics with respect to their location, design, size, method of operation, circulation and public facilities. In order to protect the public welfare and guarantee conformance with the Comprehensive Plan, permits are required for such uses upon review by the Commission. Conditional uses require a Special Use Permit.

10.2 APPLICATION.

10.2.1 An application for a special use permit shall be made to the Planning and Zoning Commission by at least one (1) holder of any interest in the real property for which such conditional use is proposed.

10.2.2 The application shall include at least the following information:

10.2.2.1 Name, address and phone number of the applicant.

10.2.2.2 Proof of interest in the subject property.

10.2.2.3 Legal description of the subject property, including street address.

10.2.2.4 Description of existing use.

10.2.2.5 Zoning district of subject property.

10.2.2.6 Description of proposed conditional use.

10.2.2.7 A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, energy efficiency considerations, landscaping, refuse and service areas, utilities, signs, property lines, north arrow and rendering of building exteriors, where applicable.

10.2.2.8 A narrative statement evaluating the effects on adjoining property, the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property.

10.2.2.9 A narrative statement identifying surrounding land uses and discussing the general compatibility of the proposed use with adjacent and other properties in the district.

10.2.2.10 A narrative discussion of the relationship of the proposed use to the Comprehensive Plan.

10.2.2.11 A list of the names and addresses of all property owners and residents within three hundred (300) feet of the external boundaries of the land being considered.

10.2.2.12 Any other information as requested by the Administrator to determine if the proposed conditional use meets the intent and requirements of this Ordinance.

10.2.2.13 A fee established in a separate resolution approved by the City Council.

10.2.3 **CONCURRENT SUBMISSION.** A Special Use Permit Application may be submitted and reviewed concurrently with other applications affecting the same piece of property with the approval of the Administrator. Additional time for review of concurrent applications may be specified by the Administrator. Concurrent submissions shall be voted on separately.

10.2.4 The City Clerk shall endorse the date of receipt of the complete application on the application.

10.2.5 The original application shall be kept on file at City Hall and a copy of the dated application form shall be given to the applicant.

10.2.6 Upon filing of the application, the City Clerk shall submit it for review and comment by the Planning, Fire, Sewer and Street Departments.

10.3 **PUBLIC HEARING.**

10.3.1 A public hearing shall be held within forty-five (45) days of receipt of a complete application.

10.3.2 The City Clerk shall mail to each addressee on the list furnished by the applicant pursuant to Section 11.2.2.K of this Article, a copy of the notice of the time and place of the hearing at least fifteen (15) days before the date set for the hearing. Failure to mail such notice to every property owner due to clerical omissions shall not affect the validity of any hearing or decision.

10.3.3 The City Clerk shall have a copy of the notice published at least one (1) time in the official newspaper of the City. The publication of the notice shall be at least fifteen (15) days before the date set for the hearing.

10.3.4 The notice of the hearing which is mailed and published shall contain:

10.3.4.1 The time and place of the hearing.

10.3.4.2 A brief description of the land that is the subject of the matter to be heard.

10.3.4.3 The purpose of the hearing and the use of the land that is sought.

10.3.4.4 Any other information that is necessary or desirable in the public interest.

10.3.5 The Commission shall hear all persons interested in the matter. The applicant shall offer competent evidence in support of his or her application, sufficient to enable the Commission to consider the matter and to make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of his application.

10.3.6 In any public hearing on a Special Use Permit Application, the presiding officer may order the hearing to be continued up to thirty (30) days at the same place, in which case no further published notice shall be required.

10.4 **CRITERIA FOR REVIEW.**

- 10.4.1** The Commission shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and, if approved, shall find adequate evidence showing that such use at the proposed location:
- 10.4.1.1** Will, in fact, constitute a conditional use as established for the zoning district involved; and
 - 10.4.1.2** Will be harmonious with and in accordance with the general objectives or any specific objective of the Comprehensive Plan and this Ordinance; and
 - 10.4.1.3** Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area; and
 - 10.4.1.4** Will not be hazardous or disturbing to existing or future neighboring uses; and
 - 10.4.1.5** Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection and drainage structure. Agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service; and
 - 10.4.1.6** Will not create excessive additional requirements at public cost for public facilities and services; and
 - 10.4.1.7** Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water, air pollution or safety hazards; and
 - 10.4.1.8** Will have vehicular approaches to the property which shall be designed so as not to create an interference with traffic on surrounding public thoroughfares; and
 - 10.4.1.9** Will not result in the destruction, loss, or damage of a natural, scenic or historic feature.
- 10.5** **ACTION BY THE COMMISSION.**
The Commission shall make a decision to approve, conditionally approve or disapprove the application within fifteen (15) days after conclusion of the public hearing and issue its decision together with the reasons therefore. The Commission shall review the application, all supporting documents and plans, and recommendations of City staff in making their decision.
- 10.6** **CONDITIONS.**
The Commission may impose any conditions, which it deems necessary to secure the purpose of City regulations and give effect to the Comprehensive Plan. Conditions that may be attached include, but are not limited to those which will:
- 10.6.1** Require conformity to approved plans and specifications.
 - 10.6.2** Require or restrict open spaces, buffer strips, walls, fences, signs, concealing hedges, landscaping and lighting.

- 10.6.3** Restrict volume of traffic generated, require off-street parking, restrict vehicular movements within the site and points of vehicular ingress and egress or other conditions related to traffic based on the recommendations of a qualified traffic engineer.
- 10.6.4** Require performance characteristics related to the emission of noise, vibration and other potentially dangerous or objectionable elements.
- 10.6.5** Limit time of day for the conduct of specified activities.
- 10.6.6** Require guarantees such as performance bonds as to compliance with the terms of the approval.
- 10.6.7** Require dedications and public improvements on property frontages.
- 10.6.8** Require irrigation ditches, laterals and canals to be covered or fenced.
- 10.6.9** Minimize adverse impact on other development.
- 10.6.9.1** Control the sequence, timing and duration of development.
- 10.6.9.2** Assure that development is maintained properly.
- 10.6.9.3** Designate the exact location and nature of development.
- 10.6.9.4** Require the provision for on-site or off-site public services.
- 10.6.9.5** Mitigate foreseeable social, economic, fiscal and environmental effects.

10.7 NOTIFICATION BY THE ADMINISTRATOR.

The Administrator shall give the applicant written notice of the Commission's decision by mail within ten (10) days after the Commission has reached its decision.

10.8 APPEAL.

10.8.1 Any person interested in appealing the action of the Commission shall file an appeal within fifteen (15) days from the date of the notice that is mailed according to the procedure set forth in Section 11.7. The City Council shall hold a public hearing and issue its decision, including any conditions it deems necessary, in accordance with the procedures for application set forth in this Article.

10.8.2 If the City denies an application or request, the applicant or his successor in interest may not file a new application or request for substantially the same special use permit for a period of one (1) year from the date the Commission or Council in the case of an appeal, takes action.

10.9 EXPIRATION.

10.9.1 A Special Use Permit which is not used within the time specified in the permit, or if no time is specified, within one (1) year after the permit is granted, shall be void.

10.9.2 A Special Use Permit is void six (6) months after the use for which it is issued is discontinued.

10.10 REVOCATION.

10.10.1 The Commission, upon request by the Council, an individual or itself may consider and revoke a Special Use Permit for any of the following grounds:

10.10.1.1 Violation of this Ordinance.

10.10.1.2 Violation of the conditions of the permit after notice of the violation.

10.10.1.3 Causing or allowing a nuisance in connection with the premises.

10.10.2 If the Commission finds that probable cause exists for revocation of a Special Use Permit, the City Clerk shall give notice of a hearing to the permittee and the public in the same manner as notice of a hearing for an application for a Special Use Permit. The Commission shall hold a hearing on the question of revoking the permit and, if it finds that grounds for revocation exist, it shall revoke the permit. The applicant or the person requesting the revocation may appeal the decision of the Commission to the City Council. The Council shall follow the procedures set forth in this Section with regard to any such appeal.

10.11 CONFORMITY.

Any building or use permitted under a Special Use Permit shall be deemed in conformity with the provisions of this Ordinance, to the extent that it complies with the provisions of said Ordinance.

10.12 SPECIAL PROVISIONS.

10.12.1 The issuance of a Special Use Permit shall not be considered a precedent for the issuance of other Special Use Permits.

10.12.2 A Special Use Permit is not transferable from one (1) parcel of land to another. The Special Use Permit may be transferred from one owner to another for the same use, but if there is a change in use on the property, a new Special Use Permit must be approved.

ARTICLE XI. VARIANCES

11.1 GENERAL PROVISIONS.

- 11.1.1** The Commission may authorize in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to unique physical conditions such as narrowness, shallowness, steepness of slope or other conditions applying to a lot or building, the strict application of the zoning regulations will deprive the property of privileges enjoyed by other properties in the vicinity and under the same zoning classification. A variance is a modification of the requirements of the Ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard setbacks, parking spaces, height of buildings or other ordinance provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots and signs.
- 11.1.2** No permitted or non-conforming use of neighboring lands, structures or buildings in other districts shall be considered grounds for issuance of a variance.
- 11.1.3** The issuance of a Variance Permit shall not be considered a precedent for the issuance of other Variance Permits.
- 11.1.4** Variances shall not be granted on the grounds of convenience and shall not be considered a right or special privilege.
- 11.1.5** A Variance Permit is not transferable from one (1) parcel of land to another.

11.2 APPLICATION.

- 11.2.1** An application for a variance shall be made to the Planning and Zoning Commission by at least one (1) holder of an interest in the real property for which such variance is proposed.
- 11.2.2** The application shall include at least the following information:
- 11.2.2.1** Name, address and phone number of the applicant.
 - 11.2.2.2** Proof of interest in the real property.
 - 11.2.2.3** Legal description of the property, including street address.
 - 11.2.2.4** Description of the nature of the variance requested.
 - 11.2.2.5** The section of the zoning regulations necessitating the variance request.
 - 11.2.2.6** Explanation of undue hardship.
 - 11.2.2.7** Unique physical characteristics of the lot or building that constitute the undue hardship.
 - 11.2.2.8** Diagrams and plot plans as requested by the Administrator showing the nature and extent of the proposed variance.
 - 11.2.2.9** Shadow pattern showing the effect on neighbor's solar access.

- 11.2.2.10** A list of the names and addresses of all property owners within three hundred (300) feet of the subject property.
- 11.2.2.11** Any other information as requested by the Administrator to determine if the proposed variance meets the intent and requirements of this Ordinance.
- 11.2.2.12** A fee to be established in a separate resolution approved by the City Council.
- 11.2.3** **CONCURRENT SUBMISSION.** A Variance Application may be submitted and reviewed concurrently with other applications affecting the same piece of property with the approval of the Administrator. Additional time for review of concurrent applications may be specified by the Administrator. Concurrent submissions will be voted on separately.
- 11.2.4** The City Clerk shall endorse the date of receipt of the completed application on the application.
- 11.2.5** The original application shall be kept on file at the City of Dietrich and a copy of the dated application form shall be given to the applicant.
- 11.3** **PUBLIC HEARING.**
- 11.3.1** A public hearing shall be held within forty-five (45) days of receipt of a completed application.
- 11.3.2** The City Clerk shall mail to each addressee on the list furnished by the applicant pursuant to Section 11.2.2.J of this Article, a copy of the notice of the time and place of the hearing at least fifteen (15) days before the date set for the hearing. Failure to mail such notice to every property owner due to clerical omissions shall not affect the validity of any hearing or decision.
- 11.3.3** The City Clerk shall have a copy of the notice published at least one (1) time in the official newspaper of the City. The publication of the notice shall be at least fifteen (15) days before the date of the hearing.
- 11.3.4** The notice of the hearing which is mailed and published shall contain:
- 11.3.4.1** The time and place of hearing.
- 11.3.4.2** A brief description of the land that is the subject of the matter to be heard.
- 11.3.4.3** The purpose of the hearing and the use of the land that is sought.
- 11.3.4.4** Any other information that is necessary or desirable in the public interest.
- 11.3.5** The Commission shall hear all persons interested in the matter. The applicant shall offer competent evidence in support of his application, sufficient to enable the Commission to consider the matter and to make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of his application.
- 11.3.6** In any public hearing on a variance application, the presiding officer may order the hearing to be continued up to thirty (30) days at the same place, in which case no further published notice shall be required.

11.3.7 No variance shall remain valid for a period of time greater than one (1) year following the granting of such variance unless work pursuant to the variance has commenced.

11.4 CRITERIA FOR REVIEW.

The Commission shall review the application for variance from this ordinance and shall grant conditionally grant, or refuse to grant the variance. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. Before any variance can be granted, the Commission must make all of the following findings:

11.4.1 That the variance, when granted, will not conflict with or cause or allow any situation which is in conflict with, the Dietrich Comprehensive Plan.

11.4.2 That the variance, when granted, will not conflict with or cause or allow any situation which is in conflict with, any existing Federal, State, or local law or which may result in injury to the public.

11.4.3 That the variance, when granted, will not effect a change in zoning.

11.4.4 That the variance, when granted, will not cause damage to the property of others.

11.4.5 That without the variance, when granted, the property owner shall suffer undue hardship and will be substantially deprived, by ordinance, of the privileges legally enjoyed by property owners of property within the vicinity of the subject property.

11.5 ENERGY EFFICIENCY VARIANCES.

Variations that will result in improved energy efficiency may be granted by the Commission provided that the following requirements are met.

11.5.1 Energy efficiency variances may be granted to allow solar greenhouses or sunspaces, solar energy systems including roof panels or geothermal, micro-hydro, wind or other energy efficient systems or structures.

11.5.2 In addition to the information required in **Section 11.2.2** of this Article, an application for an energy efficiency variance shall include detailed information showing that the criteria in **Section 11.5.3** of this Article are met.

11.5.3 Regardless of other provisions of this Ordinance, the Commission shall, before granting an energy efficiency variance for solar purposes, find adequate evidence showing that the following criteria are met:

11.5.3.1 Granting of the variance will not conflict with the public interest as expressed in the Comprehensive Plan; and

11.5.3.2 Granting of the variance will not result in extraordinary public expense or harm to the public health, safety, or welfare, the creation of nuisances, defraudation of or victimization of the public, or conflict with existing local laws or ordinances; and

11.5.3.3 The variance will not effect a change in zoning; and

11.5.3.4 The variance will not be injurious to the property or improvements of others; and

11.5.3.5 Effective solar glazing area shall not be less than eight percent (8%) of the heated space floor area for sun-tempered dwellings and ten percent (10%) of the heated space floor area for passive solar/thermal mass dwellings.

- 11.5.3.5.1** Maximum solar glazing areas shall not exceed fifteen percent (15%) of heated space floor area for sun-tempered dwellings and eighteen percent (18%) of heated space floor area for passive solar/thermal mass dwellings.
- 11.5.3.5.2** Thermal mass requirements shall meet or exceed the following:
- A.** Sun-tempered: 3 BTU/degree Fahrenheit/square foot of heated floor space.
 - B.** Passive/solar thermal mass: 10 BTU/degree Fahrenheit/square foot of heated floor space; and
- 11.5.3.5.3** Solar glazing areas shall be oriented within thirty (30) degrees of true south; and
- 11.5.3.5.4** Solar glazing areas, if mounted other than vertically, shall be tilted at least sixty (60) degrees up from horizontal.
- 11.6 ACTION BY COMMISSION.**
- 11.6.1** Under no circumstances shall the Commission grant a variance to allow a use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said District.
- 11.6.2** The Commission shall make a decision to approve, conditionally approve or disapprove the application within fifteen (15) days after conclusion of the public hearing and issue its decision together with the reasons therefor. The Commission shall review the application, all supporting documents and plans, and recommendations of City staff in making their decision. If the Commission fails to act upon the application within said fifteen (15) day period, the application shall be deemed approved by the Commission.
- 11.7 NOTIFICATION BY THE ADMINISTRATOR.**
The Administrator shall give the applicant written notice of the Commission's decision by mail within ten (10) days after the Commission has reached a decision.
- 11.8 APPEALS.**
- 11.8.1** Any interested person may appeal the decision of the Commission to the City Council. Such person shall file the appeal within fifteen (15) days from the date of notice that is mailed according to the procedure set forth in **Section 11.7**. The City Council shall hold a public hearing and issue its decision, including any conditions it deems necessary, in accordance with the procedures for application set forth in this Article.
- 11.8.2** If the City denies an application, the applicant or his successor in interest may not file a new application for substantially the same variance for a period of one (1) year from the date the Commission, or Council in the case of an appeal, takes action.
- 11.9 EXPIRATION.**
- 11.9.1** A variance permit that is not used with the time specified in the permit, or if no time is specified, within one (1) year after the permit is granted, is void.
- 11.9.2** A variance permit is void six (6) months after the use for which it is issued is discontinued.

11.10 REVOCATION.

11.10.1 The Commission, upon request by the City Council, an individual or itself, may consider and revoke a variance permit for any of the following reasons:

11.10.1.1 Violation of this Ordinance.

11.10.1.2 Violation of the conditions of the permit after notice of the violation.

11.10.1.3 Causing or allowing a nuisance in connection with the premises.

11.10.2 If the Commission finds that probable cause exists for revocation of a Variance Permit, the Administrator shall give notice of a hearing to the permittee and the public in the same manner as notice of a hearing for an application for a Variance Permit. The Commission shall hold a hearing on the question of revoking the permit and, if it finds that grounds for revocation exists, it shall revoke the permit. The applicant or the person requesting the revocation may appeal the decision of the Commission to the City Council. The Council shall follow the procedures set forth in this Section with regard to any such appeal.

11.11 CONFORMITY.

Any building or use permitted under a variance permit shall be deemed in conformity with the provisions of said Ordinance.

**ARTICLE XII
NON-CONFORMING USES AND BUILDINGS**

- 12.1 INTENT.**
It is the intent of this Ordinance to allow the continuation of non-conforming uses and buildings existing at the time of adoption of this Ordinance and legal uses which become non-conforming by adoption of this Ordinance, but not to encourage their survival or allow an increase in size or intensity of non-conforming uses.
- 12.2 AVOIDANCE OF UNDUE HARDSHIP.**
To avoid undue hardship, nothing in this Article shall be deemed to require a change in the plans, construction or designated use of any building for which a building permit has been issued prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried out diligently.
- 12.3 CONTINUATION OF USE.**
A non-conforming use may be continued, subject to the provisions of this Article.
- 12.4 CHANGE IN USE.**
A non-conforming use may be changed only to a conforming use.
- 12.5 EXPANSION OF NON-CONFORMING BUILDINGS.**
A non-conforming building may not be enlarged, extended, reconstructed, moved or structurally altered so as to increase the degree of non-conformity. A non-conforming building may be enlarged so long as the enlargement does not create new nonconformities with respect to such matters as setbacks and parking requirements. Minor repair, as defined in Section 13.9, of non-conforming buildings is encouraged.
- 12.6 DISCONTINUANCE OF USE.**
If active and continuous operations of a non-conforming use are not carried on during a continuous period of six (6) months, the tract of land where such a non-conforming use previously existed shall thereafter be used only for a conforming use. Intent to resume active operations shall not be considered active and continuous operations.
- 12.7 REPAIR.**
On any non-conforming structure, or portion of a structure containing a non-conforming use, work may be done on ordinary repairs or on repair or replacement of non-bearing wall fixtures, wiring or plumbing, provided that the repair does not increase the degree of non-conformity of the use or building as described in **Section 12.5**. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the City Building Inspector upon order of such official.

ARTICLE XIII AMENDMENT

13.1 INTRODUCTION.

Whenever the public necessity, convenience, general welfare or good zoning practices require, the Council may, by ordinance, amend the provisions of this Ordinance in accordance with the procedures of this Article. An amendment to this Ordinance may involve either or both of the following:

13.1.1 Zoning Ordinance Text Amendment-an amendment, supplement or repeal of the text of this Ordinance.

13.1.2 Zoning Ordinance Map Amendment-a change in the zone district boundaries as shown on the Official Zoning Map.

13.2 INITIATION OF AMENDMENT.

Amendments may be initiated by adoption of a motion by the Commission or the Council, or by the filing of an application with the Administrator.

13.3 APPLICATION.

13.3.1 Applications for amendments as described in **Section 13.1.1** shall contain the following information:

13.3.1.1 Name, address and phone number of applicant.

13.3.1.2 Proposed amendment and summary of the specific objective of any proposed change in text.

13.3.1.3 A statement of how the proposed amendment relates to the Comprehensive Plan.

13.3.1.4 A fee established in a separate resolution approved by the City Council.

13.3.2 Applications for amendments as described in **Section 13.1.2** shall contain the following information:

13.3.2.1 Name, address and phone number of applicant.

13.3.2.2 Existing and proposed uses of subject land.

13.3.2.3 Existing and proposed zoning district of subject land.

13.3.2.4 Vicinity map at a scale approved by the Administrator showing property lines, thoroughfares, existing and proposed zoning and such other items as the Administrator may require.

13.3.2.5 A list of all property owners and their mailing addresses within three hundred (300) feet of the external boundaries of the land being considered.

13.3.3 A fee established in a separate resolution approved by the City Council.

13.4 ACTION BY COMMISSION.

13.4.1 The Commission shall review proposed amendments in the following manner:

- 13.4.1.1** Proposed amendments, by application or by motion of the Commission or Council, shall be submitted to the Commission which shall evaluate the proposal to determine the nature and extent of the amendment and whether or not it is in accordance with the Comprehensive Plan.
- 13.4.1.2** If the proposal is in accordance with the Comprehensive Plan, the Commission may recommend and the Council may adopt or reject the Ordinance amendment under the notice and hearing procedures as herein provided.
- 13.4.1.3** Criteria for Review. The Commission shall, at a minimum, consider the following criteria in making its recommendation to the Council:
- 13.4.1.3.1** The relationship of the proposed amendment to the Comprehensive Plan; and
- 13.4.1.3.2** Availability of public services to support the full range of proposed uses; and
- 13.4.1.3.3** Compatibility of the proposed uses with the surrounding area.
- 13.4.1.4** If the proposal is not in accordance with the Comprehensive Plan, the Commission shall notify the applicant of this finding and inform the applicant that they must apply for an amendment to the Comprehensive Plan before the Ordinance or Zoning Map can be amended.
- 13.4.2** The Commission, prior to making any recommendations to the Council on any proposed amendment, shall hold at least one (1) public hearing in which all interested persons shall have an opportunity to speak.
- 13.4.2.1** At least fifteen (15) days prior to the hearing, the City Clerk shall publish a notice of time, place, and the amendment in a newspaper of general circulation within the City of Dietrich. In addition, if the amendment involves a change in district boundaries or land use designation, notice shall be provided by mail to property owners and residents within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be affected by the proposed amendment as specifically designated by the Commission.
- 13.4.2.2** Following the hearing, if the Commission makes a substantial change from what was presented at the hearing, further notice and hearing shall be provided before the Commission makes its recommendations to the Council.
- 13.4.3** The Commission shall recommend, with reasons therefor, to the Council that the proposed amendment be granted or denied, or that a modified amendment be granted.
- 13.5** **ACTION BY THE COUNCIL.**
- 13.5.1** The Council, prior to adopting, revising, or rejecting the amendment as recommended by the Commission, shall conduct at least one (1) public hearing using notice procedures as set forth in **Section 13.4.2** of this Ordinance. The Council shall not hold a public hearing, give notice of proposed hearing, nor take action upon the amendment until a recommendation has been received from the Commission.
- 13.5.2** If forty percent (40%) or more of the property owners within three hundred (300) feet of the subject property and any additional lands designated by the Commission pursuant to **Section 13.4.2** protest against the proposed amendment, such amendment shall become effective only if three fourths (3/4) of the entire Council votes in favor of the amendment

13.5.3 Upon adopting the proposed amendment, the Council shall find that the following facts, where applicable, when submitted with the application and presented to them establish that the amendment:

13.5.3.1 Will generally conform with the Comprehensive Plan; and

13.5.3.2 Will not create excessive additional requirements at public cost for public facilities and services, and;

13.5.3.3 Will be in accordance with the welfare of the general public.

13.5.4 Upon approval of an amendment, the Council shall pass an ordinance making said amendment part of this Ordinance.

13.6 RESUBMISSION OF APPLICATION.

No application for amendment which has been denied by the Council shall be resubmitted in either substantially the same form or with reference to substantially the same land for the same purposes within one (1) year from the date of such final action, unless an amendment to the Comprehensive Plan has been made which has resulted in a change in conditions applying to the specific land under consideration.

ARTICLE XIV ENFORCEMENT

14.1 METHODS OF ENFORCEMENT.

The provisions of this Ordinance shall be enforced by the following methods:

14.1.1 Requirement of a building permit.

14.1.2 Inspection and ordering removal of violation.

14.1.3 Criminal liability.

14.1.4 Injunction.

14.2 BUILDING PERMIT.

No building shall be erected, moved or structurally altered unless the Building Inspector or his authorized representative therefor has issued a building permit. All permits shall be issued in conformance with the provisions of this Ordinance and shall be valid for a period of time as specified in the Uniform Building Code.

14.3 INSPECTION.

The Administrator, Building Inspector and/or their authorized representative are empowered to require that necessary action be taken to remedy any condition found to exist in violation of any provisions of this Ordinance. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct such violation.

14.4 CRIMINAL LIABILITY.

A person shall be guilty of a misdemeanor in any case where:

14.4.1 Any violation of any of the provisions of this Ordinance exists in any building or any other structure or on a tract of land; and

14.4.2 An order to remove any such violation has been served upon the owners, general agent, lessee or tenant of the building, other structure or tract of land (or any part thereof), or upon the architect, builder, contractor or any other person who commits or assists in any such violation; and

14.4.3 Such person shall fail to comply with such order within ten (10) days after service thereof.

14.5 PENALTY.

Any person, firm or corporation violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10.00) or more than three hundred dollars (\$300.00) for each offense. Each day during which the illegal erection, construction, alteration, maintenance or use continues may be deemed a separate offense.

14.6 INJUNCTION; RECOVERY OF ATTORNEY'S FEES.

14.6.1 In addition to any of the foregoing remedies, the City Attorney, acting on behalf of the City Council, may maintain an action for an injunction to restrain any violation of this Ordinance.

14.6.2 In any action initiated by the City to enforce this Ordinance, or to recover damages resulting from a violation of this Ordinance, the City of Dietrich, if said City is determined

to be the prevailing party in such action, shall be entitled to recover from the other party or parties all attorney's fees incurred in connection with such action.

14.7

LIABILITY FOR DAMAGES.

This Ordinance shall not be construed to hold the City of Dietrich responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect or by reason of issuing a building permit as herein provided.