



AGENDA
PAYETTE PLANNING & ZONING COMMISSION
June 23, 2016
REGULAR MEETING

CHAIRMAN RANDY CHOATE PRESIDING

JIM FRANKLIN PEGGY CHILDERS
JODY HENDERSON NIAL BRADSHAW
RON WALLACE GARY YOUNGBERG

6:00 PM – Regular Meeting

- I. ROLL CALL
- II. APPROVAL OF MINUTES
 - A. 05-19-2016 Regular Meeting**1-10**
- III. COMMUNICATIONS
- IV. PUBLIC HEARING
 - A. An application by Aaron Sobers for a Conditional Use Permit to fence height regulations in the front yard for property located at 2855 Center Avenue, SEC 35-9-5 S 264' of E 165' of W1/2E1/2SWNE. The property is zoned A-Residential.
- V. AGENDA ITEMS
 - A. An application by Aaron Sobers for a Conditional Use Permit to fence height regulations in the front yard for property located at 2855 Center Avenue.....**15-27**
 - B. Steve Pierson- Building Permit discussion.
 - C. Ordinance Change- Liquor License Locations.....**28-29**
 - D. Non- Conforming Lots- Payette City Code Chapter 17.56.....**30-31**
 - E. Source Water Protection Ordinance.....**32-43**
 - F. Sidewalk Café's.....**44-49**
- VI. PUBLIC COMMENT
- VII. ADJOURNMENT
- VIII. *Any person needing special accommodations to participate in the above noticed meeting should contact the City at least 5 days before the meeting at 700 Center Avenue or at 642-6024.*

MINUTES
PAYETTE PLANNING & ZONING
Regular Meeting
May 19, 2016

6:00 PM – Regular Meeting

- I. ROLL CALL: Jim Franklin, Jody Henderson, Gary Youngberg, Nial Bradshaw and Ron Wallace.
Members Absent: Chairman Randy Choate and Peggy Childers
Staff Present: Mary Cordova & Matea Gabiola

- II. APPROVAL OF MINUTES
 - A. 04-14-2016 Special Meeting
 - B. 04-28-2016 Regular Meeting

A motion was made by Youngberg and seconded by Henderson to approve the minutes of 04-14-2016 Special Meeting and 04-28-2016 Regular Meeting as written.

After unanimous voice vote, motion CARRIED

- III. COMMUNITICATIONS
None

- IV. PUBLIC HEARING

- A. A re-zone application by Frank & Kimmie Serrano for property located at 307 N. 9th Street, from Commercial to C1-Commercial Downtown, Chase Addition, Block 2, Lots 1 thru 5, Payette County Records.

No one was in attendance to speak on this item.

- B. An application by Frank & Kimmie Serrano for a Conditional Use Permit for property located at 307 N. 9th Street, to allow residential use in a C1-Commercial Downtown, Chase Addition, Block 2, Lots 1 thru 5, Payette County Records. The property is zoned Commercial.

No one was in attendance to speak on this item.

- C. An application by Frank & Kimmie Serrano for a Conditional Use Permit to sell beer & wine at 307 N. 9th Street, Chase Addition, Block 2, Lots 1 thru 5, Payette County Records. The property is zoned Commercial.

No one was in attendance to speak on this item.

D. An application by Karen Eby for a Conditional Use Permit to have a home occupation/retail shop located at 1844 7th Ave North # 13. North Payette Tax 3 BLK 46 Less S 40' Sec 27-9-5. The property is zoned B-residential. Karen Eby, 1844 7th Ave North #13, Payette, ID addressed the Commission. Ms. Eby has purchase this property, it has a duplex on it. The previous owners, the Ashton's, had a small diary and vet clinic. The back buildings is where the vet clinic was, and has not been used in over 15 years, so she is cleaning them up and wants to use them for her home occupation. Ms. Eby has property in New Meadows with 100-year-old barns. She takes pieces of these old barns and makes furniture out of them for home decor. She would also have her mother's handmade jewelry, western clothing and fabric. There would be only one business under her name, not multiple vendors. Mr. Youngberg asked about possible signs and available parking. The signage she wants to do out front is simply a small 2 ft. x 2 ft. sandwich board sign by the sidewalk pointing to the building. And there is more than enough adequate parking. Ms. Eby stated she will only be open 3 days a week, Thursday & Friday 12 pm -7pm and Saturday 10 am- 4 pm. Mr. Youngberg asked Ms. Eby on how many employees will there be. Ms. Eby stated herself, and sometimes her mother if need be. Mr. Franklin asked Ms. Eby if she has ever considered a retail space downtown. Ms. Eby stated yes, but due to having a daughter that is disabled, she would prefer to be closer to home in case of emergencies. Ms. Eby's hope is one day she will get big enough to be able to move into a space in the downtown. Mr. Youngberg asked Ms. Eby if she is aware of the restrictions of a residential zoned area. Ms. Eby stated yes. Mr. Bradshaw asked Ms. Eby is she plans on making this building a salon. Ms. Eby stated she only does nails, and isn't advertising this business, she just does a few old clients once and a while, but this isn't the main purpose. Ms. Eby stated that it would be a good place to have it so it isn't in her home, but no she doesn't advertise or have a big client base. Mr. Youngberg asked if there are any restrooms available for the retail space. Ms. Eby stated she was going to get a portable restroom, so the clients aren't using her home until she can construct a bathroom in the space.

E. An application by Larry Armstrong for a Conditional Use Permit to have 4 trucks for his trucking company, as well as use the shop for his own repairs at property located 1700 North 6th Street. W 175' of Blk 12 Riverside Plat. The property is zoned B- Residential. Larry Armstrong, 1700 North 6th Street Payette, ID addressed the Commission. Mr. Armstrong owns a trucking company and at this time he and his son only own two trucks. He purchased the home and is wanting to use the garage and acreage to work, repair, and park their trucks. Mr. Armstrong stated they would only be coming in on the weekends for

repairs. There could be a possibility of during the week if repair is needed. Mr. Armstrong doesn't plan on running any type of business out of the garage or from his home, this is specifically for his personal use. Mr. Franklin addressed possible noise issues. Mr. Armstrong stated he would only have noise generated from the truck engines, air compressors, air guns or any other tool used in repairs, but again this would be on an as need basis for the trucks. It would be during the day time anyway, not during the night where it would cause a disturbance. Mr. Franklin asked Mr. Armstrong if the Commission put restrictions on use times (7am-7pm on the weekends) would he have any issues. Mr. Armstrong stated that would be fine and has no problems with that.

- F. An application by James & Mardelle Kropp for a Conditional Use Permit to have a 20'x 21' storage shed on an existing cement pad at the property located at 2059 Decker Drive. Lot 6 BLK 3 Deckers 2nd sub. The property is zoned A- Residential. James Kropp, 2059 Decker Drive Payette, ID addressed the Commission. Mr. Kropp placed a steel carport building on the existing cement pad, that was already there. Mr. Kropp just purchased this home and was wanting a place to keep his boat, lawnmower and camper trailer. Most of his neighbors don't even know it is there because it sits behind the house hidden from sight. Mr. Franklin asked if it meets the setback requirements. Mr. Kropp stated no, he took pictures and the City building inspector and Fire Chief looked at them and said it was ok. Mr. Youngberg asked what are the setbacks, and how far is it from the property lines. Mr. Kropp stated from the property lines he believes about 15 feet. Mr. Youngberg asked how far from the garage. Mr. Kropp stated about 3.5 feet. Mr. Youngberg asked if that is from wall to wall or hang over to building. Mr. Kropp stated wall to wall. Mr. Youngberg asked what is the distance from roof to roof. Mr. Kropp stated it sets a great deal above this steel building, and he was told this wasn't a fire hazard. Mr. Bradshaw asked if this was completely enclosed. Mr. Kropp stated the sides and back are closed the front is open.
- G. An application by Gene Lancaster for a Conditional Use Permit to allow pasturing of no more than 54 horses on the land for the property located at the Lancaster Development between Center Avenue and Payette Heights road. W1/2SWNE LESS TAX 39 & 40 SEC 35-9-5 & W1/2E1/2SWNE LESS S 264' SEC 35-9-5. The property is zoned A-residential. Gene Lancaster, 11428 Scotch Pines Road, Payette, ID addressed the Commission. Mr. Lancaster stated that he has had horses on the property for 10-15 years, but he is before the Commission tonight because his permit has expired. One of his neighbors is protesting that we cannot have barb wire fencing in the City of Payette, but this fencing has been containing the horses for years. This neighbor wanted to construct a hog wire fence on his

personal property. Mr. Lancaster stated that was fine with him, but he wanted to construct another fence six to eight back that will hold the horses in and out of this neighbors fence. Mr. Franklin asked Ms. Cordova if all of this property in the City limits. Ms. Cordova stated yes, all the ground he is running the horses on. Mr. Bradshaw asked Mr. Lancaster how long has his permit been expired. Mr. Lancaster wasn't sure when it expired, he just learned of it when he contacted Mayor Williams and he looked into it. Mr. Bradshaw asked Mr. Lancaster if there is a weed problem. Mr. Lancaster stated yes, that is what the horses are for. They eat and stomp down the weeds. Mr. Lancaster stated he received a letter for the City of Payette ordinance officer about the weeds, and he told her he was getting his permit back into place.

David Mitchell, 2817 Center Ave, Payette, ID addressed the Commission. Mr. Mitchell stated that Shannon Pierce is the owner of the horses, and is currently getting water from his personal well to water the horses. There a group of Stallions on the south side and a group of mares and fillies in this area that he is requesting the permit for. Mr. Mitchell stated there was a fire last summer that came up to the back of his property, but he had taken precautions in creating a fire barrier. Mr. Mitchell has no objection to the horses, or Mr. Lancaster. The horses do help the weed problem. Mr. Mitchell also stated that the fence that the protesting neighbor constructed isn't horse worthy, so the fence that Mr. Lancaster plans to build 6-8 feet back would be a good idea. The barb wire fencing has been there for many years, and he has no issues. Mr. Mitchell stated that mowing these properties would be difficult due to there being debris all over. Mr. Mitchell is in favor of this permit.

Public hearing closed at 6:21 pm.

V. AGENDA ITEMS

- A. A re-zone application by Frank & Kimmie Serrano for property located at 307 N. 9th Street, from Commercial to C1-Commercial Downtown.

No action was taken on this item.

- B. An application by Frank & Kimmie Serrano for a Conditional Use Permit for property located at 307 N. 9th Street, to allow residential use in a C1-Commercial Downtown.

No action was taken on this item.

- C. An application by Frank & Kimmie Serrano for a Conditional Use Permit to sell beer & wine at 307 N. 9th Street.

No action was taken on this item.

- D. An application by Karen Eby for a Conditional Use Permit to have a home occupation/retail shop located at 1844 7th Ave North # 13.

Ms. Henderson stated that she thinks is a great idea, because of the property and how it is set up. Mr. Wallace stated he is most concerned with the portable and how long it is going to be there. Ms. Cordova stated that we contacted the City attorney and made sure we were interpreting the code correctly and retail isn't allowed in B- residential zones, and the home occupation space she has stated she was using exceeds the 20% required. So we may need to look into a change to the Comprehensive Plan, because the plan designates the property being residential in the future. Ms. Cordova stated that there could only be a 2' x 2' sign on the building nothing in the streets or on the sidewalks. This request would comply if it was scaled down a bit. Mr. Bradshaw asked Ms. Cordova if the room the applicant plans to put this in needs to be scaled down. Ms. Cordova stated yes, it is too big to meet the requirements of a home occupation. Ms. Cordova stated there is enough space, but it doesn't go with the current zoning, as well as the Comprehensive Plan. Ms. Cordova stated that this was annexed into the City not long ago. Mr. Youngberg stated making that area Commercial would make sense due to there being more businesses that residential uses. Mr. Franklin stated that currently the City has Commercial zoning along HWY 95, so this makes sense. The question in this area is how far from HWY 95 on the north side of 7th Ave North would you go back. Mr. Franklin stated the Commission could send a favorable recommendation to the Council to rezone that area to Commercial. Even then what we have before us won't be addressed. Mr. Youngberg stated yes, but that would give her a path, if this request was rejected. Mr. Franklin stated if the Commission sent a favorable recommendation to the Council, once the applicant applies for the rezone then we would view this as an appropriate use for this property. Mr. Youngberg stated well yes it, under Commercial. Mr. Franklin stated that the portable is an issue. Mr. Youngberg asked Ms. Cordova if retail spaces are required to have bathroom facilities. Ms. Cordova stated yes they are required. Ms. Cordova stated that if this use is scaled down and meets all requirements for a home occupation, then it would be an allowed use. Mr. Bradshaw asked if the Commission could ask the applicant that if they scaled this down, would it still work for now, until a possible rezone. Mr. Franklin stated if she meets all the requirements of a home occupation then this Conditional Use Permit can be approved. Mr. Franklin stated the Commission can grant this Conditional Use Permit provided it complies with all home occupation requirements. Ms. Cordova stated yes.

A motion was made by Youngberg and seconded by Henderson to approve the Conditional Use Permit by Karen Eby for a home occupation/ retail space at 1844 7th Ave North contingent upon all home occupation requirements can be met, and can be revisited upon complaint.

After unanimous voice vote, motion CARRIED

- E. An application by Larry Armstrong for a Conditional Use Permit to have 4 trucks for his trucking company, as well as use the shop for his own repairs at property located 1700 North 6th Street.

Ms. Henderson's only concern is that if he was only going to work on his trucks on the weekends. Mr. Franklin stated that Mr. Armstrong was ok with having a time and days of the week stipulation in his permit.

A motion was made by Bradshaw and seconded by Youngberg to approve the Conditional Use Permit by Larry Armstrong with the following stipulations:

1. Repairing of trucks between 7am-7pm.
2. No business is being conducted at the shop
3. Owners trucks will remain parked on owners' property, not City Streets.
4. Will be revisited upon complaint.

After unanimous voice vote, motion CARRIED

- F. An application by James & Mardelle Kropp for a Conditional Use Permit to have a 20'x 21' storage shed on an existing cement pad at the property located at 2059 Decker Drive.

A motion was made by Henderson and seconded by Bradshaw to approve the Conditional Use Permit by James & Mardelle Kropp to have a 20' x 21' storage shed on the existing cement pad at 2059 Decker Drive, with an agreement to only allow the storage of motorized or recreational vehicles, and to be revisited upon complaint.

After unanimous voice vote, motion CARRIED

- G. An application by Gene Lancaster for a Conditional Use Permit to allow pasturing of no more than 54 horses on the land for the property located at the Lancaster Development between Center Avenue and Payette Heights road.

Mr. Youngberg stated that the original permit was for two years and has now since expired, and keeping a time frame he thinks is a good idea. Mr. Franklin stated yes, but once developing becomes practical he doesn't think they would be keeping the horses on the property. Mr. Bradshaw asked why was this permit limited to only two years, and how was this expired permit not caught? Ms. Cordova stated that when permits are issued, it can be difficult to keep track of everyone and if they have an expiration date. We hope that the applicant would aid the City in this endeavor. This permit was first issued in 2009, and the applicant asked to run no more than 54 head of horses on 64 acres. At the time of the original application there were a few neighbors not in favor because it had been annexed, and they came to complain about the weeds. The idea was to run the horses on this property to help with the weed problem. There were neighbors also opposed to electric and barbwire fences, and that's why Ms. Cordova stated there was a two-year limit put on it. With this new application the applicant is asking to allow no more than 54 horses on 76+ acres of land. Until a citizen comes and complains it's not usually addressed. Ms. Cordova addressed Mr. Bradshaw regarding his weed issue. Ms. Cordova stated that even with the horses being there doesn't exempt him from maintaining the weeds.

A motion was made by Youngberg and seconded by Henderson to approve the Conditional Use Permit by Gene Lancaster to allow pasturing of no more than 54 horses on the property located at the Lancaster Development between Center Avenue and Payette Heights Road with the following stipulations of:

1. Pasturing of horses between April 1 – July 31 of each year.
2. Construct a fire break around the adjacent residential homes
3. Must be compliant with weed control ordinances.
4. Will be revisited upon complaint.

After unanimous voice vote, motion CARRIED

H. Ordinance Change- Liquor License Locations

Ms. Cordova stated this item was brought to the Planning & Zoning per the Council's request. The Council is wanting to get input on a drinking establishments that serves beer & wine in any Commercial Zone. It would be Permitted Use and no longer a required Conditional Use. Mr. Franklin stated he believes that a function of a Conditional Use Permit in this situation is a good idea, because it allows the neighbors and public to have input, and how it will affect the area. Ms. Cordova stated that State code already states that you can't be within 300 feet from a school or church, but the City Council can grant exceptions to that. Ms. Cordova stated that this is brought in front of you to be a friendlier City and allow it in any Commercial zone. Ms. Cordova stated that we have researched and called other cities in the surrounding areas, and every City except Boise, has a Special Use Permit or Conditional Use Permit for this type of use. The only City that does allow this type of use or doesn't make the applicant go through a Permit process is Boise, but they have specific areas in which this use is permitted. The Commissioners looked at the Comprehensive Plan Map for future zoning and land use. Mr. Youngberg asked the restrictions that the Idaho State Liquor board makes for the applicants. Ms. Cordova stated that the applicant has to comply with City Codes, pay the fees and are given an extensive background check. Mr. Youngberg asked if there is a limit to how many liquor licenses, or drinking establishments a City can have. Ms. Cordova stated yes there is a limit of liquor establishments. Mr. Franklin is in favor of keeping this ordinance a Conditional Use, because it allows for public input. Mr. Bradshaw believes that defining in a Commercial district as a permitted use, would be too broad. Due to having a lot of residential use in Commercial zones. Ms. Gabiola informed the Commission that in speaking with the City of Caldwell, that if a new owner came in and bought an existing drinking establishment they transferred the permit to the new owner within a time frame of conducting business. If there was a new license holder, with a new establishment coming to town, they had to go through a Special Permit process. The Commissioners liked this idea. Ms. Gabiola stated that in Caldwell they gave perimeters on a time frame, to begin business, and if that time frame lapsed the applicant had to re-apply for a Special Permit. Mr. Youngberg stated this would be easier for an applicant who purchased an existing establishment, but would also give the Planning & Zoning and the general public a say on a new establishment. Ms. Cordova stated that the City can draft something up to bring to the next Planning & Zoning meeting, and if you approve, the City can hold a public hearing at the following meeting.

- I. Non- Conforming Lots- Payette City Code Chapter 17.56- Ms. Cordova stated this has been brought to the Commissions attention due to a situation regarding the Iwasa home on 915 3rd Ave North which is currently a non-conforming lot. Ms. Cordova stated that the City changed our code not long ago to say:

Any single-family structure, located in any district that was in use as a single-family residence at the time of adoption or amendment to this chapter, and which has continued as a residential use, shall not be considered to be a nonconforming use but shall be considered a special use until such time that the residential use is replaced with another approved use. A single-family residential structure, granted special use status, shall have the same privileges as a permitted residential structure and may be replaced/remodeled if a building permit has been obtained, and as long as the setbacks can be met or a variance is granted. Upon a change in use, to commercial or industrial, the residential structure shall not be changed back to a residential use unless a conditional use permit has been approved through following the public hearing process. A change in use shall not be considered to have occurred until the structure has actually been converted to a nonresidential use. (Ord. 1392, 2015)

The underwriters involved in the Iwasa house situation wanted a 100% rebuild letter for this home. Currently this home doesn't meet the setbacks, so the City cannot issue a 100% rebuild letter. Then the underwriters wanted the City to grant a variance for this property, but the City doesn't know what they are wanting to vary, so the variance can't be issued. Mr. Youngberg stated this was put into place for nonconforming lots, to rebuild within the setbacks and eventually comply. Ms. Cordova stated that a Council member called another surrounding City, and they allow the home owner to re-build on the same foot print within a years' time. Ms. Cordova stated that the City can draft something up for the next meeting to bring in front of the Commission.

- J. Source Water Protection Ordinance- Ms. Cordova stated that many cities have this ordinance, but Payette does not. Ms. Cordova stated this is an effort to protect the City's well water, which is crucial to Payette. Ms. Cordova directed the Commissioners to the overlay map on page 86, and stated that the hydrological reports show is that anything that goes into the ground water between can affect the well water within a certain amount of years. Ms. Cordova gave an example of having a Landfill in the 3-6-year zone, and if there are any containments or leaking seepage that will be in our water. The purpose of this ordinance is to create an overlay zone in our zoning code to protects our wells. Ms. Cordova asked the Commissioners, what do they want to protect and keep out of our water. Mr. Youngberg asked if we currently have some ordinance in place right now? Ms. Cordova stated we have a well head protection ordinance that is required by the State, but not a source water protection. Ms. Cordova stated that the City can draft something up for the next meeting to bring in front of the Commission.

K. Sidewalk Café's- Ms. Cordova stated this would be guidelines or design perimeters, for the downtown district zone to allow outdoor dining areas for restaurants. Ms. Cordova stated this is currently not allowed. Mr. Youngberg asked if it is currently going on. Ms. Cordova stated that Meechans requested a Special Use Permit for that purpose and would like to eventually make it permanent. The Planning & Zoning can set perimeters to what would be allowed, for example: height of fencing, number of tables, umbrellas or only food establishments. The Council wanted to have the main focus be a restaurant that serves beer and wine, not bars. Mr. Franklin thinks this would be a good addition to our downtown area. Ms. Cordova stated that the City can draft something up for the next meeting to bring in front of the Commission.

VI. PUBLIC COMMENT
None

VII. ADJOURNMENT

A motion was made by Henderson and seconded by Youngberg to adjourn the meeting at 7:55 PM

After unanimous voice vote, motion
CARRIED.

Matea Gabiola
Recording Secretary



NOTICE OF PUBLIC HEARING

The Payette City Planning & Zoning Commission will be conducting a Public Hearing during a regular scheduled meeting to receive input concerning the following requests.

A. An application by Aaron Sobers for a Conditional Use Permit to fence height regulations in the front yard for property located at 2855 Center Avenue, SEC 35-9-5 S 264' of E 165' of W1/2E1/2SWNE. The property is zoned A-Residential.

The Public Hearing on the above requests will be held **June 23, 2016 at 6:00 PM**, or shortly thereafter, in the Payette Council Chambers, 700 Center Avenue, Payette, Idaho. Interested citizens may appear with regard to the foregoing item and will be given the opportunity to be heard in support of, or in opposition to the proposal. The Public is invited and encouraged to attend.

Any person needing special accommodations to participate in the above noticed meeting should contact the City at least 5 days before the meeting at 700 Center Avenue or at 642-6024.

Matea Gabiola, Administrative Assistant

STAFF REPORT

P&Z Public Hearing Date: June 23,2016

Applicants Name: Aaron Sobers

Describe Request: Conditional Use Permit – to fence height regulations.

Property Zoned: A- Residential

Address: 2855 Center Avenue

Property Size: 1 Acre

Access: Center Avenue

Structures: Residential

Comp Plan: A- Residential

Surrounding Uses: A- Residential

Employees:

Hours:

Sign:

Payette City Code:

12.17.010: FENCE REGULATIONS:

- A. It shall be unlawful to construct a fence in any front yard, side yard, back yard or in any open space except as allowed by this chapter.
1. For purposes of this chapter, the word "fence" shall include fences, hedges, walls, berms or any other structures designed to separate or isolate an open area or a building.
 2. No fence shall be constructed adjacent to a public street which would interfere with the free movement of pedestrian traffic over or along a public sidewalk.
 3. No fence shall be installed, constructed, planted, created, maintained, or allowed on any city right of way. If a fence or any structure is built upon or across any city easement or right of way, the city may immediately remove the fence or structure. If the city allows a fence or other structure to be built over a public easement or right of way, in the event it becomes necessary to perform work upon that easement or right of way, the landowner shall be responsible for removal of the structure to ensure access by a city crew.
 4. Fences shall not be constructed of discarded plastic materials, fiberglass panels, wood paneling, metal paneling, barbed wire, woven wire, hog wire, chicken wire, mesh wire, electric fencing wire, rayon wire, concertina wire, or any single wire or woven wire or any hazardous or dangerous material.
 5. Fences located within a yard area in residential districts shall not exceed six feet (6') in height. All fences within twenty five feet (25') of a front property line shall not exceed thirty six inches (36") in height. For purposes of this chapter, a corner lot which abuts against two (2) intersecting streets, shall be deemed to have two (2) front yards and

all fences within twenty five feet (25') of the street right of way shall not exceed thirty six inches (36") in height. Nothing herein shall permit an obstruction of vision at an intersection as is prohibited in subsections A7 and A8 of this section or as defined by Idaho Code.

6. Unless otherwise provided, fences located within the property boundaries in commercial or industrial districts shall not exceed six feet (6') in height. In the case of security fences, when a barbed wire top section is utilized, the six foot (6') maximum height limitation may be exceeded by up to thirty inches (30") only by the barbed wire security top section. In no instance shall barbed wire be used below the height of six feet (6'). Fences adjacent to residential areas must be sight/site obscuring and shall not be allowed the use of a barbed wire security top section. Property which is zoned as commercial or industrial, but which is being used for residential purposes, shall adhere to the fencing restrictions as outlined in subsection A5 of this section. All fences erected on a boundary or property line shall comply with vision clearance requirements located at intersections, driveways and public roadways. Nothing herein shall permit an obstruction of vision at an intersection as is prohibited in subsections A7 and A8 of this section.

7. Metal chain link or woven wire fencing shall be permitted, provided such fencing:

- a. Does not cross a public sidewalk.
- b. Does not interfere with automobile operator's visibility along a public street.
- c. Does not interfere with visibility at the intersection of a private drive and a public roadway or create a blind spot.
- d. Does not interfere with visibility at the intersection of public roadways.
- e. Is no smaller than 11¹/₂-gauge, but no larger than 9-gauge wire.

8. Wooden or vinyl fencing shall be permitted, provided such fencing:

- a. Does not cross a public sidewalk.
- b. Does not interfere with automobile operator's visibility along a public street.
- c. Does not interfere with visibility at the intersection of a private drive and a public roadway or create a blind spot.
- d. Does not interfere with visibility at the intersection of public roadways.

9. All fences permitted by this chapter shall be kept in good order and repair and shall not be allowed to become rundown or in such a state of disrepair as to constitute a private or public nuisance. No fence shall be built until a permit is first obtained from the city clerk or his/her designee.

10. All fences permitted by this chapter shall be kept free of weeds and grasses exceeding eight inches (8") in height.

11. In the event a fence interferes with direct and unrestricted access to a water meter, the landowner at the landowner's expense, shall provide a remote reading device which device is approved by the city or a "man" gate. In the instance a "man" gate is provided, it shall be clearly marked indicating the presence of animals. In addition, no fence shall be built within thirty six inches (36") of a fire hydrant.

12. No fence permitted by this chapter and constructed after its adoption shall be used as evidence to establish a boundary line, unless said fence was placed upon a boundary line designated by a licensed surveyor of the state of Idaho, after a survey has been conducted and the boundary line established thereby. All expenses incurred in establishing said boundary shall be at the property owner's expense. No permit issued by the city nor any representation made by a city employee or a city official shall be used as evidence in establishing a property boundary.

13. A person who places a fence on a boundary line, or his successor or tenant, shall be solely responsible for its maintenance and upkeep, but shall not acquire any rights to trespass on adjoining lands to maintain the same, unless the fence has been set back at least three feet (3') from the property line. Setting a fence back pursuant to this

chapter in order that the same may be properly maintained shall not be construed as forfeiting any property to adjoining landowners in the event any suit is filed for taking by adverse possession or under a similar theory.

14. Any fence which is constructed in such a manner as to be in violation of this chapter, or any fence which is allowed to become in violation after construction, shall be subject to removal in accordance with the following terms:

a. Any fence which is being constructed in such a manner so that, upon completion, the fence would violate this chapter, shall be subject to injunctive action.

b. Any fence which is constructed in violation of this chapter is a nuisance per se and shall be subject to immediate removal by the city, if after ten (10) working days' notice sent registered mail return receipt to either the landowner, a tenant or occupant of the premises, the violation has not been eliminated or the fence removed.

c. Any fence which shall fall into a state of disrepair so as to constitute a public or private nuisance shall be subject to repair or removal, if ten (10) working days after notice has been mailed, as above, the condition has not been corrected.

d. Any fence which has been constructed in such a manner so that it obstructs the visibility of a driver at an intersection on public roadway shall be subject to immediate removal, without notice of any kind.

15. Should it be necessary to enforce any provisions of this chapter, all costs incurred shall be borne by the property owner, tenant or occupant, jointly or severally. Costs shall include costs of notice, removal, repair, cleaning, court costs and attorney fees. The costs and expenses shall then be assessed against the property with the owner of the property responsible therefor.

16. Any individual whose property is affected by this section may, upon written application, apply to the planning and zoning commission of the city for conditional use to allow a variation in the height of any fence. The planning and zoning commission of the city may upon investigation grant to the applicant the requested conditional use. Any affected party may appeal to the city council. The granting of such permit shall continue with each successive owner provided the original conditions are maintained as presented.

17. The terms of this chapter may be varied by a conditional use permit after public hearing by the planning and zoning commission. (Ord. 1336, 2011; Ord. 1244 § 2, 2005; Ord. 1044, § 1, 1992)

Staff's recommendations are as follows:

1. Public utilities access must be maintained and not impeded.
2. No future site impairment.
3. Future development requires the fence to be removed at the owner's expense.



City of Payette

Conditional Use Permit Application

OFFICE USE ONLY

RECEIVED

Date Received

JUN - 1 2016

Fees Paid

Y
JK

By: N

City of Payette

Time:

Non-Refundable Fees:

Application..... \$100.00

Applicant

Name Araron L. Sobers Address 2855 Center Av.

City Payette State Idaho Phone 208-722-6916

Owner

Name Araron L. Sobers Address 2855 Center Av.

City Payette State Idaho Phone 208-722-6916

Property Covered by Permit

Address 2855 Center Av. Zone Legal Acres 1.000

Legal Description (Lot, Block, Addition, Subdivision)

Neighborhood 13010-R-1

Nature of Request (Briefly explain the proposed use)

Asking for exception to build a ⁽⁵⁾ five foot chain link fence in front yard for weed control and security. Fence will be approx 18' from paved road. Please see letter & photos

Existing use of property

Home Owner

Will this have an impact on schools?

NO

JUN - 1 2016

City of Payette

By: _____ Time: _____

Conditional Use Permit

The following information will assist the Planning and Zoning Commission to determine if your proposal will meet the requirements under the zoning ordinance.

1. What is the estimated water usage per month? Are the existing mains adequate to provide fire protection?
0
2. What is the estimated sewer usage per month? Will pretreatment be necessary?
0
3. What is the estimated daily traffic to be generated? Will the traffic be primarily private vehicles or commercial trucks?
0
4. If commercial, industrial, or a home occupation, what will be the hours of operation?
24
5. Will storm water drainage be retained on site? Is an existing storm drain available? Is it at capacity? If so, will new facilities be constructed?
None
6. If proposed use is residential, describe number and type of dwelling units. Will this be student housing: multifamily for young families, singles and couples, or elderly?
Residential, one dwelling, no student housing, elderly couple.
7. What provisions has been made for fire protection? Where is the nearest fire hydrant? Is any point of the building further than 150 feet from access sufficient in width for firefighting equipment?
No building or fire hazard
8. How much parking is being provided on-site? Do the aisle widths and access points comply with ordinance requirements? Has landscaping been provided in accordance with the ordinance?
None
9. Where will solid waste generated be stored? Is access adequate for the City collection?
No waste
10. What is the type of noise that will be generated by the use? What are the hours of noise generation?
None
11. What type of equipment will be used in the conduct of the business?
None
12. What are the surrounding land uses? Has buffering been provided as required by the ordinance
Bare Ground - Residential

JUN - 1 2016

City of Payette
By: _____ Time: _____

13. Are any air quality permits required? Is dirt or other dust creating materials moved by open trucks or box cars?

NA

14. Will the parking lot or other outdoor areas have lighting?

NA

15. Are passenger loading zones for such uses as daycare centers and schools provided? How is (school) busing routed? For commercial uses, where are the loading docks? Is there sufficient space for truck parking?

NA

16. If a commercial, multi-family, or public assembly use, where is the nearest collector street? Arterial Street?

NA

17. What, if any, signage is anticipated in connection with the proposed usage?

NA

The Commission or Council may address other points than those discussed above. Including a narrative attached to this application addressing at least those applicable points will assist in processing your application.

A PLOT PLAN MUST BE ATTACHED IN ORDER TO PROCESS THIS APPLICATION.

- Included on the plot plan will be setbacks, parking, etc.

A LIST OF ALL NEIGHBORS WITHING 300 FEET OF THE AFFECTED PROPERTY MUST BE INCLUDED WITH THIS APPLICATION

- List may be obtained at Payette County Assessor's Office 1130 3rd Avenue North, Payette

Formal Notice will be sent to applicant after approval of a Conditional Use Permit. Notice will state the conditions of the permit. If conditions are violated or not met there will be a 90 day period to cure the problem. Failure to comply with the terms may result in revocation of the Conditional Use Permit.

Aaron Soben

Applicant's Signature

May 2 2016

Date

CONDITIONAL USE PERMIT APPLICATION



June 1, 2016

Aaron & Nancy Sobers

2855 Center Av.
Payette, Idaho 83661
208 722-6916

Neighborhood
13010 R-1

Zoning: Legal Acres, 1.000

Owners of property within 300 ft.:

Randy Breicbiel	2833 Center Av.	Payette, Idaho
Gene Lancaster	11428 Scotch Pines.	Payette, Idaho
Dave Mitchell	2817 Center Av.	Payette, Idaho

SUBJECT: Exception to height of front yard fence from three feet to five feet.

We are asking that we can have an exception of fence height in the front yard. We are asking for permission to construct a five foot chain link fence with drive way gates. This fence will be of new material and installed by licensed contractors.

The length of the fence will be approximate one hundred and forty six feet, with a set back of eight teen feet from the paved road, Center Av. There are no side walks or any obstructions that would cause any vision or safety issues. The fence would also be in line with other fences that are aligned along the road and would not hamper any utilities or traffic. This fence should not have any impact on other properties.

Reason for five foot height:

1. Our home is bordered from the North, East and South by acres of open land that has been over crazed and now is over grown with Wild Mustard weed and other stick type weeds. Live stock will not eat these weeds, they can cause illness in the digestive tracts and also cause thyroid problems. These weeds grow to several feet tall and dry up around July and August. When they break away during windy days they blow onto our property, burying our door ways, shrubs, trees, and under our cars. This becomes a everyday occurrence until the first snow fall and then after. Removing and cleaning up these weeds is a full days project. Please note photos of one day in many.

RECEIVED

JUN - 1 2016

City of Payette
By: _____
Time: _____

This is also a safety problem, some times we have to push our doors open to exit our home because the weeds have packed against the house. These weeds burn fast and it does not take much to ignite them. Last year we had a major fire that caused extensive damage to my neighbors and our property.

The woody stems scratch paint and glass and are arrow type projectiles when the wind blows thirty to sixty five miles per hour.

The fence height of five feet would help capture these weeds and make it easier for removal and help in our safety problem. A lesser amount in height would only allow the weeds to blow over and not help solve our problem. Last year we asked what we could do to help alleviate the problem and it was suggested that we install a fence. This year the weed problem is far worse than ever before.

2. The fence would also slow down people using our drive way as a turn around. They don't stop at the edge, but drive all the way in and some times up to the house. We have had semi tractor trucks use our drive as a turn around point.

3. This fence would also help in security by being able to close the gates when needed and during the times that we are away. Most times the gates will be left open and seldom locked, allowing emergency responders easy access. Being close to the end of Center Avenue, we have very little security in this area with no street lights and little police protection. In a way we are on our own and on some nights there is questionable activity in the area. It would also help to discourage coyotes from entering our yard to attack our small animals.

Thank you.



Aaron L. Sobers

SOBERS AARON & NANCY
 2855 CENTER AVE
 PAYETTE, ID 83661
 SEC 35-9-5 S 264' OF E 165' OF
 W1/2E1/2SWNE 1998 MH ON
 REAL#G9B01D30875384A

Neighborhood Number
 13010
 Neighborhood Name
 R-1

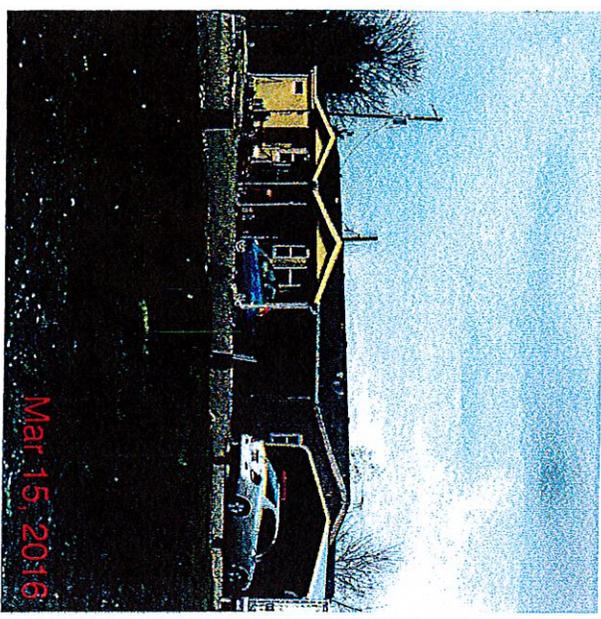
TAXING DISTRICT INFORMATION
 Jurisdiction Name Payette
 Area 001
 District 001-00

Site Description
 Topography
 Public Utilities
 Street or Road
 Neighborhood
 Zoning:
 Legal Acres: 1.0000

Transfer of Ownership
 Owner
 PARKER MIKE J & PAULA M
 Consideration Transfer Date Deed Book/Page Deed Type
 0 02/08/2006 WD 332831 WD

Valuation Record

Assessment Year	2011	2012	2013	2013	2014	2015	2016
Reason for Change	03 - Assessor	03 - Assessor	02 - Assesme	01 - Revaluat	01 - Revaluat	02 - Assesme	02 - Assesme
MARKET VALUE	41800	37200	34400	42400	42400	41900	41900
L	13670	13670	13570	12890	12890	64004	82990
I	55470	50870	47970	55290	55290	105904	124890
T							



Mar 15 2016

Land Size		Rating, Soil ID - or - Actual Frontage	Acreage - or - Effective Frontage	Square Feet - or - Effective Depth	Influence Factor
Homestead	Land Type	AV	1.0000		



Google earth



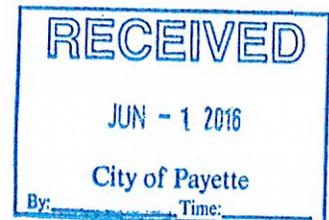
Orange line indicates proposed fence line.

Approximate one hundred and forty six feet of chain link fence, six feet tall.

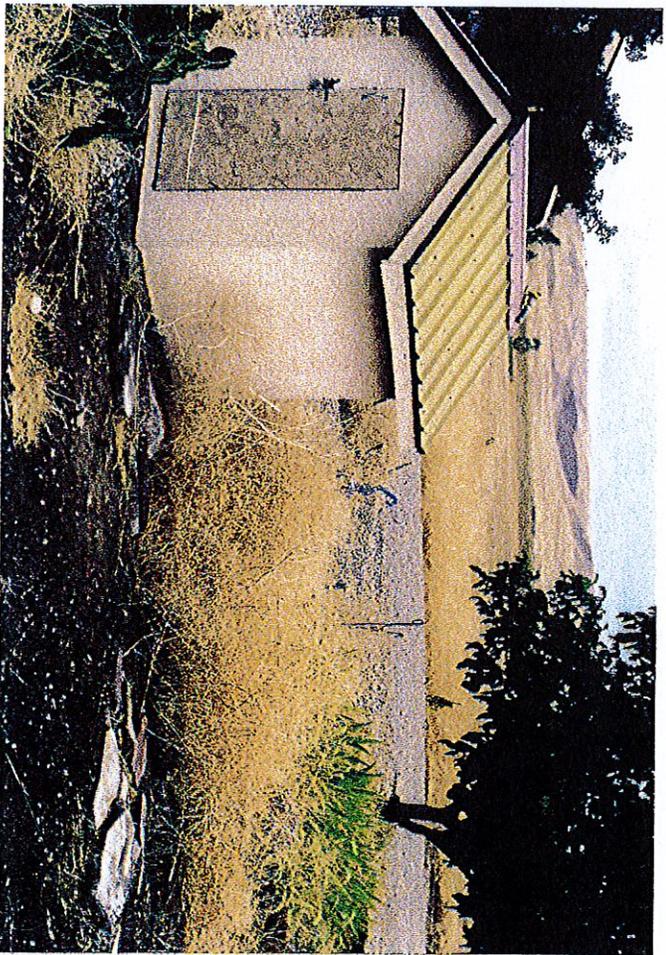
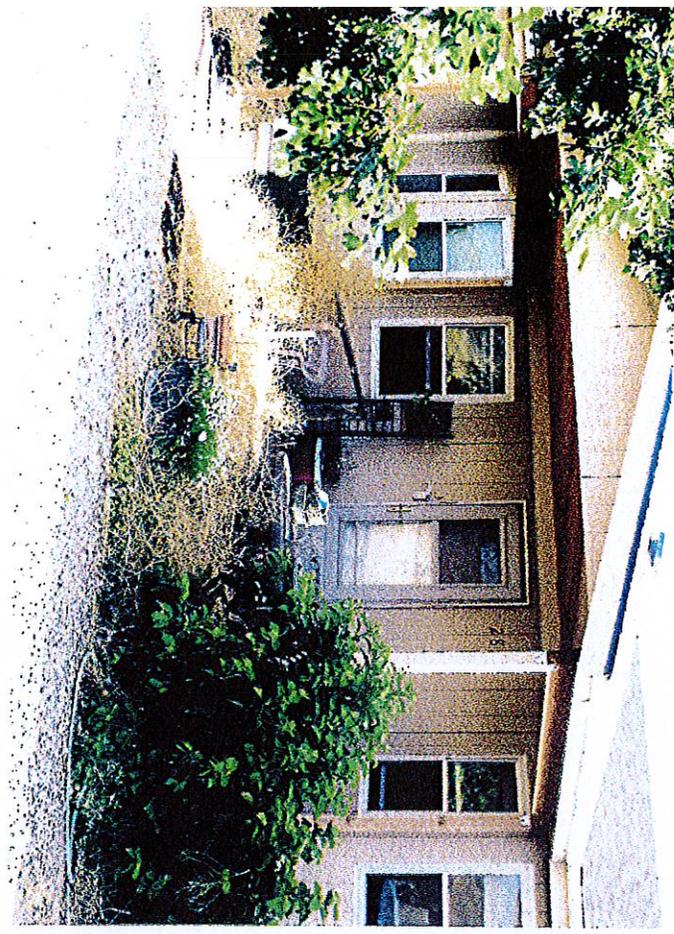
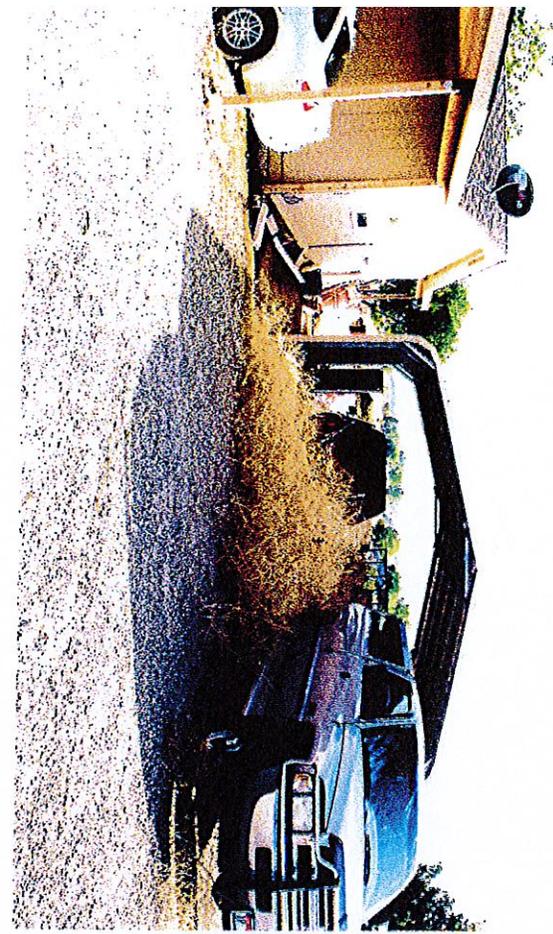
Two drive way gates and one walk through gate at mail box.

Fence will be approximate eighteen feet from paved road.

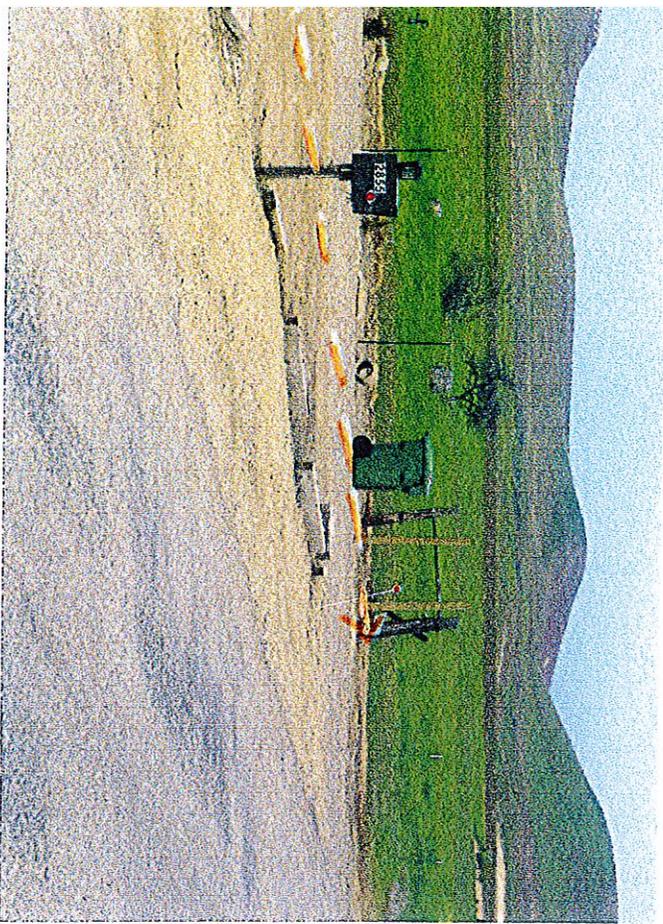
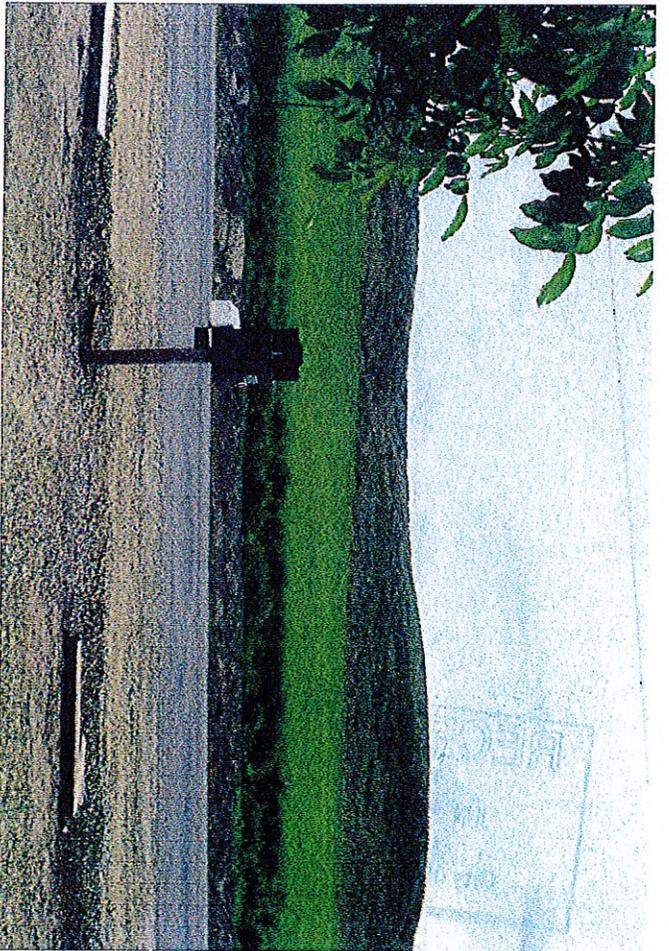
There is no obstruction to any side walks, cross streets or utilities access.



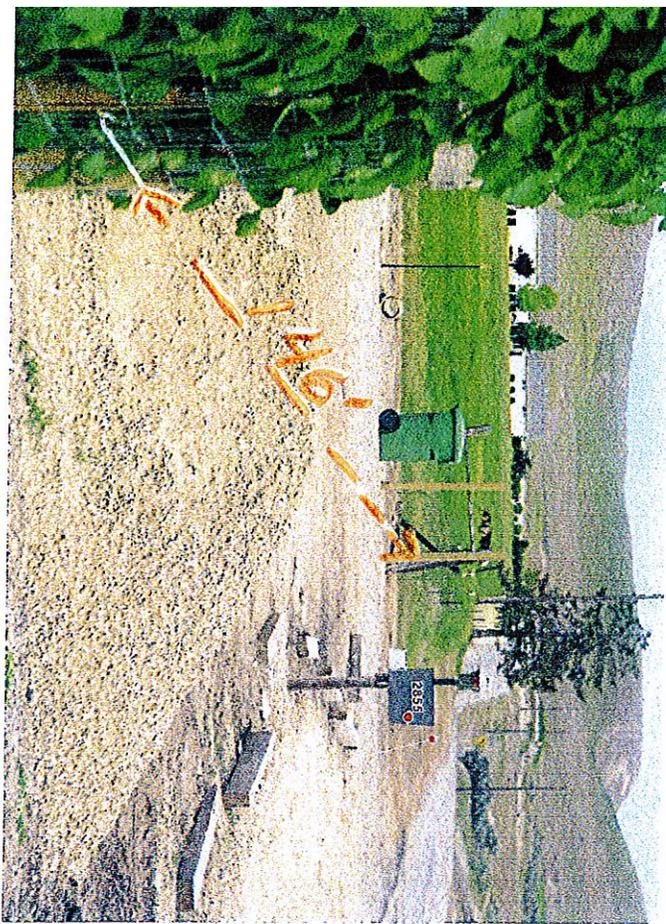
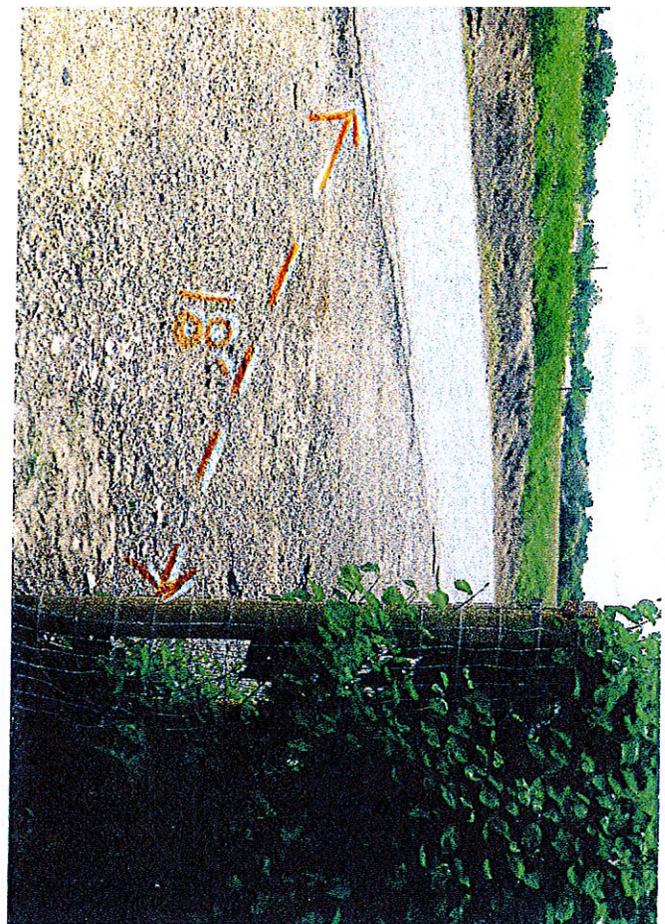
One day build up



Proposed fence line & wildmustard weed fields



Dimensions from corner post to post & roadway.





17.32.030: CONDITIONAL USES:

The following uses may be permitted by the planning and zoning commission after public notice has been given by United States mail to all property owners within three hundred feet (300') of the property in question and a public hearing is held. The planning and zoning commission may require appropriate safeguards and special conditions as said commission deems necessary. Such uses and buildings must be appropriately located and designed to meet a community need without adversely affecting the neighborhood.

Uses permitted in A residential districts and in B residential districts. Any permitted residential use shall meet the residential zoning standards as specified in the A residential and B residential zoning regulations.

Churches.

Dance halls.

Drinking establishments that serve beer, wine or liquor for on site consumption. **If drinking establishment license is transferred to a new owner within 90 days from the date the current owner is no longer in business a conditional use permit is not required. Any change in the use, including, but not limited to, hours of operation, size, capacity, type of drinking establishment, or entertainment shall be subject to a new special use permit.**

Light manufacturing, which is not dangerous or offensive on account of dust, gas or smoke and noise.

Manufactured home parks. Because of increased residential density in a manufactured home park, commercial uses allowed in commercial zones will not be permitted within a manufactured home park.

Residential use directly connected to the business including, but not limited to, motel residences, security housing, office/residence setups. Such residences shall meet all standards for residences as specified in the B residential district.

Warehouses used for storage of merchandise that is sold at retail on the premises to the ultimate consumer, excluding mail order warehouses.

Warehouses used for storage of personal property not intended for sale. (Ord. 1330, 2010)

17.34.030: CONDITIONAL USES:

The following uses may be permitted by the planning and zoning commission after public notice has been given by United States mail to all property owners within three hundred feet (300') of the property in question and a public hearing is held. The planning and zoning commission may require appropriate safeguards and special conditions as said commission deems necessary. Such uses and buildings must be appropriately located and designed to meet a community need without adversely affecting the neighborhood.

All conditional uses as allowed in a C commercial district.

Drinking establishments that serve beer, wine or liquor for on site consumption. **If drinking establishment license is transferred to a new owner within 90 days from the date the current owner is no longer in business a conditional use permit is not required. Any change in the use, including, but not limited to, hours of operation, size, capacity, type of drinking establishment, or entertainment shall be subject to a new special use permit.**

Residential use. (Ord. 1204, 2002)

17.36.030: CONDITIONAL USES:

The following uses may be permitted by the planning and zoning commission after public notice has been given by United States mail to all property owners within three hundred feet (300') of the property in question and a public hearing is held. The planning and zoning commission may require appropriate safeguards and special conditions as said commission deems necessary. Such uses and buildings must be appropriately located and designed to meet a community need without adversely affecting the neighborhood.

Drinking establishments that serve beer, wine or liquor for on site consumption. **If drinking establishment license is transferred to a new owner within 90 days from the date the current owner is no longer in business a conditional use permit is not required. Any change in the use, including, but not limited to, hours of operation, size, capacity, type of drinking establishment, or entertainment shall be subject to a new special use permit.**

Fuel yards.

Manufactured home parks.

Residential uses; any permitted residential use shall meet the residential standards as specified in the B residential zone regulations. (Ord. 1204, 2002)

Current Payette City Code:

17.56.012: EXISTING NONCONFORMING SINGLE-FAMILY RESIDENTIAL USE:

Any single-family structure, located in any district that was in use as a single-family residence at the time of adoption or amendment to this chapter, and which has continued as a residential use, shall not be considered to be a nonconforming use but shall be considered a special use until such time that the residential use is replaced with another approved use. A single-family residential structure, granted special use status, shall have the same privileges as a permitted residential structure and may be replaced/remodeled if a building permit has been obtained, and as long as the setbacks can be met or a variance is granted. Upon a change in use, to commercial or industrial, the residential structure shall not be changed back to a residential use unless a conditional use permit has been approved through following the public hearing process. A change in use shall not be considered to have occurred until the structure has actually been converted to a nonresidential use. (Ord. 1392, 2015)

17.56.060: RESTORATION PERMISSIBLE WHEN:

Nothing in this title shall prevent the reconstruction, repairing, rebuilding and continued use of any nonconforming building or structure damaged by fire, collapse, explosion or act of God, subsequent to the effective date of the provisions codified in this chapter, wherein the expense of such work does not exceed sixty percent (60%) of the actual value of the building or structure at the time such damage occurred. Provided, however, in the case of damage exceeding sixty percent (60%) of the value of a residential dwelling which is located in a commercially zoned area, the owner shall be allowed to rebuild the structure provided the rebuilt/replacement structure complies with the most current residential setback requirements and the building permit is applied for and construction commences within one year of the damage. (Ord. 1256, 2006; Ord. 1204, 2002; prior code § 11-4-1(A)(6))

Caldwell City Code:

(4) Nonconforming Uses Deemed Permitted:

- A. Any legally existing residential use, structure or building, whether vacant or occupied, and including mobile homes and manufactured homes as defined in section [10-03-11](#) of this chapter, located in any zoning district, in existence as of the effective date of this section, said effective date being December 13, 1977, or subsequent amendments thereto, or at the time of annexation or rezone, shall not be considered to be a nonconforming use, but rather shall be deemed a permitted use, until such time that said legally existing residential use, structure or building is replaced with another permitted or approved special use.
- B. Any legally existing residential structure or building that has been thus deemed permitted as set forth in subsection (4)A of this section shall have all the privileges of a permitted residential structure or building and the structure or building may be enlarged, replaced, altered, expanded, reconstructed and/or remodeled if a building permit has been obtained from the building official.
- C. Any legally existing residential use that has been thus deemed permitted as set forth in subsection (4)A of this section may continue as a permitted use. However, said use may not be expanded to a use not permitted in the underlying zoning district (i.e., duplex cannot become a triplex if not allowed as a permitted use in the underlying zoning district).
- D. At such time that said existing permitted use, structure or building as set forth in subsection (4)A of this section is replaced with another permitted use or approved special use or is vacant for more than three hundred sixty-five (365) consecutive days, said existing permitted use, structure or building shall become null and void and shall not be reestablished thereafter. (Ord. 2739, 6-16-2008)

(5) Nonconforming Lots Of Record:

- A. In any residential zoning district, any single lot or single parcel of land which was of record as a single lot or single parcel of land and a legal lot at the time of adoption of the city of Caldwell zoning ordinance (December 13, 1977) or annexation or rezone, whichever has occurred first, but does not meet the requirements of the residential zoning district in which it is located for the minimum lot width, minimum lot area or minimum lot frontage, may be utilized for a single-family dwelling if all other requirements of this code are met, a building permit has been issued by the building official, and the lot or parcel has a minimum of twenty feet (20') of frontage on a public street, excluding alleys. (Ord. 2805, 11-2-2009)
- B. This does not preclude building codes or fire codes, nor does it preclude any existing or planned drainage, irrigation, municipal sewer, municipal water or utility easements, public right of way or future public right of way.
- C. The burden of proof to show a lot of record to be nonconforming shall be upon the property owner.

Nampa City Code:

B. Repair Or Replacement Of Structures Occupied By Or In Operation As, Nonconforming Uses:

- 1. Whenever, in any district, a structure (other than a singlewide/1 sectional mobile home/manufactured home), being occupied as or by a nonconforming use is damaged or destroyed to the extent of fifty percent (50%) or less of its replacement value by fire, explosion or other casualty, it may be restored and any lawful occupancy or use of such structure, or part thereof, which existed at the time of such partial destruction may be continued, if such restoration is started within a period of twelve (12) months of such damage or destruction and is diligently completed.
- 2. In the event such damage or destruction exceeds fifty percent (50%) of the replacement value of a structure, no repairs or reconstruction shall be thereafter made (unless every portion of such structure is made to conform to the height, yard, parking area and use regulations of the district within which it is located).

The planning director or his/her designee, by issuing a rebuild letter or permit, may grant exceptions to this standard in order to allow for the reconstruction of single-family residential structures in nonresidential zones upon finding that:

- a. Apparent commercial or industrial development in the area is slow or nonexistent, and
- b. The majority of abutting property owners or business managers are not opposed to continuation of the use of the structure as a principal residence. An applicant shall supply the director or his/her designee with evidence indicating the opinions of surrounding property owners or business managers.

Ordinance No.
Source Water Protection Ordinance

AN ORDINANCE OF THE CITY OF PAYETTE SETTING FORTH A TITLE AND PURPOSES, DEFINING TERMS, AUTHORIZING ESTABLISHMENT OF SOURCE WATER OVERLAY DESIGNATIONS, DEFINING SUCH DESIGNATIONS, PROVIDING FOR THE ADOPTION OF A MAP DEPICTING SUCH DESIGNATED LOCATIONS, REQUIRING A PERMIT APPLICANT TO DEMONSTRATE COMPLIANCE, PROVIDING PENALTIES, PROVIDING ADMINISTRATIVE PROCEDURES RELATING TO PERMIT APPROVALS, REQUIRING A WRITTEN RECORD OF PERMIT ACTIVITY, AUTHORIZING APPEALS TO THE CITY COUNCIL, ESTABLISHING THE STATUS OF EXISTING NONCONFORMING USES, PROVIDING FOR SEVERABILITY, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR AN EFFECTIVE DATE

Whereas, avoidance of the costs and disruption caused by pollution of the community drinking water supply is the most cost-effective means by which to protect the public interest, and

Whereas, the provision of clean, safe drinking water is one of the most vital assets available to any community, and

Whereas, the presence of hazardous materials and the conduct of certain land-related practices can make the source of community drinking water supply (source water) vulnerable to irreparable harm, and

Whereas, certain natural hydrogeologic conditions can increase the vulnerability of the community source water to contamination, and

Whereas, it is universally recognized that the costs of remediation of source water pollution in both economic and social terms are the most expensive means by which to meet the community's needs for clean water, and

Whereas, certain forms of source water pollution cannot be readily remediated irrespective of cost or need, and

Whereas, treatment of the drinking water supply after it has been collected from the source to meet drinking water quality standards can be costly, and

Whereas, suitable alternatives of drinking water may be costly or not available if the water supply becomes contaminated, and

Whereas, Article XII, section 2 of the Constitution of the State of Idaho authorizes Idaho's counties and cities to "make and enforce, within its limits, all such local police, sanitary, and other regulations as are not in conflict with its charter or with the general laws," and

Whereas, Idaho Code 67-65, "Local Land Use Planning," authorizes land-use regulations to implement comprehensive plan policies intended to protect natural resources and maintain the economic health of each community, and

Whereas, the planning and zoning process should be complementary to health and safety requirements that protect the health of individuals and sustain economic well-being within each local jurisdiction.

Whereas, the City of Payette has adopted Title 17, Zoning, of the Payette Municipal Code.

Now, therefore, be it ordained by the Mayor and Council of the City of Payette as follows:

SECTION I. TITLE AND PURPOSES

- A. This ordinance may be referred to as the *Source Water Protection Ordinance*.
- B. The purposes of this ordinance include
 1. Protecting the health, safety, and general welfare of the public.
 2. Fostering economic well-being derived from the availability of clean water.
 3. Minimizing public costs related to remediation, treatment, or replacement of the community water supply.
 4. Avoiding private costs and economic dislocation as a result of pollution of the public water supply.
 5. Providing effective and efficient means for processing administrative permits to implement this ordinance.

SECTION II. DEFINITIONS

Consider adding more definitions to define measures that are determined to be the most effective, practical means of preventing or reducing point source or non point source pollution to groundwater and water bodies. May consider financial guarantees or other leverage to ensure compliance.

Certain defined words and phrases shall have the particular meaning set forth in this section when used within the text of this ordinance or as particularly defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems" adopted by the Idaho Board of Environmental Quality and Idaho Legislature. All other words and phrases contained in this ordinance shall be construed in light of their typical meaning applied in the context of the purpose and intent set forth above and elsewhere herein.

- A. **Agricultural Runoff Waste Water.** Water diverted for irrigation, but not applied to

crops, or runoff of irrigation water from cropland as a result of irrigation.

- B. **Aquifer Remediation-Related Wells.** Wells used to prevent, control, or remediate aquifer pollution, including, but not limited to, wells at Superfund sites.
- C. **Community Public Water System.** A public water system (PWS) that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
- D. **Facility.** Any land use, business, or undertaking that is established, constructed, or modified to serve a particular purpose for which potential issues may affect possible degradation of source water.
- E. **Hazardous Waste Disposal Facility.** A hazardous waste treatment, storage, or disposal facility that receives hazardous material as described in the Code of Federal Regulations 40 CFR 260.1.
- F. **Hazardous Waste or Material.** Any waste or material that because of its quantity, concentration, physical, chemical, or infectious characteristics may
 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or,
 2. Pose a substantial present or potential hazard to human health or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; or,
 3. Any material or substance designated as a hazardous or toxic substance defined by 40 CFR 261.3, or any material or substance designated as a hazardous or toxic substance by the State of Idaho, acting through the Idaho Department of Environmental Quality (DEQ) or any successor agency.
- G. **Idaho Department of Environmental Quality Public Water System Records.** Geographic information system data concerning the location and environmental characteristics of water sources for PWSs maintained on computer systems by DEQ or by those subject to DEQ oversight.
- H. **Injection Well.** Any excavation or artificial opening into the ground used for or intended to be used for injection of waters into the ground inclusive of all facilities so defined within the rules of the Idaho Department of Water Resources.
- I. **Nontransient Noncommunity Public Water System.** A PWS that does not meet the definition of a community PWS and that serves at least 25 of the same persons over 6 months per year. Examples of nontransient noncommunity systems include schools, offices, and businesses.
- J. **Public Water System.** An integrated source and distribution system defined in Idaho code or regulation serving piped water for human consumption, if such system has at least 15

service connections or regularly serves an average of at least 25 individuals at least 60 days out of the year, or as such definition may subsequently be modified by state law or regulation. A PWS can be either *a community PWS*, *a nontransient noncommunity PWS*, or *a transient noncommunity PWS*.

- K. **Sanitary Landfill.** A solid waste disposal operation as defined by Idaho code or regulation.
- L. **Source Water.** Any aquifer, surface water body, or watercourse from which water is taken either periodically or continuously by a PWS for drinking or food-processing purposes.
- M. **Special Drainage Wells.** Injection wells used for disposing of water from sources other than direct precipitation. Examples of this well type include landslide control drainage wells, potable water tank overflow drainage wells, swimming pool drainage wells, and lake level control drainage wells.
- N. **Storm Water Runoff.** Water discharged into the environment as a result of rain, melting snow, or other precipitation.
- O. **Time of Travel Areas.** Time of travel (TOT) is land area plotted based on the time required for a particle of water to move from a specific point in the aquifer to a well or spring that serves as a source for a PWS. TOT areas are those calculated or approved by DEQ professionals and maintained in DEQ's public records.
- P. **Transient Noncommunity Public Water Systems.** A PWS that does not regularly serve at least 25 of the same persons over 6 months per year (e.g., tavern, restaurant with less than 25 regular employees, motel, church, campground, state or federal park, a recreational vehicle park, or highway rest area).
- Q. **Wellhead.** The upper terminus of a well, including adapters, ports, seals, valves, and other attachments.

SECTION III. AUTHORIZATION TO ESTABLISH SOURCE WATER PROTECTION OVERLAY DESIGNATIONS.

A. To protect source water from exposure to hazardous materials or practices that expose a well or spring that supplies water to a PWS, the Source Water Protection Overlay (SWPO) designation established pursuant to this ordinance shall implement certain measures of protection for water sources appropriate to the risk posed by particular conductor activities. A SWPO designation shall be identified and configured to protect a well, spring, or surface water source from vulnerability to pollutants within a calculated 10-year Time of Travel (TOT) area determined by studies and mapping provided by DEQ. Original data concerning such studies can be obtained from DEQ.

B. Source Water Protection Overlay (SWPO) designations shall be depicted on a map of the City of Payette that is designated as the official SWPO designation map. Each spring, well, or surface water intake that serves as a source for a PWS shall be located on the SWPO map. The

official SWPO map of like date with the initial effective date of this ordinance is hereby adopted as a component of this ordinance and as a complement to the zoning ordinance of the City of Payette. Each subsequently identified PWS well, spring, or surface water intake shall hereby be automatically added to the SWPO map with the well, spring, or surface water intake location identified by its Global Positioning System coordinates, or by the same means that other wells, springs, or surface water intakes are located within DEQ records concerning PWS wells, springs, or surface water intakes as soon as DEQ studies concerning such PWS are complete. Even if a PWS well, spring, or surface water intake is not depicted on the SWPO map, it shall nonetheless be subject to the protection and limitations afforded by this ordinance. No amendment of this ordinance or map shall be necessary to apply the requirements of this ordinance to any PWS source. Corrective amendments to the SWPO map can be made by administrative staff of the City of Payette upon a determination of factual propriety.

SECTION IV. WELL OR SPRINGWATER PROTECTION TIERS- AUTHORIZATION, ESTABLISHMENT, AND LIMITATIONS

Establishment of Wellhead or Spring-Related Vulnerability Tiers. Surrounding each PWS well or spring shall be 4 functional tiers that correlate with the vulnerability of a PWS well or spring to contamination. Each tier shall be subject to the functional use and activity limitations prescribed by the City of Payette zoning ordinance.

1. Wellsite/Springsite Tier

The land that immediately surrounds the wellhead or the point of capture of water flowing from a spring and having a radius of not less than 50 (suggest using a six month time of travel TOT map which will require a groundwater study) feet from the well or spring center, or as otherwise depicted in DEQ's PWS records, shall be known and designated as the Wellsite/Springsite Tier. Irrespective of the local land-use zone applied within the Wellsite/Springsite Tier, uses permitted therein shall be limited to necessary public water supply wellhead equipment, which may include pump houses, wellhead facility buildings, water storage tanks, disinfection equipment, disinfection chemical storage, and approved landscaping. No uses otherwise permitted by the underlying land-use zone shall be permitted in the Wellsite/Springsite Tier unless approved by DEQ. The area encompassed by the Wellsite/Springsite Tier shall include, at a minimum, the land (six months time of travel as defined by map and study) referenced above.

2. Inner Vulnerability Tier

The PWS Inner Vulnerability Tier constitutes those lands located outside the Wellsite/Springsite Tier, extending outward to the inside boundary of the Intermediate Vulnerability Tier. The inside boundary of the Intermediate Vulnerability Tier coincides with the outer limit of the area determined to circumscribe the 0 to 3-year TOT area for community and nontransient noncommunity PWSs, or a 1,000-foot radius for transient noncommunity PWSs as determined by site-specific DEQ evaluation. In addition to the land-use standards made applicable by the

underlying land-use zone and general restrictions supplied by the City of Payette zoning ordinance, the land uses, physical installations, or conditions established by Chapter 17.90 the City of Payette zoning ordinance shall be restricted or prohibited within the Inner Vulnerability Tier as determined

within the applicable DEQ records for each PWS.

3. Intermediate Vulnerability Tier

The PWS Intermediate Vulnerability Tier constitutes those lands located outside the Inner Vulnerability Tier, extending outward to the inside boundary of the Outer Vulnerability Tier. The inside boundary of the Outer Vulnerability Tier coincides with the outer limit of the area determined to circumscribe the 3 to 6-year TOT area as determined by site-specific DEQ evaluation. In addition to the land-use standards made applicable by the underlying land-use zone and general restrictions supplied by the City of Payette zoning ordinance, the land uses, physical installations, or conditions established by Chapter 17.90 of the City of Payette zoning ordinance shall be **restricted or prohibited** within the Intermediate Vulnerability Tier as determined within the applicable DEQ records for each PWS.

4. Outer Vulnerability Tier

The Outer Vulnerability Tier constitutes those lands located outside the Intermediate Vulnerability Tier extending outward to the outside boundary of the Outer Vulnerability Tier. The outside boundary of the Outer Vulnerability Tier coincides with the outer limit of the area determined to circumscribe the 6 to 10-year TOT area as determined by site-specific DEQ evaluation.

In addition to the land-use standards made applicable by the underlying land-use zone and general restrictions supplied by the City of Payette zoning ordinance, the land uses, physical installations, or conditions established by _____ of the City of Payette zoning ordinance shall be restricted or prohibited within the Outer Vulnerability Tier as determined within the applicable DEQ records for each PWS.

SECTION V. SURFACE WATER SOURCE PROTECTION

Establishment of Surface Water Intake Vulnerability Tiers. Surrounding each PWS surface water intake shall be 2 functional tiers that correlate with the vulnerability of a PWS surface water source to contamination. Each tier shall be subject to the functional, use, and activity limitations prescribed by the City of Payette zoning ordinance.

1. Site of Surface Water Intake Tier

The land that immediately surrounds the point of intake of water from a surface water body and having a radius of 1,000 feet from the center of the intake shall be known and designated as the Surface Water Intake Tier. Irrespective of the land-use zone applied to lands located within 1,000 feet of a PWS surface water intake, uses permitted at a vertical elevation at or above the elevation of the surface water intake within the Surface Water Intake Tier shall be limited to necessary public water supply intake equipment. No uses otherwise permitted by the underlying land-use zone shall be permitted in the Surface Water Intake Tier unless site design practices have been employed to prevent discharge of contaminants into the PWS surface water intake by gravity or by means of pressure.

2. Surface Water Watershed Tier

Within the jurisdictional limits of the City of Payette, the lands within watersheds that influence the quality of waters that supply the surface water intake, but outside the Site of Surface Water Intake Tier, shall be known and designated as the Surface Water Watershed Tier. Irrespective of the land-use zone applied to lands located within the watershed that feeds any PWS surface water intake, land-use activities permitted by the City of Payette zoning ordinance subsequent to the enactment of this ordinance shall comply with best management practices (BMPs), which define methods to prevent surface water contamination. Such BMPs shall be adopted by resolution of the City Council.

SECTION VI. DEMONSTRATION OF COMPLIANCE REQUIRED

Any request for a building or zoning permit to the City of Payette that falls within a designated Vulnerability Tier requires the applicant to demonstrate compliance with the provisions of this ordinance.

SECTION VII. ADMINISTRATIVE REQUIREMENTS

Administrative Permit or Conditional Use Permit Process??

Define basis for granting or denying Permit.

Check enforcement tools in ordinances for permit revocation.

- A. All permit requests shall be in writing. The obligation to demonstrate compliance with the requirements of this ordinance shall lie with the permit applicant. Whenever any permit request calls for proof of compliance, the administrator of this ordinance shall maintain written records of the compliance process from the point of initial application to its conclusion.
- B. Whenever an administrative authorization is required to demonstrate compliance with standards established by this ordinance or whenever an administrative authorization decision is appealed to the City Council of the City of Payette, written notice of the hearing shall be given to the entity(ies) operating the public water supply(ies) within the regulatory distance called for pursuant to this ordinance. Any administrative determination shall comply with any procedural requirements established by the City of Payette zoning ordinance and this ordinance. Said determination shall be in writing and shall state the basis in fact and law for the approval or denial of a permit. An applicant is authorized to request reconsideration of any permit decision by the administrator, provided that an affected PWS shall be notified of any such request and shall be allowed to participate in any such proceedings. The permit applicant and affected PWS shall be promptly notified of the final decision.
- C. Any permit decision made by the administrator may be appealed by the permit applicant or the PWS to the City Council of the City of Payette. Any such appeal must be filed within 28 days of the mailing date of the final decision by the administrator and shall state the legal basis therefor. The appellant, any opposing party, and the administrator shall be entitled to be heard by the City Council. Any decision on appeal made by City Council of the City of Payette shall be in writing and shall state the facts and legal standards relied upon.

SECTION VIII. PENALTY FOR VIOLATION

Failure to demonstrate compliance with applicable provisions of this ordinance, failure to demonstrate compliance with the City of Payette zoning ordinance, or express noncompliance with this ordinance shall constitute a violation of this ordinance subject to a misdemeanor criminal fine of up to \$1,000 per day of violation, 6 months of incarceration per day of violation, or both such fine and incarceration for each day that a violation continues.

SECTION IX. STATUS OF LAWFUL EXISTING FACILITIES

Any lawful use existing at the time of the adoption of this ordinance and characterized as a prohibited or restricted use herein, shall be recognized as a lawful nonconforming facility. Any such nonconforming facility may not be expanded or modified except as otherwise provided in the zoning ordinance and in accordance with provisions of this ordinance. Mitigation or preventive measures may be required as a precondition for allowing modification or expansion of nonconforming facilities located within any designated tier.

SECTION X. SEVERABILITY

The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

SECTION XI. REPEAL OF CONFLICTING PROVISIONS

All provisions of the current City of Payette code or ordinances of the City of Payette that conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION XII. EFFECTIVE DATE

This ordinance shall be effective upon its passage and publication as provided by law.

Enacted by the City Council as an ordinance of the City of Payette on the day of _____, 2016.

Approved by the Mayor on the ____ day of _____, 2016.

Attest: _____
City Clerk

Proposed addition to the City of Payette Zoning Ordinance:

Section (X). Protection of Public Water System Sources

Irrespective of the zoning designation applied to any land or land use governed by this ordinance, such zoning designation shall be subject to the limitations established by this section pursuant to the complementary ordinance of the City of Payette, which is intended to protect source water that supplies public water systems (PWS) within the City of Payette. By reference to the provisions and accompanying map (Title of Map and revision date) that comprise Ordinance No. (or code section reference), the following requirements and limitations apply within any land-use zone:

A. As respects the Inner Vulnerability Tier designated by Ordinance No. _____, the following uses are hereby prohibited:

- i. Sanitary landfill.
- ii. Confined Animal Feeding Operation (CAFO) as defined by code or rule.
- iii. Hazardous Waste Storage or Disposal Facility as defined herein.
- iv. Injection wells (shallow and deep) except for closed systems, certified as such by a licensed professional engineer.
- v. Existing sewer lines less than 100 feet from a PWS wellhead-serves as constraint on new well placement.
- vi. New sanitary sewer system components and sewer lines closer than 150 feet from a PWS wellhead.
- vii. Existing septic tanks or drainfields less than 100 feet from a PWS wellhead serves as constraint on new well placement.
- viii. Any newly installed septic tanks or drainfields less than 200 feet away from a PWS wellhead.
- ix. Junk or salvage yards as defined by this zoning ordinance.
- x. Automobile or truck body/repair shops, gas stations, maintenance or fueling areas.
- xi. Petroleum manufacturing or processing facilities providing treatment or disposal of petroleum products including but not limited to waste oil, oil filters, and tires and all other petroleum products.
- xii. Oil and gas wells or drilling sites.
- xiii. All manufacturing or industrial businesses involving the collection, handling, manufacture, use, storage, transfer, or disposal of any hazardous solid or liquid material or waste that is not positively contained such that it cannot migrate into the earth, ground water, or surface water, thereafter presenting the potential impact of polluting ground water.

Any such application denied a permit may seek an administrative authorization by demonstrating with clear and convincing evidence that the activity prohibited would pose no material risk of polluting the water source for a potentially affected PWS. Any decision on an administrative appeal may be heard before the City Council of the City of Payette.

B. As respects the Intermediate Vulnerability Tier designated by Ordinance No. _____, the following uses are hereby prohibited:

- i. Sanitary landfill.
- ii. CAFO as defined by code or rule.
- iii. Hazardous Waste Storage or Disposal Facility as defined herein.
- iv. Deep injection well (18 feet in depth or more), except when designed and used for geothermal heat, heat pump return flow, and uncontaminated cooling water return flow certified as such by a licensed professional engineer or other qualified professional including a public agency building inspector.
- v. Shallow injection well (less than 18 feet in depth), if the depth to ground water is less than 25 feet. All shallow injection wells shall use best management practice (BMP) options, such as those included in the most current version of DEQ's *Catalog of Stormwater Best Management Practices for Idaho Cities and Counties*. The following injection wells are exempt: aquifer recharge flow, aquifer remediation-related well, and septic tank and drainfield systems permitted and constructed according to law.
- vi. All manufacturing or industrial businesses involving the collection, handling, manufacture, use, storage, transfer, or disposal of any hazardous solid or liquid material or waste that is not positively contained such that it cannot migrate into the earth, ground water, or surface water, thereafter presenting the potential impact of polluting ground water.

Any such application denied a permit may seek an administrative authorization by demonstrating with clear and convincing evidence that the activity prohibited would pose no material risk of polluting the water source for a potentially affected PWS. Any decision on an administrative appeal may be appealed to the City Council of the City of Payette.

C. As respects the Outer Vulnerability Tier designated by Ordinance No. _____ the following uses are hereby prohibited:

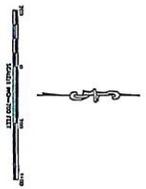
- i. Sanitary landfill.
- ii. Hazardous Waste Storage or Disposal Facility as defined herein.
- iii. Deep injection well (18 feet in depth or more), except when designed and used for geothermal heat, heat pump return flow, and uncontaminated cooling water return flow certified as such by a licensed professional engineer or other qualified professional including a public agency building inspector.
- iv. Shallow injection well (less than 18 feet in depth), if the depth to ground water is less than 25 feet. All shallow injection wells shall use BMPs, such as those included in the most current version of DEQ's *Catalog of Stormwater Best Management Practices for Idaho Cities and Counties*. The following injection wells are exempt: aquifer recharge flow, aquifer remediation-related well, and

- septic tank and drainfield systems permitted and constructed according to law.
- v. All manufacturing or industrial businesses involving the collection, handling, manufacture, use, storage, transfer, or disposal of any hazardous solid or liquid material or waste that is not positively contained such that it cannot migrate into the earth, ground water, or surface water, thereafter presenting the potential impact of polluting ground water. Any such applicant denied a permit may seek an administrative authorization by demonstrating with clear and convincing evidence that the activity prohibited would pose no material risk of polluting the water source for a potentially affected PWS. Any decision on an administrative appeal may be appealed to City Council of the City of Payette.

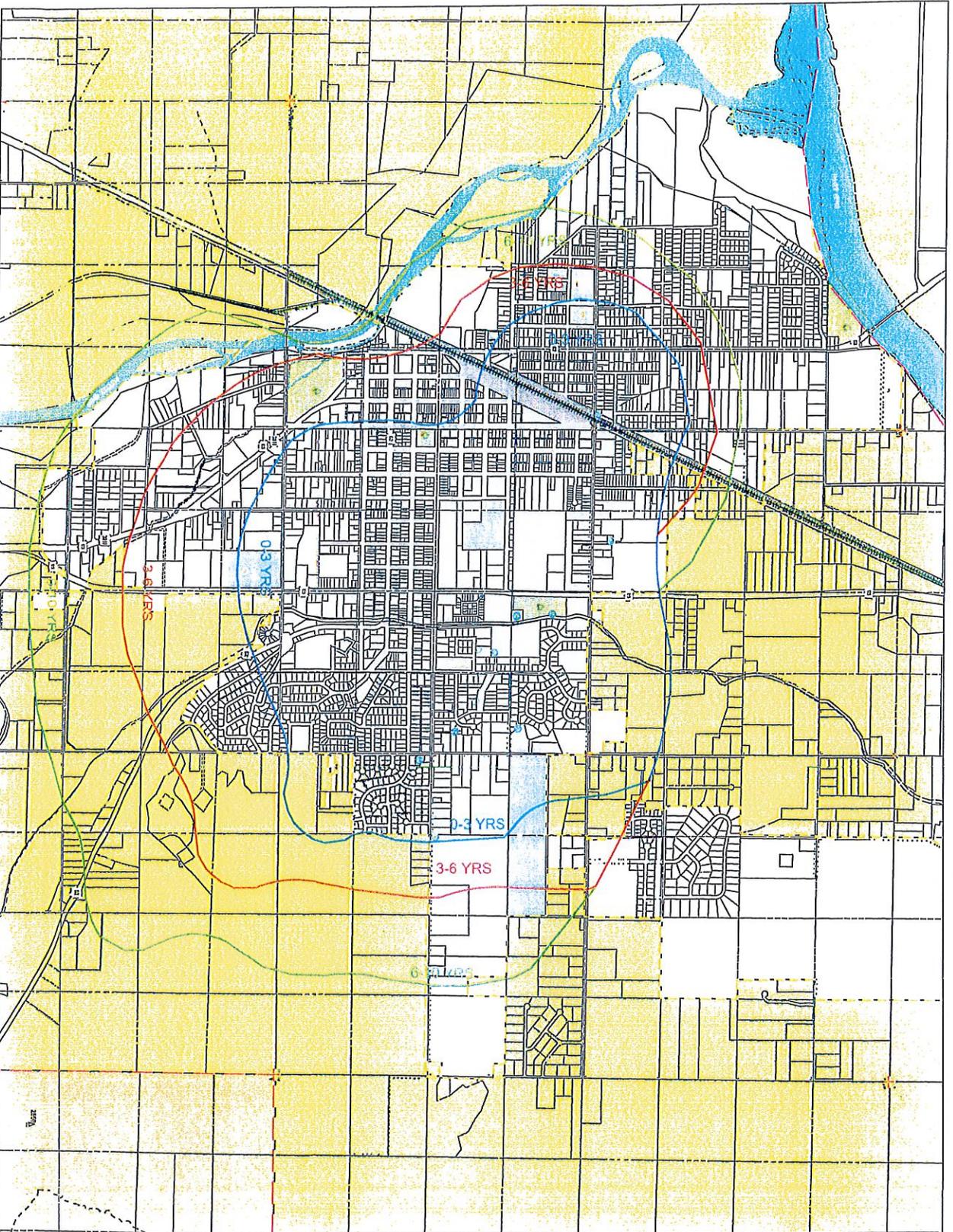
D. As respects the Surface Water Vulnerability Tiers designated by Ordinance No. _____, the following uses are hereby prohibited or restricted:

- Within the Surface Water Intake Tier, all uses that are not part of the public water supply intake apparatus and related equipment or facilities are prohibited unless such uses are downgradient from the water intake or do not pose any threat to the quality of water entering the surface water intake.
- ii. Within the Surface Water Watershed Tier, all land uses established or materially modified from their current state that are upgradient from the surface water intake shall be modified in ways that comply with BMPs adopted by resolution of the City Council.

City of Payette
 Payette County, Idaho
 Source Water Protection Ordinance



- Legend**
- WELL
 - CITY LIMITS
 - IMPACT AREA
 - COUNTY
 - SCHOOLS
 - PARKS



This map represents a compilation of public information from various sources provided by the City of Payette, Idaho. The City of Payette is not responsible for the accuracy or completeness of the information shown on this map. The City of Payette is not responsible for any errors or omissions that may appear on this map. The City of Payette is not responsible for any damages or liabilities that may result from the use of this map. The City of Payette is not responsible for any claims or lawsuits that may be filed against the City of Payette or its officials, employees, or agents, in connection with the use of this map. The City of Payette is not responsible for any claims or lawsuits that may be filed against the City of Payette or its officials, employees, or agents, in connection with the use of this map.

Revised March 2015

Sidewalk cafes

SUGGESTED CODE

Sidewalk Cafes and Outdoor Dining, Within The C-1 Downtown Commercial District:

- a. Sidewalk cafes and outdoor dining areas are designed to allow uses on public property in locations where they are determined to be appropriate by the City of Payette, and to promote and protect the public health, safety, and general welfare of the community. These general goals include, among others, the following specific purposes:
 - (1) To attract residents and nonresidents to downtown Payette;
 - (2) To provide an additional way for restaurants or food establishments to expand their operations;
 - (3) To promote sidewalk cafes and outdoor dining as useful and properly planned visual amenities;
 - (4) To provide adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes and outdoor dining and to ensure access to adjacent commercial and retail uses;
 - (5) To provide for penalties for violations of this chapter.
- b. Upon an application being made to Administration, and in compliance with the other requirements of this chapter, City of Payette may issue a temporary use permit providing for the placement thereon of tables, chairs, umbrellas, fencing, outdoor receptacles, or other related articles. Permit applications shall be reviewed and approved by city staff in accordance with all city ordinances, City of Payette sidewalk café & outdoor dining design guidelines, building and fire codes, and all other applicable law and ordinances. All fees are payable in advance of permits being issued.
- c. All permits shall be issued for a maximum time frame of six (6) months. All permits shall be reapplied for prior to their expiration date. A permit application available from the City of Payette, shall include, but shall not be limited to, the following:
 - (1) Name of applicant and business;
 - (2) Address of the business;
 - (3) Address of the applicant;
 - (4) Telephone number of the applicant and business;
 - (5) Name of the property owner if other than applicant;
 - (6) Address of the property owner if other than applicant;
 - (7) Telephone number of the property owner if other than applicant;
 - (8) Proposed start and end date;

- (9) Proposed hours of operation;
- (10) Proposed number of tables, chairs, railings, posts, table umbrellas or other items;
- (11) Proposed color, design, materials, and workmanship of tables, chairs, railings, post, table umbrellas or other items;
- (12) Proposed area of occupancy including square feet and dimensions;
- (13) Whether alcohol will be served;
- (14) Copy of certificate of insurance;
- (15) Whether permit application is a new application or renewal; if renewal, applicant shall describe any changes from the previous application;
- (16) Written authorization from the owner of the property shall be required where the applicant is not the owner of the affected property.

d. Standards: Cafes and outdoor seating shall only be permitted where it is determined that the use will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. Conditions, specific to the operation of a business may be incorporated into the permit as required by city staff. All sidewalk cafes and outdoor seating are subject to the requirements as listed within the City of Payette sidewalk café & outdoor dining design guidelines/

e. Permit Fee Schedule: Permits will be subject to the fees as established by resolution of the council.

1. An applicant may not use the permitted space for any purpose other than the authorized purpose stated on the application. City of Payette has the authority to limit the impact on the general public, nonrelated businesses and others who may require access into these areas.

E. Revocation: Payette Police Department or their designee has the authority to revoke the permit for unauthorized use or a violation of any of the provisions of this section. Upon revocation, the applicant will not be entitled to any refund for fees assessed under this chapter. An applicant must then make an application for a new permit under the same requirements for the original permit.

SIDEWALK CAFÉ & OUTDOOR DINING DESIGN GUIDELINES

Introduction

The City of Payette recognizes the importance of outdoor dining to the vitality and success of our Downtown (C-1) Zone. These design guidelines are in place to promote the health, safety and welfare of our residents, businesses and visitors. All sidewalk cafes, outdoor dining facilities, and special events are subject to the City of Payette Ordinances, all applicable Building Codes, Fire Codes, Americans with Disabilities Act, and the State of Idaho Liquor regulations.

Purpose

These guidelines provide standards for outdoor dining areas throughout the Downtown Zone (C-1 Zone) with special attention to those dining areas in high visibility areas within the public right-of-way. Central to the process of allowing outdoor dining areas is the necessity of ensuring furniture and other items placed along the street positively contribute to the historic character of Downtown Payette.

The guidelines apply to all sidewalk cafes, outdoor dining facilities, and special events approved by the City of Payette. Failure to comply with these requirements constitutes a violation of Payette City Code.

Definitions

1. **Limit Line:** Area approved by the City of Payette to be occupied for an outdoor seating/dining/event use. Such area may be on sidewalks, where sidewalks are wide enough to accommodate the requested use plus space required for the pedestrian zone. Such pedestrian zone shall comply with the ANSI standards for accessibility, but in no case be less than five (5) feet in width. Areas located within on-street parking stalls shall in no case take up more than twelve (12) feet of the length of such stalls.
2. **Fence Line or Perimeter Fence:** A fence enclosing an outdoor seating/dining/event area, which may be on or within the limit line.

Other Regulations

City of Payette and the State of Idaho have adopted regulations that may apply to outdoor dining areas, seating areas, and/or special event areas. These may include, but may not be limited to:

- Alcoholic Beverages
- Sidewalk Café, Outdoor Dining, and Special Events
- Noise Regulations
- City Ordinances
- Sign Regulations
- State of Idaho Alcoholic Beverages (Title 23)

References are made to some of these regulations in these standards are for information purposes only. References are in italics. Not all regulations are referenced. Business owners should consult City of Payette and the State of Idaho regarding regulations, permitting and license requirements. For the purpose of these standards, where these standards are more restrictive than the State of Idaho, these standards shall prevail.

Placement of Fences and Furnishings

✓ Placement of Fences

The distance from any fence used to enclose a café or outdoor seating area, which fence is parallel to the building face, shall not exceed the limit line unless otherwise specified.

✓ Placement of Furnishings/Accessories

All furnishings/accessories except certain umbrella shades, awning or canopy extensions and planters shall be placed within the perimeter fence surrounding the outdoor dining/seating/event area, if a fence is required/provided, or within the limit line if no fence is required or provided. The furnishings include but are not limited to benches, chairs, tables, umbrella bases, awnings and canopies, planters, trash receptacles, and all other accessories or equipment.

Umbrella stands and any umbrella shade that is less than six (6) feet, eight (8) inches in height at its lowest point from the walking surface shall be located inside the perimeter fence and the limit line. If an umbrella shade is at least six (6) feet, eight (8) inches in height at its lowest point from the walking surface, then the umbrella shade may extend outside the perimeter fence and the limit line.

Planters owned by the business owner/operator are permitted in the outdoor dining/event area at the discretion of the business owner/operator as long as they're within the limit line. If an outdoor dining/event area has a perimeter fence, planters are permitted outside the fence line if they are within the limit line. If a business owner/operator desires planters outside the perimeter fence or suspended from the outside edge of the perimeter fence, the fence shall be placed or configured so both the fence and the planters are within the limit line.

Awnings and canopies that are attached to the building and extend from the building face to the limit line may include an extension beyond the limit line if the extension is at least seven (7) feet in height from the walking surface. Extensions shall not exceed one-half (1/2) feet beyond the limit line.

Design Standards

✓ Fences

Each outdoor dining/event area where alcohol is served shall have a continuous fence around the perimeter except for one opening as required by Idaho State Code¹. Fences installed shall be of metal, and be black, antique brown or bronze in color. Fences shall

be well-crafted and have a durable, professional finish. Prior to installing a fence, the business owner/operator shall obtain approval from the City of Payette for the design, materials and construction specifications to be used for the fence.

Fences shall have sturdy support poles and bases that can withstand heavy jostling and bumping. The bases and fence layout shall be designed to create a stable enclosure without anchoring the fence to the ground. Attaching the fence to the ground is not allowed. Connections at corners shall be made so fence does not pull apart under normal use. Fences shall be a minimum of thirty-six (36) inches in height. Fences shall not create a continuous barrier more than four (4) feet in height. Fences shall be removable to accommodate events and change in seasons. Fences that run more or less parallel to the curb line shall be equidistant from the curb line with allowances for indentations at entrance points and for planters. Where no curb line exists, the fence should be equidistant from the building face. Fence placement shall not be slipshod. City of Payette may require a business owner/operator to adjust fence alignment to meet these standards.

Bases on support posts for fences may extend an additional one (1) foot outside the limit line if the base lies flat on the ground. Combining a fence with a support structure for an overhead awning or canopy is allowed if approved in writing by the City of Payette. Outdoor dining areas where alcohol is not served are not required to have a continuous fence, but must have fencing between all dining areas and adjacent parking stalls and the street. All furnishings other than umbrella shades and awning or canopy extensions shall be placed within the limit line.

✓ Sidewalks

A minimum of five (5) foot wide continuous pedestrian access along the public sidewalk free from all obstructions is required and must not create any pedestrian hazard.

✓ Umbrellas, awnings and canopies

Umbrellas, awnings and canopies shall be of cloth, and use colors that are in compliance with the Downtown Historic Guidelines and complementary to the aesthetics of the building it serves. Umbrellas and freestanding awnings or canopies shall be plain with no writing, graphics or advertising permitted. Umbrellas shall be securely anchored in stands. Awnings and canopies attached to the building may include the name of the business if this signage is approved by the City of Payette as an allowed tenant identification sign and the proper sign permits have been obtained. Awnings and canopies that are attached to the building and extend from the building face to the limit line as provided in the section of placement of furnishings.

✓ Planters

The design of planters owned by business owners/operators is at the discretion of the business owner/operator as long as they are placed within the limit line and are complimentary to the colors of the building exterior.

✓ Trash receptacles

Each outdoor dining area shall have a trash receptacle with a lid within the fence lines/limit lines.

✓ Signage

Signage shall not be posted on fencing surrounding outdoor areas except for signs required by law or for small informational signs, such as; "No smoking on patio". Sign banners are not permitted. A-frame and T-frames signs shall be located within the outdoor area limit line for the outdoor area to which they belong or in the furnishing zone directly in front of the outdoor area. All signage shall comply with the City of Payette regulations.

✓ Decorative Lighting

Lighting on fencing is permitted if the intent is to add a festive, decorative element and not to attract attention. Lighting shall be white or clear in color and shall be understated. Flashing lights are not allowed. Light strands shall be kept in good repair and burned out bulbs shall be replaced.

✓ Accessibility

Location and number of tables, spacing of tables and access within the outdoor dining area must meet all Building Code and Americans with Disabilities Act requirements.

✓ Maintenance

Business owners/operators shall be responsible for maintaining fences and furnishings in such a manner that these improvements present a high quality image. Any fences or furnishings showing signs of wear, damage or failure shall be promptly refurbished, repaired and/or replaced.

¹The State of Idaho Alcohol Commission requires that outdoor dining areas where alcohol is served must be separated from pedestrian areas by a continuous enclosure except for one entry point. Such outdoor dining areas must also be immediately adjacent to the establishment serving alcohol. Signage must be posted that alcohol cannot be taken off-premises.