

ORDINANCE NO. 627

AN ORDINANCE AMENDING THE REVISED CODE OF PAYETTE, 1946, BY ADDING TO TITLE NINE THEREOF A NEW CHAPTER DESIGNATED AS CHAPTER ELEVEN BEING A COMPREHENSIVE ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING AND RESTRICTING THE BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF POPULATION; DIVIDING THE CITY OF PAYETTE INTO DISTRICTS FOR SUCH PURPOSE; ADOPTING MAPS OF SAID CITY SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH DISTRICTS; ESTABLISHING A BOARD OF APPEALS; AND PROVIDING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PAYETTE:

Section 1. That the Revised Code of Payette, 1946, be and it is hereby amended by adding to Title Nine thereof a new chapter designated as Chapter Eleven, reading as follows:

"9-1101. Short Title. This Ordinance shall be known and may be cited as the 'Zoning Ordinance of the City of Payette'.

"9-1102. Interpretation. In their interpretation and application the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and welfare. To protect the public, among other purposes, such provisions are intended to provide for adequate light, pure air, safety from fire, and other danger, undue concentration of population and ample parking facilities.

"9-1103. Scope. It is not intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except specifically repealed by this Ordinance, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the City is a party. Where this Ordinance imposes a greater restriction upon land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Ordinance shall control.

"9-1104. Definitions. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations, shall have the meaning given herein. When not inconsistent with the context words used in the present tense include the future, words in the plural number include the singular number, and words in the

singular number include the plural number. The word 'shall' is always mandatory and not merely directory:

(1) 'Accessory Use or Building' is a subordinate use or building customarily incident to and located on the same lot with the main use or building and including a family garden.

(2) 'Alley' is any public space or thoroughfare 20 feet or less in width, but not less than 10 feet in width, which has been dedicated or deeded to the public for public travel and which affords secondary access to abutting property.

(3) 'Alteration' as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

(4) 'Area, Building,' is the aggregate of the maximum horizontal cross section area of the main building on a lot, excluding cornices, eaves, gutters, or chimneys, steps, one-story open porches, balconies and terraces.

(5) 'Building' is a structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, including tents, lunch wagons, dining cars, camp cars, trailers, and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.

(6) 'Dwelling' is a building designed or used as the living quarters for one or more families.

(7) 'Dwelling House' is a detached house designed for and occupied exclusively as the residence of not more than one family.

(8) 'Dwelling Unit' is one or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping and eating.

(9) 'Dwelling, Multiple Family,' is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities for both.

(10) 'Duplex' is a dwelling containing separate living units for two families, but which may have joint services or facilities for both.

(11) 'Essential Service' is the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

(12) 'Family' is a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

(13) 'Family Garden' is that area of ground used for the production of agricultural and horticultural products for the use of the family occupying the premises, and not for sale or resale.

(14) 'Garage, Private,' is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.

(15) 'Garage, Public,' is a building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.

(16) 'Junk' is any worn out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged

and without further reconditioning can be used for its original purpose as readily as when new shall not be considered junk.

(17) 'Junk Yard' is the use of more than 50 square feet of the area of any lot, whether inside or outside a building, or the use of any portion of that half of any lot that joins any street, for the storage, keeping or abandonment of junk.

(18) 'Loading Space' is an off street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

(19) 'Lodging House'. See 'Rooming House.'

(20) 'Lot' is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Ordinance.

(21) 'Lot, Corner', is a lot at the point of intersection of and abutting on two or more intersecting streets, the angle of intersection being not more than 135 degrees. It is the land occupied or to be occupied by the corner building and its accessory buildings.

(22) 'Lot, Reversed Corner,' is a corner lot the rear of which abuts upon the side of another lot whether across an alley or not.

(23) 'Multiple Family Dwelling'. See 'Dwelling, Multiple Family.'

(24). 'Non-Conforming Use' is a building, structure or use of land existing at the time of the enactment of this Ordinance, and which does not conform to the regulations of the district in which it is located.

(25) 'Office, Home,' is an office of professional persons within the dwelling of such person and occupying not more than fifty per cent of the area of the building and employing not more than one non-resident office or laboratory assistant.

(26) 'Parking Space' is an area of not less than 180 square feet, net, exclusive of access or maneuvering area, or ramps, columns, etc., to be used exclusively as a temporary storage space for one private motor vehicle.

Truck loading and unloading space shall not be included in such area.

(27) 'Retail Shop' is a building or portion of building in a residential district constructed in the style of a residence used for the sale of merchandise to the ultimate consumer and so used only upon special permit of the Board of Appeals.

(28) 'Rooming House' is any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire, with or without meals. A Boarding House, Lodging House or furnished room house shall be deemed a "rooming house."

(29) 'Set-back' is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Ordinance, may be erected above the grade level. The set-back line is considered a vertical surface intersecting the ground on such line.

(30) 'Street' is a public thoroughfare more than 24 feet in width which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

(31) 'Structure' is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

(32) 'Two Family Duplex.' See 'Duplex.'

(33) 'Use' is the purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

(34) 'Yard' is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

(35) 'Yard, Front,' is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

(36) 'Yard, Rear,' is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

(37) 'Yard, Side,' is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

"9-1105. Establishment of Districts.

(a) Use District Established. For the purposes of this Ordinance, the City of Payette is hereby divided into districts as provided hereinafter.

(b) Maps and Boundaries. The boundaries of these districts are hereby established as shown on a map entitled 'The Zoning Map of the City of Payette,' on file in the office of the City Clerk and identified by the approving signatures of the Mayor and Clerk, which map, with all explanatory matter thereon, shall be deemed to accompany, be, and is hereby made a part of this Ordinance.

"9-1106. Interpretation of District Boundaries.

(a) Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

(1) Where Boundaries Approximately Follow Streets, Alleys or Highways.

Where district boundaries are indicated as approximately following the center line or street line of streets, the center line or alley line of alleys, or the center line or right-of-way line of highways, such lines shall be construed to be such district boundaries.

(2) Where Boundaries Parallel Street Lines, Alley Lines or Highway

Right-of-Way Lines. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.

(3) Where Boundaries Approximately Follow Lot Lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.

(4) Where the Boundary Follows a Railroad Line. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.

(5) Where the Boundary Follows a Body of Water. Where the boundary of a district follows a stream, lake or other body of water said boundary line shall be construed to be at the limit of the jurisdiction of the City of Payette, unless otherwise indicated.

(6) Submerged Areas Not Included in District. All areas within the corporate limits of the City which are under water and are not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two or more districts the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.

(7) District Regulations Apply to Schools, Parks, etc. Any areas shown on the Zoning Map as park, playground, school, cemetery, water, street, or right-of-way, shall be subject to the zoning regulations of the district in which they are located. In case of doubt, the zoning regulations of the most restricted adjoining district shall govern.

(8) Where Property Has Not Been Included in District. In every case where property has not been specifically included within a district, or where territory has become a part of the City by annexation, the same shall automatically be classed as lying and being in the 'A' Residential district until such classifications shall have been changed by an amendment of the Zoning Ordinance, as provided by law.

(9) Vacation of Public Ways. Whenever any street, alley, or other public way is vacated in the manner authorized by law the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

"9-1107. Application of Regulations.

(a) Except as provided in this Ordinance:

(1) Conformity of Buildings and Land. No building, structure, or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.

(2) Conformity of Buildings. No building, structure, or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.

(3) Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this Ordinance.

"9-1108. Transition Zoning.

(a) Lots in Two Districts. Where a district boundary line as established in this Ordinance or as shown on the Zoning Map divides a lot which was in a single ownership and of record at the time of this Ordinance, the use thereon and the other district requirements applying to the least restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot provided the more restricted portion of such lot is entirely within 60 feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.

(b) Lots in Residence Zone Adjacent to Business or Industrial Zone. The first residentially zoned lot having a side yard adjacent to any 'C' or 'D' district may be utilized in accordance with the use requirements of the next least restricted residential zone provided that the area, height and other restrictions of the zone district in which it is located are met. In addition, any single adjacent structure located or built upon the first 60 feet of such a residentially zoned lot with a side yard adjoining a 'C' or 'D' District may

be used for offices for groups of doctors, dentists, architects, engineers or attorneys; clinics with private dispensaries; and, insurance, institutional, and real estate offices. In addition, such other semi-commercial uses as determined by the Board of Appeals to be of similar character are permitted. Such structure or use must comply with the area, height and other restrictions of the zone in which it is located.

(c) Lots in Business or Industrial Districts Adjacent to Residential Zone. Where a lot in a business or industrial district abuts a lot in a residential district there shall be provided along such abutting lines a yard equal in width or depth to that required in the residential district.

(d) Front Yard Transition. Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as business or industrial, the front yard depth in the business or industrial district shall be equal to the required front depth of the residential district.

(e) Garage Entrances. No public or private garage for more than five motor vehicles shall have an entrance or exit for motor vehicles within 60 feet of a residential district.

(f) Parking Lots and Driveways Abutting Residence District. Whenever a parking lot or a driveway to a parking lot is hereafter established in other than a residence district so as to abut the side or rear line of a lot in a residence district a solid masonry wall, or a substantial slightly fence not less than four feet high and not more than seven feet high, shall be constructed and maintained along said side or rear lot line up to, but not beyond, the setback building line. In addition, in all use districts, the lighting, including any permitted illuminated sign, on any parking lot or driveway shall be arranged so that there will be no annoying glare directed or reflected toward residence buildings or residence districts.

(g) Reversed Corner Lot Abutting Residential District. In the case of a reversed corner lot where the rear of a lot in a 'C' or 'D' district abuts upon the side of a lot in any Residential district there shall be a rear yard of not less than 25 feet, provided further that where a public alley separates the rear of the lot in the 'C' or 'D' district and the side of the lot in any residential

district, no rear yard shall be required.

"9-1109. Non-Conforming Uses.

(a) The lawful use of any building, structure, or land existing at the time of the enactment of this Ordinance may be continued, although such use does not conform with the provisions of this Ordinance, provided the following conditions are met:

(1) Unsafe Structures. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any portion of a building or structure declared unsafe by a proper authority.

(2) Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost 75 per cent of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.

(3) Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.

(4) Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.

(5) Construction Approved Prior to Ordinance. Nothing herein contained shall require any change in plans, construction or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently prosecuted within six months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within two months of the date of the permit, and which entire building shall be completed according to such plans as filed within four months from date of this Ordinance.

(6) Restoration. Nothing in this Ordinance shall prevent the reconstruction, repairing, rebuilding and continued use of any non-conforming building or structure damaged by fire, collapse, explosion, or Acts of God, subsequent to the date of this Ordinance, wherein the expense of such work does not exceed

sixty per cent of the actual value of the building or structure at the time such damage occurred.

(7) Wear and Tear. Nothing in this Ordinance shall prevent the reconstruction, repairing, or rebuilding of a non-conforming building, structure or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation provided the cost of such work shall not exceed 25 per cent of the assessed value of such building or structure at the time such work is done, nor prevent compliance with the provisions of other ordinance or laws.

(8) Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use. A non-conforming use shall be considered abandoned:

(a) When the intent of the owner to discontinue the use is apparent, or,

(b) When the characteristic equipment and the furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within one year, unless other facts show intention to resume the non-conforming use, or

(c) When it has been replaced by a conforming use, or

(d) When it has been changed to another use under permit from the Board of Appeals.

(9) Displacement. No non-conforming use shall be extended to displace a conforming use.

(10) Cessation---Junk and Wrecking Yards. No junk or automobile wrecking yard not within an enclosed masonry building and not within a heavy industrial or unrestricted industrial district shall be operated or maintained for more than six months after a zoning change to a use district within which such yard is not permitted, except that in a light-industrial district, where the Board of Appeals determines that it is impractical to roof over a large area containing junk material or an automobile wrecking yard, the Board may permit the construction around such area of a seven foot high masonry wall or substantial slightly tight or semi-tight fence, whichever in its opinion is the more appropriate in the surroundings of the property, and may then permit,

for a specified time, the continued use of such property for such purposes.

(11) Unlawful Use Not Authorized. Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this Ordinance.

(12) Certificates of Non-Conforming Use. Within six months from the effective date of this Ordinance the Board of Appeals shall issue a 'Certificate of Non-Conforming Use' to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.

(a) In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the 'Certificate of Non-Conforming Use,' unless said use shall be in conformity with the provisions of the use zone in which the property is located.

(b) A copy of each 'Certificate of Non-Conforming Use' shall be filed with the office of the City Clerk. No permit or license shall be issued to any property for which a 'Certificate of Non-Conforming Use' has been issued until said permit or license has been approved by the Board of Appeals.

(13) District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.

"9-1110. Use Districts.

(a) The City of Payette is hereby divided into six use districts, which shall be known, in the order of restrictiveness, beginning with the most restrictive as:

- (1) 'A' Residential
- (2) 'B' Residential
- (3) 'C' Commercial

- (4) 'D' Commercial
- (5) 'E' Industrial
- (6) 'F' Unclassified

"9-1111. 'A' Residential. Except as otherwise provided in this Ordinance, no main building or premises in an 'A' Residential district shall hereafter be erected, altered, used, arranged, or designed to be used, in whole or in part, for uses other than set forth in this section and unless they comply with all the provisions set forth in this section.

(a) Buildings and Uses Permitted.

- (1) One family dwellings.
- (2) Two family duplex.
- (3) The following uses may be permitted by the Board of Appeals, after public notice and public hearing, under appropriate safeguards and special conditions as said Board deems necessary, such uses and buildings must be appropriately located and designed and meet a community need without adversely affecting the neighborhood.

- (a) Schools (public and parochial).
- (b) Churches.
- (c) Libraries.
- (d) Fire stations.
- (e) Parks and buildings for same.
- (f) Play grounds and buildings for same.

(b) Building Locations.

(1) There shall be a set-back of at least 25 feet from the front property line or 50 feet from the center line of the street, whichever set-back is greater; provided, however, where a uniform set-back exists which is less or greater than herein required the set-back shall conform to such uniform set-back.

(2) There shall be a side yard of not less than 8 feet.

(3) On a corner lot the minimum set-back on the street upon which a majority of the buildings front shall be 25 feet from the property line or 50 feet from the center line of the street, whichever set-back is greater;

the set-back on an intersecting street shall be not less than 10 feet from the property line or 40 feet from the center line of the intersecting street; provided, however, that in the event the majority of the buildings on both streets comply with the minimum set-back for fronting streets, the minimum set-back on both sides of the corner lot may be required to be the set-back of fronting street.

(4) Outbuildings attached to the house or within 8 feet of the house shall be at least 8 feet from the property line.

(c) Buildings and Use Restrictions.

(1) The roofs of buildings shall not project to within 4 feet of the side property line.

(2) If garages open on side street they shall be at least 10 feet from the side property line and if opening is on an alley the roof or the door during opening shall not project to within one foot of the property line.

(3) No building of more than two stories, except public or semi-public, shall be permitted except by approval of the Board of Appeals.

(4) No sign boards of any kind shall be permitted.

(5) Single family dwellings shall provide at least one off street parking area and a two family duplex shall provide two off street parking areas. Other buildings permitted shall provide parking facilities required by the Board of Appeals.

(6) No animals, other than household pets, shall be permitted.

(7) Sidewalks shall be constructed adjacent to street curbs.

"9-1112. 'B' Residential. Except as otherwise provided in this Ordinance, no main building or premises in a 'B' Residential district shall hereafter be erected, altered, used, arranged, or designed to be used, in whole or in part, for uses other than set forth in this section and unless they comply with all the provisions set forth in this section.

(a) Buildings and Uses Permitted.

(1) Multiple family dwellings.

(2) Boarding houses.

(3) Lodging houses.

(4) Baby homes.

- (5) Convalescent homes.
- (6) Sanitariums.
- (7) Old Peoples' homes.
- (8) Hospitals.
- (9) Home offices.
- (10) Dancing schools.
- (11) Retail shops.
- (12) All other uses permitted and as regulated in an 'A' Residential district.

(13) Auto courts may be permitted if approved by the Board of Appeals, after public notice and public hearing, and if adequate yard space and other safeguards to preserve the character of the neighborhood are provided, and if in the judgment of said Board such buildings and uses are appropriately located and designed and will meet a community need without adversely affecting the neighborhood.

(b) Building Locations. Requirements for locations of buildings in 'A' Residential districts shall be applicable to location of buildings in 'B' Residential districts.

(c) Buildings and Use Restrictions.

- (1) No lot shall be less than 35 feet in width nor contain less than 5000 square feet of area.
- (2) Buildings shall not occupy more than 50% of the area of the lot.
- (3) Sign boards of not more than 8 square feet may be permitted.
- (4) Animals may be maintained on the lot if more than fifteen thousand square feet in area when approved by the Board of Appeals or appropriate health officers and do not cause offensive odors or disturbance to the people of the neighborhood.

(5) Except as otherwise herein stated, Buildings and Use Restrictions applicable in 'A' Residential districts shall be applicable in 'B' Residential districts.

"9-1113. 'C' Commercial. Except as otherwise provided in this Ordinance, no main building or premises in a 'C' Commercial district shall hereafter be erected, altered, used, arranged, or designed to be used, in whole or in part, for uses other than set forth in this section and unless they comply with all the provisions set forth in this section.

(a) Buildings and Uses Permitted.

- (1) Hotels.
- (2) Theaters.
- (3) Recreation halls.
- (4) Office buildings.
- (5) Studios.
- (6) Dancing academies.
- (7) Newspaper printing plants.
- (8) Printing and book binding establishments.
- (9) Photograph galleries.
- (10) Restaurants and tea rooms.
- (11) Undertaking parlors.
- (12) Telephone exchanges.
- (13) Stores, retail and wholesale.
- (14) Garages, private and public.
- (15) Assembly halls.
- (16) Lodge halls.
- (17) Stage depots.
- (18) The following uses may be permitted by the Board of Appeals, after public notice and hearing, under appropriate safeguards and such special conditions as the said Board deems necessary.
 - (a) Automobile sales rooms.
 - (b) Service stations.
 - (c) Repair shops.
 - (d) Dry cleaning and laundry establishments.
 - (e) Carpenter shops.
 - (f) Tourist cabins, motels or trailer courts.
 - (g) Light manufacturing, which is not dangerous or offensive on

account of dust, gas or smoke and noise, and in cases where the major portion of the product is sold on the premises to the ultimate consumer.

(b) Building Locations. No set-back shall be required except where buildings are constructed adjacent to a street of less than 60 feet in width in which case buildings shall be constructed no closer than 35 feet from the center line of the street.

(c) Building and Use Restrictions.

(1) No window or door while in an open position or during opening shall project into any street or alley.

(2) For each 5000 square feet of floor space, one off street loading zone of at least 300 square feet shall be provided on the property.

(3) Location and size of curb cuts and driveway shall be approved by the Board of Appeals; provided, however, that any curb cut or driveway greater than 12 feet in width will be permitted only if public parking space is provided within 300 feet equal to the number of parking spaces removed from public use by such curb cut or driveway.

"9-1114. 'D' Commercial. Except as otherwise provided in this Ordinance, no main building or premises in a 'D' Commercial district shall hereafter be erected, altered, used, arranged, or designed to be used, in whole or in part for uses other than set forth in this section and unless they comply with all the provisions set forth in this section.

(a) Buildings and Uses Permitted.

- (1) Animal hospitals.
- (2) Armories.
- (3) Assembly halls.
- (4) Bakeries.
- (5) Cold storages, including frozen food lockers.
- (6) Fuel yards.
- (7) Laundries and dry cleaning establishments.
- (8) Lodge halls.
- (9) Lumber yards.
- (10) Stage depots.

(11) Wholesale commercial business, other than manufacturing or processing.

(12) Light manufacturing, which is not dangerous or offensive on account of dust, gas, smoke, or noise in cases where the major portion of the produce is not sold on the premises to the ultimate consumer.

(b) Building Locations. No set-back shall be required except where buildings are constructed adjacent to a street of less than 60 feet in width in which case buildings shall be constructed no closer than 40 feet from the center line of the street.

(c) Building and Use Restrictions.

(1) No window or door while in an open position or during opening shall project into any street or alley.

(2) For each 6000 square feet of floor space, two off street loading zones of at least 350 square feet each shall be provided on the property. In addition, for each 10,000 square feet of open shed or yard used for storage one loading zone of at least 350 square feet shall be provided on the property.

(3) Location and size of curb cuts and driveway shall be approved by the Board of Appeals; provided, however, that any curb cut or driveway greater than 12 feet in width will be permitted only if public parking space is provided within 300 feet equal to the number of parking spaces removed from public use by such curb cut or driveway.

(4) All buildings shall be used for purposes of commerce or industry. There shall be no dwellings permitted except for purpose of housing maintenance, caretakers, or otherwise to provide protection and maintenance of property.

"9-1115. 'E' Industrial. Except as otherwise provided in this Ordinance, no main building or premises in an 'E' Industrial district shall hereafter be erected, altered, used, arranged, or designed to be used, in whole or in part for uses other than set forth in this section and unless they comply with all the provisions set forth in this section.

(a) Buildings and Uses Permitted. Premises shall be used and occupied by structures used primarily for Industrial purposes, including the following:

(1) Agricultural Industry - Poultry processing.
Egg processing
Feed stores and feed manufacturing.
Creameries.
Flour mills and elevators.
Fruit & vegetable processing.
Fruit & Vegetable packing.
Canneries.
Sugar processing.

(2) Heavy Industry - Lumber yards.
Railroad yards.
Coal and wood yards.
Ice plants.
Heavy manufacturing, where confined to defined limits such as street boundaries.
Planing mills.
Iron and steel fabricating.
Autos, mechanical and wrecking where confined to buildings and fenced premises.
Truck terminals.
Warehouses.
Storage plants industry.
Bulk petroleum products.

(3) Other industry that either does not have objectionable noises, odor or refuse; provided, however, that other such industries may be permitted by the Board of Appeals under appropriate safeguards and such special conditions as said Board deems necessary.

(4) Any commercial business as classed in zone 'D' shall be included in zone 'E'.

(b) Building Locations. No set-back shall be required except where buildings are constructed adjacent to a street of less than 60 feet in width in which case buildings shall be constructed no closer than 40 feet from the center line of the street.

(c) Buildings and Use Restrictions.

(1) All building plans shall be subject to review and approval by the Board of Appeals with a view to maximum utilization of property with a full use of property permitted.

(2) Plans for off street parking shall be reviewed by the Board of Appeals and subject to the approval of said Board.

(3) Any commercial business as classed in zone 'D' shall be included in zone 'E'.

"9-1116. 'F' Unclassified. Any change of usage other than agricultural purposes must be submitted to the Board of Appeals for approval.

"9-1117. Accessory Use. Any accessory use customarily incident to a use authorized in a district shall be permitted as an accessory use. The Board of Appeals shall determine the applicability of this section to any proposed accessory use.

"9-1118. Enforcement and Administration.

(a) Administrative Official. Except as otherwise provided in this Ordinance, the City Clerk shall administer and enforce this Ordinance, including the receiving of applications and the issuing of building permits. No building permit or certificate of occupancy shall be issued by him except where the provisions of this Ordinance have been complied with.

(b) Building Permit Required. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the City Clerk. All applications for such permits shall be in accordance with the requirements of this Ordinance and, unless upon written order of the Board of Appeals, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Ordinance.

(1) Matter Accompanying Application. There shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.

(2) Payment of Fee. One copy of such layout or plot plan shall be returned when approved by the Board of Appeals and the City Clerk together with such permit to the applicant upon the payment of a fee of \$1.00.

(c) Certificate of Occupancy.

(1) No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the City Clerk upon approval of the Board

of Appeals, stating that the building or proposed use thereof complies with the provisions of this Ordinance.

(2) No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the City Clerk therefor.

(3) All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within five days after the erection or alteration shall have been approved.

(4) The City Clerk shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.

(5) No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for a certificate of occupancy.

(6) All applications for Building Permit together with matter accompanying such application, and applications for Certificates of Occupancy shall be referred to the Board of Appeals within three days of filing with the City Clerk, and the Board of Appeals shall review such applications and take action thereon within seven days of such referral. Action taken by the Board may be approval, conditional approval, requests for further information from the applicant, requests for inspection by proper City officials, or hearing (public or private) within the discretion of the Board. The Board may, if it finds the application for building or use to be in violation of any provision hereof, deny such application within the time above stated or after such further proceedings as it deems necessary.

"9-1119. Board of Appeals.

(a) Creation and Organization. The Planning Commission for the City of Payette shall serve as the Board of Appeals and shall prescribe rules for the conduct of its affairs when sitting as such Board of Appeals.

(b) Power and Duties. The Board of Appeals shall have all the power and duties prescribed by law and by this Ordinance, which are more particularly specified as follows:

(1) Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(2) Special Permits. To issue special permits for any of the uses for which this Ordinance requires the obtaining of such permits from the Board of Appeals; or for the extensions of a building or use as such existed at the time of the passage of this Ordinance into a contiguous more restricted district for a distance not exceeding sixty feet; but not for any other purpose. In granting any special permit, the Board shall prescribe any conditions that it deems to be necessary to or desirable for the public interest. However, no such special permit shall be granted by the Board of Appeals unless it finds:

(a) That the use for which such permit is sought will not be injurious to the neighborhood or otherwise detrimental to the public welfare and will be in harmony with the general purpose of this Ordinance. In determining its finding, the Board shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

(3) Variances. To vary or adopt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this Ordinance shall be granted by the Board of Appeals unless it finds:

(a) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to

such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.

(b) That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in determining its findings, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

(c) Procedure. The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Ordinance. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the City Clerk, by case number under one or another of the following headings: Interpretations; Special Permits; Variances; together with all documents pertaining thereto. The Board of Appeals shall notify the City Council of the City of Payette of each special permit and each variance granted under the provisions of this Ordinance.

(d) Notice and Hearing. No action of the Board shall be taken on any case (except routine approval of applications) until after proper notice has been given and public hearing has been held. Proper notice of a hearing before the Board shall be:

(1) Public Notice by posting notice of such hearing for at least seven days prior to such hearing at the front door of the Courthouse in the City of Payette;

(2) Written Notice mailed to the owner or his agent and, so far as it is practicable, written notice to directly affected property owners or their agents given at least five days prior to the date of such proposed hearing in such manner as the Board may, by its rules, prescribe.

"9-1120. Appeal.

(a) Notice of Appeal. Any person aggrieved by any action of the Board of Appeals may appeal from such action by filing with the City Clerk a Notice of Appeal within ten days from the decision of said Board. Such Notice of Appeal shall state the portion or portions of such decision being appealed from and the relief being sought.

(b) Transmission of Papers. Upon receiving and filing such Notice of Appeal the City Clerk shall notify the Board of Appeals and all papers in connection therewith shall be forthwith transmitted to the City Clerk.

(c) Hearing. At the next regular Council Meeting following the filing of such Notice of Appeal, the City Council shall set a date for hearing the appeal, which date shall not be more than sixty days from such regular Council meeting.

(d) Notice. Notice of such hearing shall be given to the appellant and such other persons as may be directed by the Council and in the manner directed by the Council.

(e) Procedure. The hearing shall be conducted in such manner as the Council may prescribe.

(f) Decision. The decision of the Council shall be by resolution adopted by a vote of a majority of those Councilmen present, the Mayor voting only in case of a tie. The resolution shall state the grounds upon which the decision shall be based and any conditions imposed.

"9-1121. Amendments. The City Council may from time to time on its own motion, or on petition, or on recommendation of the City Planning Commission, amend, supplement, or repeal the regulations and provisions of this Ordinance.

(a) Every such proposed amendment or change whether initiated by the City Council or by petition shall be referred to the City Planning Commission for report thereon before the public hearing hereinafter provided for.

(b) The City Council shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

(1) By publishing a notice once a week for two successive weeks in a newspaper of general circulation within the City of Payette.

(2) The notice shall state the general nature of the proposed amendments.

(c) An amendment or rezoning may be initiated by a petition of interested property owners or authorized agents of such owners for rezoning of any land to a less restricted district provided that said land is adjacent to or directly across a street or alley from property which is already zoned in the same or less restricted zone as that to which said property is proposed to be rezoned.

"9-1121. Penalties. Any person, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding \$100.00 or be imprisoned in the City jail for a period not exceeding thirty days or be both so fined and imprisoned. Each day such violation is committed or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder.

"9-1122. Separability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

"9-1123. Ordinances Repealed. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed."

Passed by the Council and approved by the Mayor this fourth day of May, 1959.

A. V. Hines

Mayor

Attest:

Alice Bulmer
Clerk