

Chapter 11-09

EXCEPTIONS, ACCESSORY AND NONCONFORMING USES; FENCE REGULATIONS; MINIMAL PROPERTY MAINTENANCE

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(En-acted Ord 5691 12/27/1995)

Section 11-09-01 GENERAL REGULATIONS

Section 11-09-01.01 Intent

The following provisions shall be subject to the general regulations of this Ordinance and to the special provisions and exceptions in this and the following Sections so as to secure the intent of this Ordinance. In all cases of administration and enforcement of this Ordinance for which no other specific provisions is made in this Section and other provisions herein, the Planning Commission shall provide for the same by order, resolution or the adoption of a rule, regulation or by-law, which provision shall be in accord with and consistent with the objectives and standards of this Ordinance.

Section 11-09-01.02 Substandard Original Lots of Record

Any single lot or parcel of land, held in one ownership, which was of record and a legal lot at the time of adoption of the Boise City Zoning Ordinance or annexation, whichever has occurred first, but does not meet the requirements of the district in which it is located for minimum lot width or area, may be utilized for a permitted use if all other requirements of this ordinance are met. Residential development of substandard original lots of record is subject to Section 11-04-04.03 and 11-05-16 of this zoning ordinance.

(6155, Amended, 05/28/2002)

Section 11-09-02 ACCESSORY USES

Section 11-09-02.01 General

An accessory use, as defined and as regulated herein, is permitted in any district where the principal use to which it is accessory is permitted.

(5777, Amended, 01/28/1997)

Section 11-09-02.02 Restrictions on Tower and Gable Structures

No tower, gable, spire or similar structure shall be used for sleeping or eating quarters, nor for any commercial purposes other than such as is incidental to the main use.

(5916, Renumbered, 05/18/1999; 5777, Amended, 01/28/1997)

Section 11-09-02.03 Permitted Uses in Any Yards

The following shall be permitted in any yard:

- A. Cornices, canopies, eaves or other projections which do not increase the volume of space enclosed by the building and do not project into any required yard more than two feet (2'); provided that an unroofed stair and landing together with a railing may project not more than three feet (3') into a front yard or six feet (6') into a rear yard.
- B. Chimney, not more than eight feet (8') in width projecting more than twenty-four inches (24")
- C. Flagpoles, antennas and other tall structures shall conform to the height limit allowed within the zone unless approved in accordance with the provisions of Section 11-06-06.13 Height Exception.

Section 11-09-02.04 Permitted Uses in Rear Yards

The following shall be permitted in rear yards:

- A. Unroofed balcony in rear yard, provided that no such balcony shall project more than four-feet (4') into such yard.
- B. Back Yard composting as defined in Section 11-01-03.1.
(5916, Renumbered, 05/18/1999; 5777, Amended, 01/28/1997; 5691, Amended, 12/27/1995)

Section 11-09-03 NONCONFORMING USES

Section 11-09-03.01 General

Any use or structure lawfully occupying a building or land at the effective date of this ordinance (August 16, 1966, or subsequent amendments thereto or at the time of annexation or rezone, which does not conform with the regulations of the district in which it is located shall be deemed a nonconforming use and may continue to operate as it did prior to the Ordinance. A nonconforming use shall exist if the owner or developer of such use has lawfully, in reliance on existing laws, ordinances or permits, made substantial expenditures or otherwise committed himself, to a substantial disadvantage, before the law, ordinance or permit is changed. Substantial shall be measured by consideration of all factors evidencing a change of position.

Section 11-09-03.02 Except as provided in Sections 11-05-08 and 11-06-06.10 no nonconforming use as defined in Section 11-01-03 shall be enlarged, expanded or altered except to make it a conforming use.

Maintenance and minor repairs necessary to keep a nonconforming use in sound condition during the continuance shall be permitted. The right to maintain a nonconforming use runs with the land and is not terminated by a change in ownership, provided the nonconforming use is not enlarged, expanded or altered.

Section 11-09-03.03 Nonconforming Use Abandonment

Whenever a nonconforming use of land or a building has been discontinued for a continuous period of six (6) months, or in the case of a building originally designed for a commercial or industrial use for a continuous period of one year; or whenever there is otherwise evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not thereafter be reestablished, and the use of the premises thereafter shall be in conformity with the regulations for the district. Any nonconforming use which is illegally expanded shall lose its nonconforming use status.

These regulations shall not be used to deny an owner the right to use a building or other improvements for their designed purpose based solely on the non-use of the improvements for a period of ten (10) years or less. If the owner or authorized agent permits or allows an approved or unlawful intervening use of the owner's property, the provisions of this section are no longer applicable and all nonconforming use rights are forfeited after 90 days from the date of occupancy by the intervening use.

If the non-use or vacancy continues for a period of one year the City may request resolution of the non-

conforming (grandfathered) use right in accordance with the procedures in Section 67-6538 of the Idaho Code.

(6071, Amended, 06/19/2001)

Section 11-09-03.04 Establishing a Legal Nonconforming Use

A Legal Nonconforming Use may be established upon application through the Staff Level review process outlined in Section 11-03-05.1, subject to review of verification documentation submitted by the applicant. Following is a list of some, but not all, types of documentation which are accepted as verification of a Legal Nonconforming Use, (Grandfather Right):

A. Documentation:

1. Licenses; such as beer, liquor, retail, or professional occupation showing dates of use.
2. Rental property; receipts showing dates of use, directories, utility bills, etc.
3. Business; receipts showing types of service or goods provided, dated phone directories, Polk's Directory, etc.
4. Statements from utilities, such as power, water, or gas, which indicate date and type of use, i.e. commercial, multi-family residential, etc.
5. Notarized statements from neighbors who have observed the nonconforming use over the required time period.

B. Procedures: Every application for a Certificate of Legal Nonconforming Use shall be deemed to be an application for a Zoning Certificate. The Planning Director or his/her designee must review the verifying documentation submitted and make a determination of approval or denial of the application within fifteen (15) calendar days of receipt of application and will submit the findings and conclusions in writing to the applicant. The decision of the Planning Director may be appealed by the applicant or any affected person within ten (10) calendar days of the date of the approval or denial in accordance with Section 11-03-07.

(5691, Amended, 12/27/1995)

C. If nonuse of a nonconforming use continues for a period of one (1) year or longer, the City may, by written request, require that the owner declare his intention with respect to the continued nonuse of the nonconforming use in writing within twenty-eight (28) days of receipt of the request. If the owner elects to continue the nonuse, he shall notify the City in writing of his intention and shall post the property with notice of his intent to continue the nonuse of the nonconforming use. He shall also publish notice of his intent to continue the nonuse in a newspaper of general circulation in the City. If the property owner complies with the requirements of this section, his right to use the nonconforming use in the future shall continue, notwithstanding any change in the zoning of the property.

D. The property owner may voluntarily elect to withdraw the nonconforming use by filing with the City Clerk an affidavit of withdrawn use. If the property is proposed for a different use, the property owner shall be deemed to have abandoned any grandfather right to the prior use of the property.

(6096, Amended, 10/23/2001)

Section 11-09-04 ZONING RIGHTS-OF-WAY AND ANNEXED LAND

Section 11-09-04.01 General

All streets, alleys, railroad rights-of-way, canal rights-of-way and other public ways, if not otherwise specifically designated, shall be deemed to be in the same zoning district as the property immediately abutting upon such alleys, streets, public ways, waterways and railroad rights-of-way.

Section 11-09-05 MOST RESTRICTIVE REGULATIONS GOVERN

Section 11-09-05.01 General

Wherever the regulations made under the authority of this Ordinance require a greater width or size of yards or courts, are more restrictive as to height of building or permit of a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose standards which are more restrictive than are required by any other City ordinance or regulation, the provisions of this Ordinance shall govern. Wherever the provisions of any other City ordinance or regulation require a greater width or size of yards or courts, or are more restrictive as to the height of buildings or permit of a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other standards which are more restrictive than are required by the regulations contained herein, the provisions of such ordinance or regulation shall govern.

Section 11-09-06 PUBLIC SERVICES EXCEPTED

Section 11-09-06.01 General

This Ordinance shall not limit or interfere with the temporary use of any property as a public voting place, or with the construction, installation or operation of the following by any public agency or private corporation, when such construction is otherwise in conformity with all Federal, State, County and City regulations.

- A. Public street or highway.
- B. Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, wells, valves or any other similar distributing and transmitting equipment for telephone or other communications, electric power, gas, water and sewer lines, provided that the installation shall conform when applicable with the rules and regulations of any Federal or State commissions and agencies, or any other authorities having jurisdiction and subject to other City ordinance provisions, rules and regulations; except that poles, towers, or similar installations of a height of seventy feet (70') or greater are subject to Section 11-6-6.13. Electrical substations are considered a major utility facility and are subject to the requirements of this Ordinance.
- C. Railroad right-of-way, excluding yards and stations.
- D. Incidental appurtenances to any of the above.

Section 11-09-07 FENCE REGULATIONS

Section 11-09-07.01 General Provisions

- A. A permit is required. In historic districts, a Certificate of Appropriateness is also required.
- B. Electric fences are prohibited.
- C. Barbed wire is permitted in commercial and industrial zones only as the top section of a security fences. Barbed wire must be located at least 72 inches above grade.
- D. Walls, lattices and screens shall be considered to be fences.
- E. Boxes, sheet metal, old or decayed wood, broken masonry blocks or other unsightly materials may not be used for fencing.
- F. Height
 - 1. Solid fences to a height of 36 inches, or open-vision fences to a height of 48 inches, may be built within the front yard setback. Fences to a height of 72 inches may be built outside the front yard setback.
 - 2. Fences, walls and plantings in the clear vision triangle shall be limited to 36 inches in height.
- G. To vary the above requirement, the provisions of Section 11-06-11 shall be complied with.
- H. If a fence is to be erected upon and within public right-of-way, approval must also be obtained from the Ada County Highway District.
- I. Concrete and masonry walls of any height, and fences over six feet (6') tall must also be approved by the Building Department.
- J. The fence must be built entirely upon the property which it was permitted for unless agreements are made with the adjoining property owners. These agreements need not be submitted with the application. However, the permit shall become void if the applicant fails to procure them.
- K. All fences shall be maintained and kept structurally sound so as to not endanger life, property or become a nuisance.
- L. One (1) ornamental gate/entryway may be allowed in a front or street side setback, provided it does not exceed eight feet (8') in height, six feet (6') in width and is not located within a clear vision triangle.

FIGURE NO. 1

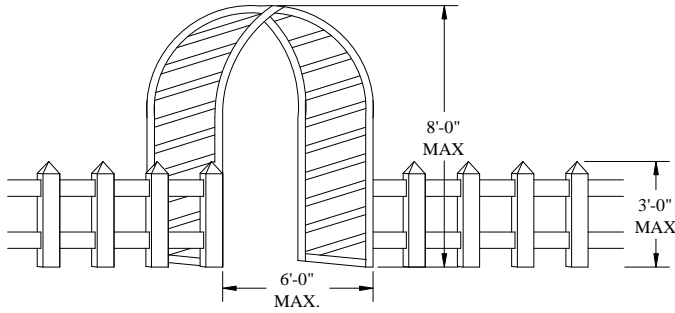
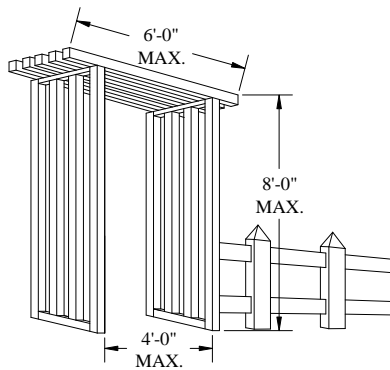


FIGURE NO. 2



M. Fences adjacent to micro-pathways shall comply with section 11-09-08.04.E. (6801, Amended, 02/08/2011; 6315, Amended, 04/20/2004; 6183, Amended, 10/01/2002; 6127, Amended, 02/26/2002; 5691, Amended, 12/27/1995; 5169, Amended, 06/20/1989, Chapter)

Section 11-09-07.02 Retaining Walls Within Setbacks

The following shall apply to retaining walls located within setbacks:

- A. Individual retaining walls may not exceed three feet (3') in height when located within a front setback or clear vision triangle. Individual retaining walls may not exceed six feet (6') in height when located within any other setback.
- B. Walls must be separated by a minimum distance of five feet (5') in order to be considered as separate walls.
- C. Multiple walls with a combined height that exceeds the height allowed in the setback may be approved through the Category 1 Hillside Review process when in compliance with the following conditions:
 - 1. The additional height is necessary and appropriate because of the size, configuration, topography or other unique characteristics of the property; and

2. Planning staff and Public Works staff have jointly determined that the height, location and grading for the walls are the minimum necessary for reasonable development of the property; and
3. The additional height will not have any substantial detrimental effect on adjacent or nearby properties; and
4. Terraces between the walls are of sufficient width and depth to accommodate landscaping or other techniques designed to reduce the visual impact. Conditions requiring such techniques shall be incorporated into the Category I permit.
5. Clear vision triangles are free of obstructions that exceed three feet (3') in height.
(6315, Added, 04/20/2004)

Section 11-09-08 MICRO-PATHWAY REGULATIONS

Section 11-09-08.01 General:

The placement of micro-pathways is intended to encourage non-motorized forms of travel, and to provide safe, convenient and aesthetic alternative travel routes to common destinations such as schools, parks and shopping centers. Micro-pathways shall be utilized where the roadway circulation system fails to provide these elements. The following factors will be considered in the placement of any pathway: the utility and need for a given pathway, impacts to existing neighborhoods, pathway design as it relates to both crime prevention and function, and the responsibilities of ownership, maintenance, and liability.

Section 11-09-08.02 Location:

- A. The city shall require the creation and maintenance of micro-pathways, (except in cases where it is shown to be inappropriate), that provide access to adjacent:
 1. schools,
 2. public parks,
 3. adopted pathway elements of the Metropolitan Plan including but not limited to: Ridge-to-Rivers Pathway Plan, The Parks Comprehensive Plan and the Downtown Plan,
 4. neighborhoods,
 5. shopping areas,
 6. public lands,
 7. transportation or other community facilities,
 8. vacant parcels, held either publicly or privately which could provide future neighborhood connection(s) to the above noted sites, and
 9. in similar cases, where deemed appropriate.

- B. In addition, micro-pathways may be required to connect sites other than those noted above:
 1. When there is evidence that a pedestrian/cyclist would otherwise be forced to travel alongside a designated arterial roadway, or other roadway that may be hazardous for non-motorized forms of travel, in order to reach the desired destination, or,
 2. When the pedestrian/cyclist would otherwise have to travel a distance of more than 1/2 mile alongside a local or collector roadway in order to reach the desired destination.

Section 11-09-08.03 Existing Neighborhoods:

The placement of a micro-path will be based upon consideration of current residents of a neighborhood as well as future residents. Based upon the following, the city may choose to provide a pathway in existing neighborhoods when:

- A. The micro-pathway would provide access to a major pathway element such as The Boise River Greenbelt.
- B. The micro-pathway would provide access to a nearby school or park.
- C. A substantial lack of non-motorized access exists in the given area.
- D. No alternate pathway is provided.

Section 11-09-08.04 Micro-Pathway Design:

While the city may exercise considerable discretion in determining the design of micro-pathways the following minimum standards should be followed:

- A. Foothills Micro-Paths: Micro-pathway standards in foothill projects may be varied to take into consideration topography, soils and drainage. Typically in areas of steep slopes these trails should not be paved unless erosion is evident, may curve to follow the contour, may be narrow to limit disturbance, take advantage of existing landscape features, and would not require lighting.
- B. The paved portion of the micro-pathway may range from 7 to 10 feet in width. Generally, micro-paths that receive high use will be wider. Barriers may be placed at the terminal ends of paths to restrict use by motor vehicles while allowing use by bicycles, wheel chairs and other modes of travel.
- C. A 5 foot wide landscaped area/building and fence setback, as measured from both edges of the paved micro-path, shall be required, and will be owned by either the abutting property owner(s) or a Home Owners Association unless accepted by a public entity. For safety purposes, planting material in this area is limited to 3 feet in height. The landscape, fence and building regulations for this area shall be indicated by a note on the plat.
- D. The official design standards for pathways set forth in the following manuals are to be used as guides: The Bicycle Pedestrian Design Manual for Ada County, The Design Guide for Accessible Outdoor Recreation, and The Guide for the Development of Bicycle Facilities, or other nationally recognized design standards.
- E. In order to design for crime prevention the following design standards will be followed:
 - 1. The use of chain link or other "see through" fencing is preferred, as it provides better visibility from adjacent homes or buildings. If solid fencing is used, it may not exceed 4 feet in height.
 - 2. Adequate lighting shall be provided as determined by Boise Department of Public Works, and shall be owned and maintained by the City of Boise.

3. The use of corners and curves in the design of micro-paths is discouraged.
 4. The placement of micro-pathways that link high use public areas such as shopping malls with neighborhoods will be subject to review and recommendation by the Boise City Police Department.
- F. Consideration shall be given to off-street parking where micro-paths connect to popular destination points such as the Boise River Greenbelt, and nearby streets may become congested with vehicles parked by micro-path users. Where micro-path links connect to major public open space that required vehicular parking, the Council may request the developer to designate land to be purchased and maintained by the appropriate public authority for public parking. Buffering of surrounding residential uses shall be considered in the area for purchase.

Section 11-09-08.05 Site Development Standards:

With the exception of single-family subdivisions, development proposals shall be designed and operated in substantial compliance with the following requirements:

- A. Lighting and sidewalks shall be designed to encourage pedestrian access and security. Pathways shall have convenient connections within the development core and between surrounding neighborhoods and parking facilities.
- B. Safe, secure and convenient bicycle storage areas will be provided and storage/rack facilities shall comply with standards adopted by the Boise Parks and Recreation Department.
- C. Pedestrian and Bicycle circulation within the project shall be designed to minimize conflicts and hazards with motor vehicles.

Section 11-09-08.06 Responsibility:

The following provisions are intended to provide guidance to those entities that are responsible for construction, maintenance and/or liability for a micro-path. Installation costs, which may include construction of the paved path, are the responsibility of the developer, however they may be shared with the appropriate public entity when substantially increased due to a site characteristic such as the need to construct a pedestrian bridge across a canal, or a parking lot.

A. Home Owners Association:

1. Pathway systems within a proposed subdivision providing access to private common space and/or other amenities that are used solely by the residents of a subdivision shall be the responsibility of the Home Owners Association.
2. Where the residents of a subdivision will be the primary beneficiaries of a micro-pathway, and, travel from adjoining neighborhoods will be minimal, a home owners association may be required to take the responsibility for that micro-path.

B. School District:

When the location, length and design of a micro-path have been agreed upon by the school district, the school district may accept responsibility for these access routes in the following situations:

1. Micro-pathways that connect directly with an existing or future school site, or
 2. Disjunct micro-pathways near a school site that provides considerable access to that school site.
- C. Boise Parks and Recreation Department:
When the location, length and design of a micro-path have been agreed upon by the Parks Department and Recreation Department, the City of Boise may accept responsibility for these access routes in the following situations:
1. Micro-pathways that connect directly with an existing or future park, open space, or other public recreational facility under the jurisdiction of the Boise Parks and Recreation Department, or
 2. Disjunct micro-pathways that provide considerable access to one of the sites noted in "1" above.
- D. Other:
Micro-paths for which there is no clear responsible entity, may be reserved for future use by granting an easement to the City of Boise. If no entity accepts responsibility for said pathway within a specified period of time, as designated in the easement, then the full use of the property will revert to the property owner and the easement shall terminate. (Ord. No. 5547, Enacted, 06/14/94)

Section 11-09-09 KEEPING OF LIVESTOCK

Section 11-09-09.01 Purpose

The purpose of these regulations is to provide a definition of livestock; to set forth reasonable standards for the keeping and care of livestock; to protect the property rights of citizens annexed into Boise City with livestock or rights to keep livestock; to help maintain neighborhood compatibility; and to protect the health, safety, and welfare of the general public.

(6059, Added, 05/08/2001)

Section 11-09-09.02 Livestock Defined

Livestock are those class of animals that are kept and housed outside the home or in enclosures such as pens, barns, corrals or paddock areas. Livestock includes, but is not limited to horses, cattle (beef and dairy), llamas, mules, swine, sheep, goats, rabbits, poultry, and domestic birds. Livestock includes any other grazing or foraging animal except those specifically included as a pet.

(6059, Added, 05/08/2001)

Section 11-09-09.03 Pet Defined

Pets generally include those animals that are housed indoors. Pets also include certain animals that may be housed outdoors. Those certain animals are: dogs, cats, up to three (3) chickens, excluding roosters, two (2) ducks, two (2) rabbits or such equivalent small animals or poultry as determined by the Planning Director. Animals deemed to be pets shall comply with the performance standards as set forth in Section 11-09-09.09G.

(6059, Added, 05/08/2001)

Section 11-09-09.04 Commercial Livestock Uses

The raising of livestock for the specific purpose of selling the livestock or livestock products (such as milk) represents commercial livestock use. Such use requires compliance with the base standards in this ordinance and approval of a conditional use permit. The raising of an animal for youth development activities involving 4H or Future Farmers of America (FFA) and the sale of such animal shall not be considered a commercial use.

(6059, Added, 05/08/2001)

Section 11-09-09.05 Animal Unit Defined

Animal unit is defined to provide a reasonable standard for determining allowed livestock densities. Each horse, mule, cow, llama, or similar size animal shall represent one animal unit. The number of smaller animals representing one animal unit is established based upon the size and characteristics of the animal. The number of smaller animals included within an animal unit includes four (4) sheep, four (4) goats, four (4) swine, twelve (12) chickens, twelve (12) ducks, six (6) geese, ten (10) rabbits, or equivalent combination of such animals. The Planning Director shall determine the equivalent number of animals allowed within an animal unit for animals not listed herein including miniature forms of large animals. The Planning Director determination should take into consideration the purpose of Section 11-09-09.01 and the impacts to adjacent properties as described in Section 11-09-09.09.

(6059, Added, 05/08/2001)

Section 11-09-09.06 Allowed Use of Livestock

The keeping of livestock as an accessory use to residential use shall be allowed in the A Open, R-1A, R-1B and R-1C zoning districts of Boise City subject to the standards set forth herein.

(6059, Added, 05/08/2001)

Section 11-09-09.07 Grandfather Rights/Legal Nonconforming Use Status

Any property annexed into Boise City with livestock that were placed on the property in accordance with the regulations of Ada County in effect at the time, shall be grandfathered into Boise City. If the livestock and related enclosures comply with all standards of this ordinance the use shall be classified as a legal conforming use. If the livestock and enclosures were in compliance with Ada County requirements but do not comply with these regulations, the use shall be classified as a legal nonconforming use but shall be allowed to continue to exist as it existed upon annexation. Grandfather rights for livestock shall run with the land and are not lost upon sale or conveyance of the property. A person with grandfather rights may retain those rights even if they exchange animal units as long as the number of animal units is in conformance with this ordinance. For example, a grandfathered property with cattle may switch the species of livestock to sheep and would not lose its grandfather rights. However, the number of sheep allowed (i.e., animal unit) would be pursuant to this ordinance.

(6059, Added, 05/08/2001)

Section 11-09-09.08 Abandonment/Discontinuance/Removal of Grandfathered Livestock

The legal nonconforming/grandfathered status shall be forfeited if the livestock are removed from the property for a continuous period of two (2) years. After the livestock use has been discontinued for a period of two (2) years, such use may be resumed in compliance with the standards of this ordinance in force at the time.

(6059, Added, 05/08/2001)

Section 11-09-09.09 Standards for the Keeping of Livestock

- A. A minimum lot size of one (1) acre is required to qualify for the keeping of livestock within Boise City.

- B. A minimum area of at least one half (½) acre of the qualifying property, which shall be dedicated to the keeping of livestock, is required for the keeping/raising of livestock. This area shall be configured in a contiguous and usable manner to accommodate the grazing area, feed storage and manure piles. This area must be exclusive of any structures, including storage sheds, barns, residential units and carports.
- C. Livestock shall be kept within enclosures which may include fences, corrals, barns, pens, etc..
- D. Horses, which are commonly ridden and exercised on trails and other places outside people's properties, shall be allowed to exceed the standard animal unit density allowed per this ordinance. One horse per residential lot shall be allowed on every 14,500 sq. ft. of lot area that is configured in a contiguous and usable manner.
- E. Livestock enclosures must meet the setback requirements of the zoning district within which they are located.
- F. The maximum animal density shall be two (2) animal units per acre based upon the area that is designated for the keeping of livestock. That portion of the lot utilized for the dwelling, lawn, parking, etc. shall not be included in the density calculation. For example, if one half (½) of a one (1) acre lot is set aside for the keeping of livestock, only one (1) animal unit is allowed such as one (1) cow, four (4) sheep, twelve (12) chickens, etc. Horses may be kept in accordance with the density exception set forth in paragraph D above. Maximum animal density does not include offspring until said offspring are nine (9) months of age.
- G. Property owners keeping livestock in accordance with the above standards must maintain such animals in a manner that does not cause adverse impact to neighboring properties. Potential negative impacts on adjacent properties include odors, noise, drainage, erosion and flies. Each person who keeps livestock is responsible for the regular removal and disposal of animal waste, and control of insects, erosion and odor. Non-domesticated animals such as wolves, bob cats, raccoons, etc. must be kept in fully enclosed structures and be in compliance with all State and Federal licensing requirements in addition to the provisions of this ordinance. Failure to maintain the property in accordance with these requirements shall be considered a violation of the ordinance.

H. Exceptions to Minimum Lot Size

Certain situations shall be considered as exceptions to the minimum lots size standard for the keeping of livestock.

1. Properties that are less than one (1) acre in size shall be allowed to keep livestock if the subdivision covenants or overlay district as adopted by the Boise City Council specify that livestock animals are allowed. The animal density allowed in such situations shall be specified in covenants or overlay district. If animal density is not addressed, the density requirements of this ordinance shall apply, provided that the provisions governing animals in the covenants are not voided.
2. Animals may be kept on less than one (1) acre for educational purposes, such as 4H or FFA as long as the performance standards of Section 11-09-09.09 are complied with. The maximum animal density allowed on one (1) acre shall not be exceeded for such educational uses.

3. Properties that have been reduced to below one (1) acre in size as a result of public right-of-way acquisition shall be allowed to keep livestock subject to the animal density restrictions set forth above.

(6059, Added, 05/08/2001)

Section 11-09-09.10 Permit Requirements

- A. A variance application and hearing shall be required to vary from or exceed the above standards.
- B. A conditional use permit is required for commercial livestock use as defined above. A conditional use permit shall not be required for the keeping of livestock as an accessory to residential use in accordance with the above standards.

(6059, Added, 05/08/2001)

Section 11-09-10 MINIMAL PROPERTY MAINTENANCE

11-09-10.01 Purpose.

The City, exercising its police powers to preserve the general welfare of the City, promote economic viability and prevent urban blight; hereby establishes minimal property maintenance standards. Beyond being secured so that a building is not a danger or an attractive nuisance, all property within the City shall be maintained to the minimal property maintenance standards as listed below.

11-09-10.02 Definitions:

Damaged or Dilapidated Building - any structure that has suffered significant damage or deterioration either from age, lack of care, or abandonment or natural or manmade calamity to the degree that the exterior of the building walls, roof, doors and windows are burnt out, falling down, or are significantly patched or boarded or are structurally unsound.

Unfinished Building - any structure where construction has commenced but has been discontinued for a period of six (6) months and/or has not been finished in accordance with the approved building permit and cannot be certified for occupancy or final building inspection.

11-09-10.03 Minimal Property Maintenance Standard:

All damaged, dilapidated or unfinished buildings shall be restored or finished to eliminate the detrimental visual damage or visual impact of the building(s). A property owner shall take steps to restore or finish the building(s) per plans approved by the Boise City Planning and Development Services Department, Boise City Planning and Zoning Commission, Boise City Design Review Committee or Boise City Council. No building or premise shall detrimentally impact the surrounding neighborhood due to dilapidation, deterioration, decay, abandonment or unfinished construction and renders the enjoyment of the property essentially uncomfortable or inconvenient to the neighborhood.

11-09-10.04 Restoration of a Damaged or Dilapidated Building or Completion of an Unfinished Building:

Restoration of a damaged or dilapidated building or completion work on an unfinished building shall begin within six (6) months of the building becoming damaged or dilapidated or being deemed unfinished. Boise City may require that such buildings that are also unoccupied be secured (fenced or boarded up) during the six (6) month period. This deadline may be extended by the Boise City Planning Director upon submission of documentation of insurance settlement delays or similar complications

beyond the owner's control. Restoration of a damaged or dilapidated building, or completion of an unfinished building shall be completed within one (1) year from the date that restoration work or unfinished construction work is initiated.

11-09-10.05 Due Process Hearing, Notice and Required Findings:

If a building is: 1) not maintained at a minimal property maintenance standard for six (6) months or 2) no efforts to restore or finish a building have begun within six (6) months or completed within one (1) year after restoration or construction work has begun, the City shall advertise and conduct a public hearing as to why the building has not been restored or completed. If the address of the owner of said building can be obtained through reasonable efforts, then the owner shall receive notice of said hearing via certified mail. Otherwise notice shall be sent to the owner of property as it appears on the last equalized assessment roll of Ada County, or as known to the Boise City Planning and Development Services Department. Such notice shall be sent at least fifteen (15) days prior to the date of the public hearing. Notice of the public hearing shall also be posted on the property, a radius notice shall be sent to residents and property owners within three hundred feet (300') of the external boundary of the property and a public notice of the hearing shall be advertised in a newspaper of general circulation.

Removal of the damaged, dilapidated or unfinished building shall be ordered only if the following findings are made:

- A. The building meets the definition of a damaged or dilapidated building, or unfinished building; and
- B. The building has existed in a damaged or dilapidated or unfinished state for a period of at least six (6) months; or
- C. The building has not been maintained at the minimal property standards for a period of six (6) months; and
- D. The property owner has previously received written notice that the building is in violation of the Boise City Code and must be restored or finished. Or notice has been sent to the owner of property as it appears on the last equalized assessment roll of Ada County, or as known to the Boise City Planning and Development Services Department. Such notice shall be sent at least fifteen (15) days prior to the date of the public hearing.

The City Council may find that the building is damaged, dilapidated or unfinished; and if City Council further finds that the property owner has not commenced or completed restoration or finished the building within the time frames as set forth in this Ordinance, then the City may obtain bids to restore the building or clear the site of the offending building. The fact that the building is not a danger or attractive visual nuisance shall not be a defense for failing to restore or finish a building.

11-09-10.06 Restoration and Demolition Fund:

The City shall establish a revolving fund to be designated for building restoration and demolition pursuant to this Ordinance. Payments shall be made out of this fund upon the demand of the Boise City Planning Director to defray the costs and expenses associated with restoration or demolition of said building.

11-09-10.07 Recovery of Cost of Restoration or Demolition:

The Boise City Planning and Development Services Department shall keep an itemized account of the expenses incurred with restoration or demolition of said building. A certified mailed copy of said assessment shall be sent to the property owner. If the property owner does not respond within sixty (60)

days, then the City may recover costs of the abatement in a civil action or by filing a certified copy of the assessment with the Ada County Recorder on or before the first day of August of the year. The description of the parcel(s) reported shall be those used for the same parcel(s) on the Ada County Assessor's map for the current year. All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of ten percent (10%) per annum or the current interest rate if higher, from and after said date. All money recovered by payment of the charge or assessment or from the sale of the property at a foreclosure sale shall be paid to Boise City, who shall credit the same to the restoration and demolition fund.
(6122, Added, 02/05/2002)

Section 11-09-11 Apiaries; Bees

11-09-11.01 PURPOSE

The purpose of these regulations is to establish requirements for sound beekeeping practices, which are intended to avoid nuisances and other problems that might otherwise be associated with the keeping of bees in an urban setting.

11-09-11.02 DEFINITIONS

| | |
|----------------------------|--|
| Apiary: | A place where bee colonies are kept. |
| Bee: | Any stage of the life cycle of the common domestic honey bee, <i>apis mellifera</i> , species. |
| Closed Fence/Closed Hedge: | A dense hedge or a fence with no visible gaps between the fencing materials when viewed at a right angle to the fence. The closed fence and hedge shall provide an effective flyway barrier. |
| Colony: | A hive and its equipment and appurtenances, including bees, comb, honey, pollen and brood. |
| Hive: | A structure intended for the housing of a bee colony. A hive typically consists of a cover, supers, brood chambers, and a bottom board. |

11-09-11.03 ALLOWED BEEKEEPING

The keeping of bees as an accessory use to residential use shall be allowed in the Open Land A-1 and A-2, R-1A, R-1B and R-1C zoning districts of Boise City subject to the standards set forth herein, and subject to review and approval of a zoning certificate by the Planning Director. This ordinance shall not be interpreted to allow for keeping of wasps, hornets or other noxious insects.

11-09-11.04 BEEKEEPING STANDARDS

- A. Density of Hives & Colonies: The keeping of bees shall not exceed a density of 3 colonies per 1/4 acre. Any single parcel of land is limited to 12 colonies, regardless of parcel size. Higher colony densities may be permitted by conditional use permit.
- B. Hives: All bee colonies shall be kept in hives with removable frames. Hives shall be kept in usable condition.

- C. Enclosures & Barriers: A minimum 6 foot high closed fence, closed hedge, building, or other solid flyway barrier shall be located between hives and the property line for all hives located within 30 feet of the property line. Any supply of water required for bees shall be located within enclosures and flyway barriers.
- D. Setbacks Required: All hives and related structures that form the apiary shall be located a minimum of 20 feet from the front property line and 5 feet from all other property lines. Hives shall be located a minimum of 50 feet from dwellings, porches, gazebos, decks, swimming pools, and permanently affixed play equipment on any adjoining lots or parcels, unless the owner of the adjoining property has provided written permission for closer hive placement. The property owner maintaining the hive(s) shall make reasonable accommodation for anticipated areas of human activity on adjoining parcels.
- E. Water Source: A supply of fresh water shall be maintained throughout the day to prevent bees from congregating at neighboring swimming pools and other water sources where they may cause human or domestic contact. Said water supply shall be large enough and located to be readily accessible to colonies on the site, and shall be designed to allow bees to access water by landing on a hard surface. A water supply is not required on the site during winter and other inactive months.
- F. Protection of Residents On-Site: Setbacks, barriers and other measures shall be applied as necessary to protect the residents of dwellings on the site.
- G. Maintenance: Hives shall be actively maintained. Hives not under human management and maintenance shall be dismantled or removed. Notwithstanding compliance with the requirements of this Section, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such dispositions to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.
- H. Queens: In any instance in which a colony exhibits unusually aggressive characteristics, or when the colony consists of Africanized bees (*Apis mellifera scutellata*), it shall be the duty of the beekeeper to destroy or re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
- I. Compliance with State Statutes: The keeping of bees shall be done in compliance with the Idaho State Bee Inspection statute and other applicable state laws.

11-09-11.05 PRESUMPTION OF RESPONSIBILITY

It shall be presumed for the purpose of Section 11-09-11 that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the parcel upon which a hive or hives are situated.

11-09-11.06 VIOLATION AND PENALTY

The keeping of bees and other insects in violation of this ordinance is prohibited. Any violation of this section shall be subject to a criminal misdemeanor pursuant to Boise City Code, Section 11-01-02. (6397, Amended, 06/14/2005; 6178, Added, 09/17/2002)