

SECTION 3

ADMINISTRATIVE PROCEDURES

What This Section Does. This section requires a permit for all land development and building activity in the City and establishes procedures for the administration of this Code, including the procedures for processing permit applications required by IC 67-6519 and the hearing procedures required by IC 67-6534.

General Permit Procedures

- A. Permit. A permit is required for any division of land, construction, reconstruction, or any land development or building activity, except as specifically exempted by table 3.1. Applications for permits shall be processed as described in this Section.
- B. Exemptions. Activities listed here are exempt from the procedural requirements of obtaining a permit but shall comply with all other applicable standards of this Code. No permit shall be required for:
 - 1. Agriculture. Clearing, grading and land disturbing activities for agricultural purposes, the maintenance and construction of irrigation works, and construction required for the maintenance (but not change of use or expansion) of an existing agricultural structure;
 - 2. Minor lot line adjustments except those in subdivisions;
 - 3. Remodels that do not alter the exterior dimensions of the building involved unless structural change as required by the IBC;
 - 4. Accessory building outside of stream corridors of less than 120 square feet in floor area and less than 10 feet in height;

C. Procedures Overview. Table 3.1, Procedures Overview, establishes the procedural steps required for each type of development application authorized by this code. A description of each step is established in subsequent subsections of the code. If there is a conflict between Table 3.1 and the text of the Zoning Ordinance, the text shall prevail.

| TABLE 3.1 PROCEDURES OVERVIEW | | | | | | | | | | | |
|--|-----------|-------------|--------------|------------|---------------|----------------|---------------|-----|--------------------|----------|--------|
| Types of Applications | | | | | | | | | | | |
| Administrative Steps | Lot Split | Sketch Plan | Prelim. Plat | Final Plat | Plat Vacation | Plat Amendment | Zoning Change | SUP | Map-Code Amendment | Variance | Appeal |
| Developer Submit Application | X | X | X | X | X | X | X | X | X | X | X |
| Completeness Review | X | X | X | X | X | X | X | X | X | X | X |
| Agencies Review | | | X | | | | X | X | | | |
| Administrator Review | X | X | X | X | X | X | X | X | X | X | |
| Professional Review | | | X | | | | X | X | | | |
| Schedule PC Review | X | | X | X | X | X | X | X | X | X | |
| Public Hearing Notice | X | | X | X | X | X | X | X | X | X | |
| Planning Commission Review | X | X | X | X | X | X | X | X | X | X | |
| Developer Notice | X | X | X | X | X | X | X | X | X | X | |
| Schedule Council Review | | | X | X | X | X | X | X | X | | X |
| Optional Public Hearing | | | X | X | X | X | X | X | X | | |
| Council Review | | | X | X | X | X | X | X | X | | X |
| Developer Notice | | | X | X | X | X | X | X | X | | X |
| Note: "X" identifies administrative steps required or may be required for each application type. | | | | | | | | | | | |

D. Application Forms. An applicant for a permit shall submit the completed application on a form provided by the city, plans and all supporting documents as specified in the submittal checklist maintained by the city, and the required fee.

1. No incomplete application will be processed for review.
2. Completeness Review. The Administrator shall determine within ten business days of the submittal if the application materials contain all required components needed to commence review. If all required components are included, the Administrator shall declare

the application complete and process the application pursuant to this code. If the Administrator finds the application to be incomplete, the application shall not be processed.

- a. Notify Applicant. The Administrator shall notify the applicant in writing if the application is incomplete and specify the missing items.
 - b. Remedy. The applicant may remedy the incompleteness by submitting the missing application materials within 60 calendar days. If the missing items are not submitted within 60 calendar days the application is considered withdrawn, a reasonable portion of the fee will be returned based on hours of work completed on project.
 - c. Resubmitted Application. Upon resubmittal of a previously incomplete application the Administrator again has ten business days to determine if the application is complete.
- E. Application Fees. Application fees for each type of permit established by this Code shall be established by resolution of the council. The costs of any review and analyses required by the City shall be added to the regularly applied application fees and paid by the developer.
- F. Review by Departments and Agencies. After receipt of a completed application, the administrator may transmit a copy of the application and plat/plans to relevant County departments and to such other government agencies that have jurisdiction over, or interest in, the proposed development for review and recommendation to the commission. If no written recommendation or request for extension of time is received from any such department or agency within thirty (30) calendar days from date of transmittal, it shall be deemed that the department or agency has no comment on the application. The departments and agencies to which plats/plans may be referred include all pertinent County departments, district health department, commissions of other governing bodies having jurisdiction within the city, appropriate utility companies, soil conservation district, and such other departments or agencies as the administrator deems necessary in order to carry out the full intent of this code.
- G. Review by Administrator. The administrator or staff shall review the application, plat/plans and data as well as the recommendations received from the various departments and agencies to insure that said application and plat/plans are in conformance with all applicable rules and regulations. The administrator shall prepare a written report and recommendation to the commission based upon the review.
- H. Professional Review. The administrator may contract for professional review of applications, with the cost of that review being added to the application fee pursuant to section 3.E, above. Such reviews shall be prepared in a written report submitted to the administrator for use at the hearing. The administrator shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
- I. Scheduling for Commission. When the administrator determines the application complete and has sufficiently completed a review, he/she shall schedule a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements can be met, and at which time will allow proper consideration of the proposed subdivision by all parties required to review the application.
- J. Commission Review. Upon completion of the public hearing, the commission shall review the plat/plan and supporting data, recommendations of the administrator, testimony of the developer and the public. The commission shall determine within 60 calendar days of the close

of the public hearing whether the proposed development is in compliance with the Comprehensive Plan and all requirements of this Code. Based upon their findings the commission shall recommend to the council approval, approval with conditions or denial of the development application. No application will be reviewed if the developer or a representative is not present.

- K. Developer Notice. The administrator shall notify the developer of the commission's decision within 10 business days of the decision. The notice shall be in writing and if the recommendation is for denial, the notice shall contain the commission's reasons for their decision.
- L. Schedule Council Review. Following the Commission review the applicant may resubmit drawings or additional information, as necessary, showing any modifications to the plans recommended by the Commission. Following receipt of any revised plans, or if no revisions are made, the administrator will place the application on the next available meeting of the Council. The council may hold an additional public hearing; the scheduling shall accommodate the public notice requirements of this code.
- M. Additional Public Hearing. The Council may hold an additional public hearing at its discretion but an additional public hearing is not required. If the council chooses to conduct a hearing, the hearing shall follow the notification and procedural requirements established in this code.
- N. Council Review. The Council shall review the record and determine within 60 calendar days of the preliminary plat/plan application first appearing on its agenda, or if a public hearing is held within 60 calendar days of the close of the hearing, if the plat/plan complies with this code and the comprehensive plan. Upon reaching its determination the council shall approve, Temporarily approve, or deny the plat/plan application. In so doing the Council shall review any and all conditions recommended by the Commission and uphold, overturn, or modify those conditions. The Council may place additional conditions of approval on the application. The Council and developer may agree to continue the application review to allow specific information to be submitted. No application will be reviewed if the developer or representative is not present.
- O. Developer Notice. The administrator shall notify the developer of the council's decision within 10 business days of the decision. The notice shall be in writing and if the application is denied, the notice shall contain the council's reasons for their decision.
- P. Conditions. Conditions may be imposed on the approval of any lot split, subdivision, minor subdivision, zoning permit, Temporary use permit approval, or variance, if:
 - 1. Such conditions are clearly designed to ensure compliance with one or more specific requirements of this Code; or
 - 2. The conditions are designed to mitigate negative impacts of the development on the community or neighboring properties; and
 - 3. A list of all conditions imposed is provided to the developer with the notification of the administrator's, commission's or council's decision.
- Q. Development Agreement. The development agreement will be entered into between the developer and the City Council.

- R. Approvals Valid For One Year. Permits shall be valid for one year from the date of approval, unless extended by a development agreement.

Additional procedural requirements are established below that apply to specific types of applications.

1. Administrator Review. Applications for changes of use, including the change of a non-conforming use to another non-conforming use applications shall be reviewed and decided upon by the commission and council pursuant to the provisions of this code.
 2. In the case of applications in which the administrator has final authority, the administrator shall determine whether the proposed building or use is in compliance with this Code. If the administrator finds that the proposed building or use complies, the application for a permit may be approved. If the administrator finds that the proposed building or use does not comply the application for a permit may be disapproved. The administrator may impose conditions on the approval of a zoning permit pursuant to Section 3. P, above.
 3. On any application in which the administrator has final authority, the administrator shall notify the developer of the decision within 10 business days of receipt of a complete application, except as provided in subsection 4, below.
 4. The administrator may refer a zoning permit application to the commission for confirmation of its compliance or lack of compliance with this Code. All such referrals shall be placed on the agenda of the next regular commission meeting.
 - a. Conditional use permits. The purpose of the Conditional use permit procedure authorized by IC 67-6512 is to implement the Comprehensive Plan by requiring intensive public review of certain developments, and by requiring that such developments comply with performance standards designed to ensure their compatibility with neighboring uses, the landscape setting, and the capacity of public facilities and services. In addition all applications for Temporary use permits shall comply with the following standards.
 - 1) The developer shall file an application for a sketch plan review if applicable as determined by the City Council.
 - 2) The administrator shall place the sketch plan review on the agenda for the next regular commission meeting, provided the meeting is not sooner than 30 calendar days after the submittal that will allow its proper consideration.
 - 3) The commission shall conduct a sketch plan review. Sketch plan review is not a regulatory proceeding, but an opportunity for the commission to be made aware of the proposal, and for the application to be informed of possible questions and the requirements of this Code. The sketch plan review does not vest development rights or imply approval of future applications.
- S. Appeals. Any decision of the administrator or commission may be appealed to the council using the procedure described here.
1. Any person aggrieved by a decision of the administrator or commission may appeal the decision to the council. For the purposes of this section, a person aggrieved shall be either a person who has submitted an application, requested an interpretation, or who is adversely affected by a decision on an application or by an interpretation. A recommendation is not an appealable decision.
 2. The appellant shall file with the administrator a properly completed notice of appeal

on a form provided by the city, and the required fee. If a notice of appeal alleges that a decision constitutes a taking of property without just compensation, the administrator shall direct the appeal to the City attorney.

3. The City attorney shall review all allegations that a decision of the administrator or commission constitutes a taking of property without just compensation. This review shall be based on the Idaho Attorney General's checklist and other information the City attorney deems appropriate, including the property rights policy of the Plan.
4. The administrator shall place an appeal on the agenda of the next regular council meeting for which the notice requirements can be met and, if necessary, by which time the City attorney's review can be completed. Notice requirements for an appeal shall be the same as established in this code for public hearings.
5. If a taking of property without just compensation is alleged, the council shall also consider the city attorney's review of the decision. No appeal shall be heard if the appellant or a representative is not present.
6. The council shall determine whether the decision being appealed is in compliance with the Comprehensive Plan and this code, and affirm, modify, or overturn that decision accordingly.

T. Variances. Variances are intended to provide relief for landowners who, due to some unique physical characteristic of their property that is beyond their control, would have no beneficial use of the property if the ordinance is strictly enforced. In addition to the general procedural requirements established in this section, applications for variances shall follow the procedure described here.

1. The commission shall approve a variance only upon finding that:
 - a. the need for a variance results from physical limitations unique to the lot on which the variance is requested; and
 - b. failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot is possible without a variance; and
 - c. the alleged hardship has not been created by action of the lot's owner or occupants; and
 - 1) Conditions may be attached to the approval of the variance,
 - 2) The commission's decision may be appealed to the City Council using the appeal procedure established in this code. Any person wishing to appeal a decision shall file a notice of appeal with the administrator within 10 business days of receipt of the decision.

U. Code and Map Amendments. Any person may petition for the amendment of this Code or to the zoning map. In addition to the general procedural requirements established in this code, applications to amend this code or the zoning map also shall follow the procedure in I.C. 67-6511. The review of and action on comprehensive plan amendments, amendments to the official zoning map, and annexations may be processed simultaneously, provided the requirements of all procedures are fulfilled.

V. Annexation. Proposals for annexation to the City of Swan Valley shall be processed in conjunction with an application to amend the official zoning map, as provided by IC 67-6525 and this Code. Upon approval, a certified copy of the annexation ordinance and a plat of the area annexed shall be filed with the county clerk and with the Idaho State Tax Commission.

W. Temporary Use Permits. Temporary Use Permits may be issued for uses in the Agricultural Zones, Residential Zones, and Commercial Zones by the Administrator, subject to the conditions specified for each use. The following conditions must also be met, by determination of the Administrator: 1) The use is consistent with the City of Swan Valley Comprehensive Plan, 2) The use makes adequate provision for access, circulation, water supply, drainage and sanitary sewage disposal, 3) The use is beneficial to the public health, safety, and general welfare.

1. Authorization. Authorization of a Temporary use permit shall be void one year after the effective date, unless a building permit has been issued, and substantial construction has taken place, or the use has commenced. However, the Administrator may extend the permit one (1) year longer if the Administrator finds that the facts on which the permit was approved have not changed substantially.
2. Uses. The following uses may be authorized by Temporary use permit providing the use complies with all conditions stated.

a. Rock Crushing - existing gravel pit:

- 1) Crushing must not be closer than 1,200 feet from any dwelling, other than that of the owner.
- 2) Crushing shall comply with all state and federal permits, and proof of any permits shall be submitted within thirty (30) days of issuance of the Temporary use permit.
- 3) Crushing shall only operate during daylight hours - official sunrise to official sunset. If the crushing site is located in an area that would not cause interference with surrounding properties, as determined by the Board of Commissioners upon review of the application, consideration for extended hours may be granted.
- 4) There shall be no excavation within one thousand (1,000) feet of the County road or adjoining property owner without written consent from that property owner. Said consent shall be submitted with the application.

b. Rock Crushing - at a temporary location other than a gravel pit:

- 1) Crushing must not be closer than 1,200 feet from any dwelling, other than that of the owner.
- 2) Crushing shall comply with all state and federal permits, and proof of any permits shall be submitted within thirty (30) days of issuance of the permit.
- 3) Crushing shall only operate during daylight hours - official sunrise to official sunset.
- 4) Crushing shall be limited to thirty (30) days in any calendar year.
- 5) There shall be no excavation within one thousand (1,000) feet of the City road or adjoining property owners without written consent of said owners.

c. Rock Crushing - new gravel pit - Temporary use permit required.

d. Off Premise Signs.

- 1) Off-premise signs shall comply with the City of Swan Valley Sign Ordinance.

- e. Commercial uses on a residential lot in an accessory building.
 - 1) The use must be an accessory use to the residence; the residence must already be established, or a building permit shall be issued and construction begun (if after two (2) years the residence is not finished for occupancy, the permit shall not be renewed).
 - 2) The lot area used for the entire business, including buildings, storage area, drives, and parking areas, shall not exceed twenty-five (25%) percent of the lot size, or one acre, whichever is smaller, excluding parking for employees but including parking for customers, whichever is smaller.
 - 3) The business shall be enclosed completely in a building. Supplies may be kept outside if kept in an organized manner. If the business involves vehicle repair, no more than two (2) vehicles may be kept outside the building at any one time, excluding vehicles used by employees to transport to the job site.
 - 4) No more than five (5) persons, not residing on the property, per shift shall be employed in the business.
 - 5) If either employees or the public will use the site, structures shall meet all requirements of the International Building Code and International Fire Code for type of usage.
 - 6) No part of the business, except structures, but including storage, shall be located any closer than twenty (20) feet from the property lines of adjoining landowners. Structures shall be a minimum of five (5) feet from property lines of adjoining landowners. If storage is located near a residential building other than that of the owner, it shall be screened to prevent sight pollution.
 - 7) Vehicles for transporting products or materials shall be allowed on site only from 7 a.m. to 8 p.m.
 - 8) Sales from the property shall be limited to the hours of 7 a.m. to 8 p.m.
 - 9) The business shall be conducted in such a manner that it does not interfere with surrounding property owners so as not to pollute from air, noise, sight, or water. All effluent shall be contained on site.
 - 10) The use shall not create a nuisance because of dust, odor, noise, smoke, or gas. Any commercial or manufacturing use, which does not meet these requirements, may only be permitted by Temporary use permit.

- f. Temporary sales lots for Christmas trees or agricultural stands for products not grown on the premises:
 - 1) Christmas tree sales shall be allowed from November 15th to December 25th each year.
 - 2) Agricultural stands shall be allowed from May 1st to October 31st each year.
 - 3) Adequate off road parking shall be provided.
 - 4) Two on-premise signs may be placed, which shall not exceed thirty-two (32) square feet each, and must be removed when the operation closes. There shall be no flashing or intermittent lighting.
 - 5) Exterior lighting shall not interfere with surrounding neighbors and may be illuminated between the hours of 7 a.m. and 9 p.m. only.
 - 6) Access to the site shall meet City and State requirements.
 - 7) Music or other amplified sound shall be played between the hours of 7 a.m. and 9 p.m. only.

- g. Special Events. One time (or one day) special events, which exceed more than one hundred (100) total persons, including participants and spectators, may be permitted with recommendation by the Administrator, and approval by the City Council. Special events may include but shall not be limited to, concerts, entertainment, rodeo events, vehicle racing, or shows. Approval on special events will take into consideration sanitary facilities, vehicle access, spectator areas, surrounding property, hours and days of event etc. If any affected resident opposes a special event, an appeal may be made directly to the City Council for consideration.
3. Fees. Application for a Temporary use permit, including special events, shall be adopted in the fee schedule, which is non-refundable if the permit is denied. The fee for temporary Christmas tree lots and agricultural stands shall be established in the adopted fee schedule.
 4. Notice of Decision. The Administrator shall prepare and distribute a Notice of Decision as follows:
 - a. Mailing notice to the applicant or applicant's representative, and the owner of the property.
 - b. Mailing notice to property owners within one thousand, (1,000) feet of the property of intent to grant approval. Notification shall be made by delivery by first class mail by the US Postal Services.
 - c. Publication of the notice in the official County newspaper of general circulation.
 - d. Final approval will be granted unless a request for a public hearing is filed with the Planning and Zoning Administrator within fifteen (15) days of the date of the notice. If a public hearing is requested, the procedures shall be pursuant to the state statutes.
 - e. A statement describing the procedure for an appeal.
 5. Issuance of Permit. If there is no appeal filed within the time specified the permit shall be issued.
 6. Renewals. A permit shall be valid for two (2) years, and may be renewed for consecutive two-(2) year periods. Fee for a renewal shall be adopted in the fee schedule. Temporary permits must be renewed each year. If application for permit renewal is not received by expiration date, permittee must reapply as for a new permit.
 7. Appeals. If the permit or renewal is denied by the Administrator, the applicant may appeal the denial to the Planning and Zoning Commission for consideration of the permit. There shall be no fee for the applicant's appeal. If the Planning and Zoning Commission denies the appeal, the applicant may appeal the decision to the City Council.
- X. Public Hearing Procedures. Notice of Hearing. The city shall provide public notice of the hearing as required by the state statute.
- Y. Failure to Obtain a Permit. Whenever the Administrator becomes aware of an activity for which a permit is required by this Code, but for which a permit has not been approved, the Administrator shall notify the occupant (and owner, if they are not the same) of the site to immediately cease all unpermitted activity. Notice shall be given by posting on the site and by first class mail. If activity does not cease, the administrator shall ask the City Attorney to take

prompt action, as authorized by IC 67-6527, to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition.

- Z. Certificate of Compliance. A Certificate of Compliance shall be issued before any building is occupied or use is commenced. A Certificate of Compliance indicates that an on-site inspection has shown that the building or use is in compliance with the issued permit. Occupancy of a building or commencement of use without a Certificate of Compliance shall be a violation of this ordinance. The issuance of a Certificate of Compliance shall not be construed as approval of any violation that may have been undiscovered during the inspection.

- AA. Temporary Certificate of Compliance. A temporary Certificate of Compliance may be issued to permit temporary use of a building in cases where weather prevents the prompt completion of required improvements and when the delayed completion does not create a threat to the health, safety or welfare of the occupants of the site or the general public. No temporary Certificate of Compliance shall be issued for more than 120 calendar days.

- BB. Enforcement Actions. The process for enforcement of this Code shall be as described here:
 - a. The administrator shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and posting on the site. The notice shall describe the violation, cite the sections of this Code being violated, and order the occupant to attain compliance within 30 calendar days.
 - b. Any person who receives a notice of violation may request inspection by the Administrator to show the compliance has been attained within the 30 calendar days allowed, or:
 - 1. file a written request with the administrator for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 calendar days and culminated by an inspection to show that compliance has been attained; or,
 - 2. file an appeal of the Administrator's notice, following the appeals procedure as set forth in the code.

- CC. Penalties. Violations of this Code shall be misdemeanor, punishable by a fine in any amount not exceeding \$1,000.00, or by imprisonment for a period of not longer than 180 days, or by both fine and imprisonment. Each day in which a violation continues shall be considered a separate offense.