

ORDINANCE 2006 - 03

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO PROVIDING FOR THE AMENDMENT OF MOSCOW CITY CODE, TITLE 4, TO DEFINE "RETAIL ESTABLISHMENT," "LARGE RETAIL ESTABLISHMENT, CATEGORY 1," AND "LARGE RETAIL ESTABLISHMENT, CATEGORY 2"; TO LIST LARGE RETAIL ESTABLISHMENT, CATEGORIES 1 AND 2 AS CONDITIONAL USES IN THE MOTOR BUSINESS (MB) ZONING DISTRICT, SUBJECT TO REVIEW, REQUIREMENTS AND POTENTIAL CONDITIONS AS SPECIFIED IN THIS ORDINANCE; AND TO EXPLICITLY EXCLUDE LARGE RETAIL ESTABLISHMENTS FROM THE CENTRAL BUSINESS (CB) ZONING DISTRICT; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE BE DEEMED SEVERABLE; AND PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM THE DATE OF ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as a purpose in Comprehensive Plan Section 1-1, Purpose 1 to improve the physical environment of the community as a setting for human activities - to make it more functional, beautiful, interesting, and efficient; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as a purpose in Comprehensive Plan Section 1-1, Purpose 5 to inject long-range considerations into the determination of short-range actions; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as a purpose in Comprehensive Plan Section 1-1, Purpose 6 to bring professional and technical knowledge to bear on the making of political decisions concerning the physical development of the community; and

Whereas, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 2, Objective 6 to protect the appearance of visually prominent areas within the city; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 2, Objective 7 to improve the appearances and conditions of natural waterways; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho states in Comprehensive Plan Section 2-5, Implementation Policy 2 that the city should control the type and intensity of development when it would have an impact on the natural resources; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has an implementation policy in Comprehensive Plan Section 2, Implementation Policy 10 that

future major commercial and industrial developments should be required to project their water use; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 4, Objective 1 to maintain the Central Business Zoning District as a principal retail shopping area in Moscow; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 4, Objective 2 to maintain the concentrated nature of the Central Business Zoning District in order to facilitate and encourage pedestrian movement within it; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 6, Objective 1 to encourage economic growth consistent with Moscow's basic character as a university/agricultural-based community; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 6, Objective 6 to make optimal economic use of the community's natural and cultural resources; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho states in Section 6-5, Analysis of Needs and Opportunities that generally, the community does not desire uncontrolled change to the character of Moscow from that of a relatively small town to that of a large city; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho states in Section 8-4 that as development continues in the Moscow area, it will be important that sufficient staffing, facilities, and equipment are available to maintain the present high level of emergency services; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 8, Objective 1 to promote public utility policies that will discourage urban sprawl and needless destruction of productive agricultural lands; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 8, Objective 2 to promote public utility policies that are economically efficient; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 8, Objective 3 to promote coordination between agencies in the planning process and administration in order to make maximum use of existing and future public facilities and services; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 8, Objective 7 to maintain the high level of service provided by emergency service departments in Moscow; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 8, Objective 8 to provide adequate programs and facilities to accommodate public services; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an implementation policy in Comprehensive Plan Section 8, Implementation Policy 2 that public utility systems, including water and sewer lines, etc., should be scaled in accordance with the densities proposed for the area according to the Comprehensive Plan Map; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an implementation policy in Comprehensive Plan Section 8, Implementation Policy 10 that as the population of Moscow increases, staffing and equipment needs for city services, particularly the emergency services, should be continually reevaluated; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an implementation policy in Comprehensive Plan Section 8, Implementation Policy 14 that cooperative efforts between the city of Moscow and other agencies that maximize the capabilities of public facilities, utilities, and services should be continued; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as a transportation goal in Comprehensive Plan Section 10-1, a General Transportation Goal to provide a system of transportation and circulation within and around the city of Moscow that will make it possible for all people utilizing various modes of transportation to reach their destination as safely and as easily as possible with the least disturbance to adjacent uses; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 10, General Transportation Objective 1 to ensure a complete and logical circulation pattern throughout the Moscow area in the future; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 10, General Transportation Objective 2 to provide a circulation pattern that will adequately serve adjacent land uses; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 10, General Transportation Objective 3 to maintain and enhance the quality of life in Moscow by creating transportation systems that move people effectively and safely; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 12, Objective 1 to develop attractive entrances to the City along major streets; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 12, Objective 3 to maintain the small town character of the community; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 12, Objective 7 to encourage careful aesthetic consideration and planning in private and public construction; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 12, Objective 8 to develop a “sense of place” in Moscow that distinguishes it from other cities; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 12, Objective 9 to encourage visual compatibility between existing and new development; and

WHEREAS, the Comprehensive Plan of the City of Moscow, Idaho has as an objective in Comprehensive Plan Section 15, Objective 4 to ensure the City land use actions, decisions, and regulations depend upon the City’s responsibility to protect public health, safety, and welfare; and

WHEREAS, the Zoning Code of the City of Moscow, Idaho states in Section 1-4 that the Comprehensive Plan of the City of Moscow is adopted as the policy guide for the application of the Zoning Code; and

WHEREAS, the Zoning Code of the City of Moscow, Idaho has as a purpose in Zoning Code Section 1-3, Purpose “A” to promote the health, safety and general welfare of the Moscow community; and

WHEREAS, the Zoning Code of the City of Moscow, Idaho has as a purpose in Zoning Code Section 1-3, Purpose “B” to encourage the most appropriate use of land within the City’s jurisdiction to protect the natural and human environment; and

WHEREAS, the Zoning Code of the City of Moscow, Idaho has as a purpose in Zoning Code Section 1-3, Purpose “C” to provide for public improvements which are serviceable and durable and which provide for effective service delivery by all public agencies; and

WHEREAS, the Zoning Code of the City of Moscow, Idaho has as a purpose in Zoning Code Section 1-3, Purpose “F” to provide adequate public services and community amenities in newly developing neighborhoods, and

WHEREAS, the City desires to preserve its historical, rural, small town character and charm; and

WHEREAS, the City is currently without design review regulations or any discretionary review and public hearing process specific to retail establishments in excess of forty thousand (40,000) square feet which preserve and/or enhance the general appearance of building design and construction; preserve the historical character and significance of the community; coordinate onsite vehicular and non-vehicular traffic circulation patterns within adjacent transportation systems; minimize visual impact; provide for and protect existing light, air, solar access, and orientation, privacy, views, and vistas by the proper and efficient location of building sites and design layout; provide adequate usable open space in a manner appropriate to the development and uses of lands, and protect and preserve wildlife, stream, natural topography and other desirable natural features and qualities such as skyline, ridge tops, knoll ridges, established trees and shrub masses, topsoil, streambeds and banks, drainage swales; promote aesthetic harmonizing with the environment adjacent to development; enable requirements for traffic studies, market studies, and impact studies; and enable imposition of mitigation measures; and

WHEREAS, the City has determined that, due community character, transportation, economic and community design issues, retail establishments in excess of forty thousand square feet (40,000) are deserving of discretionary permit and public hearing review and input process; and

WHEREAS, there exists an increasing trend in proliferation of large retail establishments; and

WHEREAS, retail establishments in excess of forty thousand (40,000) square feet are generally found to have impacts which are contrary to the Moscow Comprehensive Plan relative to traffic, economy, community design and character and agricultural land and natural resources; and

WHEREAS, potential for and magnitude of adverse impacts resulting from retail establishments to communities, neighborhoods, and to a municipality's ability to provide public services can be related to the size, location, design and layout of the retail establishment.

WHEREAS, adverse impacts resulting from a single large retail establishment can have greater impact than cumulative impacts of multiple smaller retail establishments in that such smaller retail establishments tend to occur at different times and in different locations, thus allowing for better adaptation to and dispersion of such impacts; and

WHEREAS, this ordinance creates a Conditional Use Permit review process for large retail establishments between forty thousand (40,000) and sixty five thousand (65,000) square feet (Category 1) similar to the CUP process utilized elsewhere in the Zoning Code; and

WHEREAS, this ordinance creates a specific Conditional Use Permit process with even a more clear standard of review for large retail establishments of sixty five thousand (65,000) square feet or more; and

WHEREAS, it is the intent of the Planning and Zoning Commission and the City Council that the definition of “retail establishment” be interpreted and all of the provisions of the Zoning Code be applied such that such definition does not include “large retail establishment, category 1” or “large retail establishment, category 2” and that occurrences of the term “retail establishment” or any substantially similar term contained in zoning district listings of permitted uses or accessory uses are not to be interpreted to mean that “large retail establishment, category 1” or “large retail establishment, category 2” be allowed as a permitted use or as an accessory use.

WHEREAS, changes herein are to the permanent Moscow City Code and its existing non-emergency provisions; and

WHEREAS, such changes are intended to be permanent and to supersede and to continue beyond the expiration of the emergency ordinance adopted by Ordinance 2005-27;

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

SECTION 1: That Moscow City Code Title 4, Chapter 3 be amended as follows:

. . .

Sec. 3-5. Central Business Zoning District (CB).

- A. Intent: The principal purpose of the CB Zoning District is to provide a location for groups of compatible commercial uses having the common characteristic of not involving more than incidental and minimal assembly, fabrication or storage of commodities; for example, establishments dispensing retail commodities, and those providing professional and personal services to the individual. The CB Zoning District is the most intensive commercial Zoning District. To promote pedestrian use, unbroken, street-level, commercial frontage is encouraged in this Zoning District.
- B. Permitted Principal Uses and Structures:
 - 1. Retail establishments excluding firms selling bulky items, such as building materials, mobile homes, trailers, boats and heavy equipment and excluding Large Retail Establishments, Categories 1 and 2.

. . .

Sec. 3-7. Motor Business Zoning District (MB).

. . .

- D. Conditional Uses:

1. Family day care facility, group day care facility, small day care facility, or large day care facility.
2. Warehouses (that are not accessory to a permitted use) and wholesale uses. In evaluating a proposal, the applicant must demonstrate to the Board of Adjustment that anticipated levels of traffic from heavy vehicles and potential noise, dust, and odors are compatible with uses located in the vicinity of the proposal.
3. Large Scale Establishment Category 1. As of the effective date of this Subsection, a Conditional Use Permit also shall be required for a Retail Establishment which, by expanding more than ten percent (10%), whether singly or cumulatively, qualifies as a Category 1 Large Retail Establishment and for a Category 1 Large Retail Establishment which expands by more than ten percent (10%), whether singly or cumulatively, the area of such establishment, including attached structures and unenclosed sales display areas following such date. Additionally, if such expansion(s) results in the establishment qualifying as a Category 2 Large Retail Establishment, then the provisions of Subsection 4, below, shall apply.
4. Large Retail Establishment Category 2. As of the effective date of this Subsection, the provisions of this Subsection also shall apply to any expansion more than ten percent (10%), whether singly or cumulatively, of the area of the Category 2 Large Retail Establishment, including attached structures and unenclosed sales and display areas. In no case shall such expansion exceed ten thousand square feet (10,000).

A retail establishment which meets the definition in this Code for a Category 2 Large Retail Establishment shall be subject to the Moscow Large Retail Establishments Design Manual, as adopted or amended by resolution of the Council and incorporated herein by this reference. Any deviation from a standard required by such manual shall require a Variance. Any Conditional Use Permit application for a Category 2 Large Retail Establishment shall also be subject to consideration and potential conditions and mitigation of any of the following:

- a. Site location relative to existing and future streets, trails, and public transit routes and stops.

The applicant shall show, as part of the Conditional Use Permit application or as a supplement thereto, that use of the subject land, as proposed, does not preclude extension of existing streets and trails, does not preclude construction of anticipated streets and trails and is conducive to public transit access.

- b. Noise.

All noise generating equipment such as HVAC, trash and recycling compactors, etc. shall be reviewed by a certified sound engineer to insure that City noise regulations are met. Serious and/or repeated violations of City noise requirements may result in revocation of the Conditional Use Permit and cessation of the operation of business.

- c. City services and City infrastructure impacts.

A fiscal impact analysis of impacts of the proposed conditional use to City services and to related infrastructure for water, sanitary sewer, storm sewer, police, fire and solid waste disposal shall be submitted with the Conditional

Use Permit application. Such analysis shall include proximity of service facilities, service demand, impacts to other users and to the service provider and potential and proposed mitigation measures. Payment of costs for increasing service capability and/or oversizing or upgrading of infrastructure, as necessary due to impacts from the proposed conditional use shall be required of the applicant.

- d. Storm water quality.
 - i. Storm water runoff shall not be discharged into the public storm sewer system or into any natural drainage system, without being detained in accordance with Moscow City Code, and without being treated to the most current standards as prescribed by the Idaho Department of Environmental Quality in the catalog of Storm Water Best Management Practices for Cities and Counties. Storm water facilities shall be designed to detain run-off to not exceed the predevelopment storm water run-off rates for the two-year storm, ten-year storm, and twenty-five-year storm events and shall be designed as treatment train systems (i.e. multiple devices and/or methods to improve water quality and increase evaporation). Treatment trains shall include a vegetative primary treatment component, such as a bio-filtration swale, filter strips, etc. The level of water quality treatment shall be designed for the two-year storm event post development flows.
 - ii. The storage, display, or sale of chemicals, pesticides, fertilizers, liquid petroleum and any product containing any chemical listed in the Code of Federal Regulations Title 40, Chapter 1, Subpart d, Part 131.369, as amended, shall be prohibited in areas not protected from weather, such as parking lots, and from areas not located or designed to prevent contamination of storm water runoff.
 - iii. Storm water facilities shall be designed to be aesthetically pleasing amenities consistent with the Central Features and Community Spaces Guidelines and Standards, as prescribed in the adopted City of Moscow Large Retail Establishment Design Manual. Regionally viable vegetation shall be planted inside open earthen detention ponds. Above ground detention vaults or ponds with slopes greater than three to one or those containing vertical walls shall be provided with a six foot high fence or wall at the top of the slope for security and safety purposes. A type "B" landscape buffer yard, as described in this Zoning Code, shall be required around the outside perimeter of the fence or wall.
 - iv. The applicant shall obtain and provide proof of a Construction General Permit pursuant to the National Pollutant Discharge Elimination System (NPDES) Construction General Permit Program of the U.S. Environmental Protection Agency.
- e. Traffic impacts.

A multimodal traffic study (including pedestrian, bicycle, motorized and non-motorized travel) shall be submitted with any Conditional Use Permit application for a large retail enterprise. The scope of such study shall be to the satisfaction of the City Engineer and shall include project mitigation for traffic system impacts anticipated to occur in the vicinity of the project site

over a twenty (20) year period from the anticipated date of completion of development. For example, if the immediate impact of the proposed conditional use would not meet the threshold for installation of a traffic signal at a nearby intersection, participation in the cost of installation, if anticipated to be warranted within twenty (20) years, should be made a condition of approval of the Conditional Use Permit.

f. Building abandonment or vacancy and related site maintenance,

i. For purposes of this subsection, building abandonment or vacancy shall mean cessation of the retail use permitted by the Conditional Use Permit for a period of more than ninety (90) days in succession.

ii. In the event that the conditional use becomes abandoned or vacant, the owner of such property shall submit a reuse plan for such facility to the City. Such plan shall address maintenance, reuse, and active remarketing of such facility. The plan may include redevelopment compatible with adaptive re-use. The plan shall require that the owner file monthly reports with the city which shall include the following: name, address and contact information for listing agents currently under contract; the length of the listing; events such as open houses, facility tours, etc; inquiries into the property.

iii. Also in the event of abandonment or vacancy, a plan shall be submitted which shows how maintenance of facilities and grounds, including buildings and structures, landscaping, parking lots and storm water runoff facilities will be conducted. Such plan and the implementation thereof shall insure the development does not become a public nuisance, as that term is defined in Moscow City Code. Methods to insure proper maintenance may include utilization of a property manager, a site maintenance and/or security service provider, as well as the utilization of appropriate night-time lighting.

g. Economic effects.

The Conditional Use Permit application shall include or be submitted with a fiscal and economic impact report. Such report shall include, but not be limited to, all of the following:

i. An assessment of how the construction and operation of the proposed large development will affect wages and benefits, community income levels, and the demand for employment in the city.

ii. A projection of the costs of social services and effect on related facilities and services resulting from the construction and operation of the proposed development and the incidence of those costs.

iii. An assessment of the effect that the construction and operation of the proposed development will have an average total vehicle miles traveled by retail customers in the same market area.

iv. An assessment of the effect that the development will have on surrounding land values.

v. An assessment of the market and financial feasibility of the proposed development, including any related market studies and any plans for project phasing and/or lifespan, short and long term.

vi. "Primary market area" for purposes of this subsection shall mean the most likely geographic area from which the proposed conditional use

would draw customers, based upon commonly accepted economic forecasting principles. vii. Any entity having statutory authority to impose taxes and located within the boundaries of the primary market area, as defined in the applicant's economic impact report, shall be identified and notified by the applicant of the intent to submit Conditional Use Permit application to the City. Such notice shall include a description of the proposal, including building size, and a statement that questions and comments about the application should be directed to the Community Development Department of the City to be included in the City's consideration of the proposed conditional use. Such notice shall be provided by certified mail, return receipt requested, and proof of such shall be provided to the City as part of the Conditional Use Permit application.

- h. Comprehensive Plan assessment. The applicant shall provide an assessment of the effect that the construction and operation of the proposed conditional use is most likely to have on the ability of the City to implement the goals, objectives and policies contained in its Comprehensive Plan.
- i. Each study, report, analysis, certification, or assessment required by the City or offered by the applicant shall be paid for by the applicant and shall be conducted by professionals educated, trained and experienced in the appropriate field and shall be mutually agreed upon by the applicant and the City. Where there are multiple studies, reports, analyses, certifications, and/or assessments, each shall consider the other and should not include information which contradicts information on the same subject matter in a different study, report, analysis, certification, or assessment. The existence of any such contradictory information may be grounds for application re-submittal, rescheduling, reconsideration, or delay of processing, until such matter is clarified, synthesized, resolved or corrected.

The above-mentioned matters shall be considered and may be conditioned in addition to the provisions of Sec. 8-4 of this Zoning Code.

Sec. 3-8. Industrial Zoning District (I).

. . .

- D. Conditional Uses:
 - 1. Dwelling for a caretaker or watchman employed on the premise.
 - 2. Retail establishment, office, or service uses.

. . .

SECTION 2: That Moscow City Code Title 4, Chapter 11 be amended as follows:

. . .

Sec. 11-9. Definitions.

For the purpose of this Zoning Code, certain words and terms used herein are defined as follows:

- A. All words used in the present tense include the future tense; all words in the plural number include the singular number, and all words in the singular number include plural number; unless the natural construction of the wording indicates otherwise. The word "lot" includes the word "plot"; the word "building" includes the word "structure"; and the word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended or arranged to be used."
- B. Unless otherwise specified, all distances shall be measured horizontally.
 - 1. *Accessory Building*. A subordinate building, the use of which is incidental to the use of the main building on the same lot.

• • •

- 51. *Large Retail Establishment, Category 1*. A retail establishment consisting of greater than thirty nine thousand nine hundred ninety nine (39,999) square feet of projected roof area or gross floor area, including attached structures and unenclosed sales and display areas, and less than sixty five thousand (65,000) square feet of projected roof area or gross floor area, including attached structures and unenclosed sales and display areas.
- 52. *Large Retail Establishment, Category 2*. A retail establishment consisting of sixty five thousand (65,000) square feet or more of projected roof area or gross floor area, including attached structures and unenclosed sales and display areas.
- 53. *Lot*. A lot, in the meaning of this Zoning Code, is a single tract of land, no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street.
- 54. *Lot Area*. The total horizontal area within the boundary lines of a lot, excluding areas of dedicated and prescriptive public or railroad rights-of-way. The lot area shall include all utility easements and any flag pole portion of a flat lot.
- 55. *Lot, Corner*. A lot at the junction of and fronting on two (2) or more intersecting streets.
- 56. *Lot, Depth*. The mean dimension of the lot from the front street line to the rear line.
- 57. *Lot, Flag*. A lot with access provided to the part of the lot designated for use as a building site by a narrow corridor.
- 58. *Lot, Interior*. A lot fronting on one (1) street.
- 59. *Lot, Through*. A lot fronting on two (2) streets that do not intersect on the parcel's lot lines.
- 60. *Lot, Width*. The dimension of the lot line at the street, or in an irregular shaped lot the dimension across the lot at the building line, or in a corner lot the narrow dimension of the lot at a street or building line.
- 61. *Manufactured Home*. A structure as defined by Idaho Code Section 39-4105(14) and which meets the following additional standards:

- a. The manufactured home shall be multisectional and enclose a space of not less than one thousand (1,000) square feet; and
 - b. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the home is located not more than twelve inches (12") above grade; and
 - c. The manufactured home shall have a pitched roof of at least three feet (3') in vertical rise for each twelve feet (12') in horizontal run; and
 - d. The manufactured home shall have any exterior siding and roofing material which is approved by the City for site-built homes; and
 - e. The manufactured home shall not be permitted within an area defined as a historic district under Section 67-4607, Idaho Code.
62. *Manufacturing, Light.* The manufacturing, compounding, treatment, processing, assembling, packaging, or testing of goods or equipment.
 63. *Manufacturing, Heavy.* The extraction, processing or treatment of raw materials, or the manufacturing, compounding, treatment, processing, assembling, packaging, testing, handling, or storage of explosive or radioactive materials or products.
 64. *Mean Depth.* The mean depth of a lot is the depth of such lot measured on a line approximately perpendicular to the fronting street and midway between the side lines of such lot.
 65. *Motel.* A motel is a building or buildings, detached or in connected units or designed as a single structure, the units of which are used as individual sleeping or dwelling units, each having its own private toilet facilities and may or may not have its own kitchen facilities, and are designed primarily for the accommodation of transient travelers. Accommodations for trailers are not included. This term includes tourist court, motor hotel, motor lodge, cabin court, motor inn and similar names.
 66. *Motorized Vehicle.* A motor driven conveyance capable of carrying one or more passengers.
 67. *Nonconforming Building Use.* The use of a building or structure which was a lawful use at the time this Zoning Code was passed but which use, because of the passage of this Zoning Code, does not conform to the regulations of the zoning district in which the use exists.
 68. *Nonconforming Use.* A use which lawfully occupied a building or land at the time this Zoning Code becomes effective and which does not conform with the use regulations of the zoning district in which it is located.
 69. *Off-Street Parking.* Parking facilities for motor vehicles on other than a public street or alley.
 70. *Open Space.* Any part of a lot unobstructed from the ground upward.
 71. *Parking Area Or Lot.* An off-street parking facility designed for more than four (4) parking spaces.
 72. *Parking Space.* Any use authorized or permitted along or in conjunction with another use in a specified district and subject to the limitations or the regulations of such use district.
 73. *Planned Unit Development (PUD).* The PUD is characterized by a unified site design for a number of housing units and/or other buildings where clustering of

buildings and utilization of open space will allow for enhanced land use. Through a PUD, a development maybe planned as a unit and the density of use may be calculated on the basis of the entire project, rather than on a lot by lot basis. Individual uses and structures in a PUD need not comply with specific building locations, height, building size, floor area, lot size and open space requirements of the underlying basic zone provided that requirements set forth herein are complied with, and the development as a whole is harmonious with the community, particularly adjacent land uses.

74. *Principal Use.* The primary or predominant use(s) to which a property is or may be devoted.
75. *Professional Offices.* Offices maintained and used as a place of business conducted by persons engaged in the healing arts for human beings, such as doctors and dentists (but wherein no overnight care for patients is given), and by engineers, attorneys, architects, accountants and other persons providing services utilizing training in and knowledge of the mental discipline as distinguished from training in occupations requiring mere skill or manual dexterity or the handling of commodities.
76. *Public Utility.* A public service corporation performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation for persons and freight.
77. *Recreation Facilities, Community and/or Noncommercial.* Facilities such as rod and gun clubs and shooting ranges, swimming pools, athletic clubs, golf and country clubs, for the use of the general public or provided for and by members of semi-private corporations.
78. *Retail Establishment.* A commercial establishment or enterprise engaged in the sale of goods or products which may include in-person purchase by the consumer at the location at which the goods or products are stored, or any other purchase and pick-up/delivery arrangement whereby the purchaser is the intended consumer and where the purchase is not made intentionally for the purpose of resale or distribution.
79. *Riding Academy.* Any establishment where horses are kept for riding, driving or stabling for compensation or as an accessory use in the operation of a club, association, ranch or similar establishment.
80. *Roomer.* Lodger or boarder occupying a rented room in private home or rooming house.
81. *Rooming House.* Same as "Boarding House."
82. *School.* An institution of learning which offers instruction in several branches of learning and study required to be taught in the public schools by the Idaho State Board of Education including elementary, junior or senior high, including public, private and parochial and also including preschool and kindergarten.
83. *School, Commercial.* A program whereby instruction is given to pupils in arts, crafts or trades and operated as a commercial enterprise.

84. *Self-Service Storage Facility.* A building or buildings consisting of individual, small, self-contained units, and the majority of the units being less than five hundred (500) square feet in area, that are leased or owned for the storage of business or household goods.
85. *Setback, Yard Requirements.* The distance that buildings or uses must be removed from their lot lines. Setbacks shall be measured, where applicable, from proposed or actual public or private street right-of-way lines.
86. *Sign.* A presentation, display, or representation of words or letters, or of a figure, design, picture, painting, color pattern, logo, emblem, symbol, trademark or other representation so as to give notice, advertise, call attention to, or identify an entity.
87. *Service Building.* A building housing communal toilet, laundry and other sanitary facilities necessary for the health and convenience of trailer court occupants.
88. *Special Use.* "Special use" means a use permitted in one or more zones as defined by this Zoning Code but which, because of characteristics peculiar to such use, or because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to make uses consistent with and compatible to other existing or permissible uses in the same zoning district(s). Special uses are distinguished from conditional uses by their potential impact on the entire community as opposed to a specific neighborhood, and are therefore judged for compliance with the Moscow Comprehensive Plan by Board of Adjustment.
89. *Special Use Permit.* "Special Use Permit" means the documented evidence of authority granted by the Board of Adjustment to locate a Special use at a particular location.
90. *Street.* A public thoroughfare which affords the principal means of access to abutting properties.
91. *Structure.* A combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences three feet (3') or less in height, retaining walls, rockeries and similar improvements of a minor character three feet (3') or less in height.
92. *Structure, Temporary.* Not having or requiring permanent attachment to the ground, or involving structures which have no required permanent attachment to the ground.
93. *Studio Apartment.* A zero (0) bedroom apartment with a separate kitchenette and with a bathroom.
94. *Tourist Home.* A private residence having not more than three (3) rooms for hire to transients for only sleeping accommodations and whose trade is seasonal in character.
95. *Use.* The purpose land, a building or a structure now serves or for which it is occupied, maintained, arranged, designed or intended.
96. *Use District.* A portion or portions of the City designated on the Moscow Zoning Map as one or more of the categories listed and described in this Zoning Code.

97. *Use Mixed.* Two (2) or more different uses of the same land, buildings or structures. When a development of land, buildings or structures has mixed use the less restrictive requirements will apply, unless the requirements are especially stated.
98. *Used Car Lot.* Any place outside a building where two (2) or more automobiles are offered for sale or are displayed.
99. *Variance.* A variance is the means by which an adjustment is made in the application of the specific regulations of this Zoning Code to a particular piece of property which, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same zoning district or vicinity, and which adjustment remedies disparity in privileges.
100. *Warehouse.* A building used primarily for the storage of goods and materials.
101. *Yard.* An open unoccupied space in front, rear or side on the same lot with a building or proposed building.
102. *Yard, Front.* An open unoccupied space extending from thirty inches (30") above the general ground level at the principal street line to the nearest point of the wall of the main building on the lot and including the full width of the lot to its side lines.
103. *Yard, Rear.* An open unoccupied space extending from thirty inches (30") the general level of the ground at the rear lot line to the nearest point of the wall of the main building and including the full width of the lot to its side lines.
104. *Yard, Service.* An open area, usually paved, with access to a street to allow vehicular access to a building or use for purposes of loading or unloading equipment, freight, livestock or people.
105. *Yard Street Side.* On a corner lot, an open unoccupied space extending from thirty inches (30") above the general ground level at the secondary street line to the nearest point of the wall of the main building on the lot and including the full length of the lot from the principal street line to the rear lot line.
106. *Yard, Side.* An open unoccupied space extending from thirty inches (30") above the general ground level on the lot from the side yard line to the nearest point of the wall of the main building and extending from the front yard to the rear yard. Any lot line not a rear lot line or a front lot line shall be considered a side lot line.

SECTION 3: SEVERABILITY. Provisions of this Ordinance shall be deemed severable and the invalidity of any provision of this Ordinance shall not affect the validity of remaining provisions. The remaining Sections of Title 4 shall be in full force and effect.

SECTION 4: EFFECT ON OTHER ORDINANCES. This Ordinance replaces the emergency ordinance adopted in Ordinance 2005-27. The changes included herein shall continue beyond the expiration of the time period of the emergency ordinance language adopted in Ordinance 2005-27. Where the definitions contained in this Ordinance are in conflict with relevant portions of the City of Moscow, Idaho, Municipal Code, the definitions contained within those portions of the Moscow Municipal Code will be unaffected until such time, if any, as they are amended to be consistent with this Ordinance.

SECTION 5: EFFECTIVE DATE. This Ordinance shall be effective upon its passage, approval, and publication according to law.

PASSED by the City Council and APPROVED by the Mayor this 7th day of February, 2006.

Nancy Chaney, Mayor

ATTEST:

Stephanie Kalasz, City Clerk